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Letter from the Secretary of the Interior, transmitting certain information as to the proceedings of his department in carrying out the provisions of sections 20, 21, and 22 of an act making appropriations for expenses of the Indian Department, approved August 15, 1894; and also relating to certain lands in the Uncompahgre Indian Reservation in Utah

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UNCOMPAHGRE INDIAN RESERVATION.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

Certain information as to the proceedings of his Department in carrying out the provisions of sections 20, 21, and 22 of an act making appropriations for expenses of the Indian Department, approved August 15, 1894; and also relating to certain lands in the Uncompahgre Indian Reservation in Utah.

FEBRUARY 1, 1896.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1896.

SIR: I have the honor to acknowledge the receipt of the following resolution of the House of Representatives, dated 16th instant:

Resolved, That the Secretary of the Interior is hereby requested to inform the House in detail as to the proceedings had and expenditures made by his Department in carrying out the provisions of sections 20, 21, and 22 of an act making appropriations for current and contingent expenses of the Indian Department, etc., approved August 15, 1894; with the names and residences of commissioners appointed under the provisions of said sections; with copies of instructions given by his Department to said commissioners, and with a statement, if not incompatible with the public service, of the probable time when that provision of said sections can be executed which provides for a restoration to the public domain of certain lands within the Uncompahgre Indian Reservation, in the Territory of Utah.

In response thereto, I transmit herewith copy of a communication of the 21st instant from the Commissioner of Indian Affairs, and its inclosures, to whom the matter was referred.

I also transmit copies of the reports of the commission, referred to in the Indian Office letter, dated January 8 and December 21, 1895.

It seems from these papers that there is not within the limits of the Uncompahgre Reservation sufficient agricultural or grazing lands to provide those Indians with allotments, and that even if the lands were there the Indians will not agree to take allotments with the condition attached that they should pay \$1.25 per acre therefor. These reports contain a full statement of all the facts in this matter, and contain some strong arguments in favor of relieving the Indians of the payment of \$1.25 per acre for land taken by them as allotments.

I am of the opinion that further negotiations should be had with the Indians on the Uncompahgre Reservation upon the lines indicated by the Commissioner of Indian Affairs.

I transmit herewith a copy of a recent report from the acting agent in charge of these Indians, giving some further facts as regards the present condition of affairs on these reservations.

Very respectfully,

HOKE SMITH, *Secretary.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 21, 1896.

SIR: I have the honor to acknowledge the receipt, by Department reference for immediate report, of the following resolution of the House of Representatives, adopted January 16, 1896:

Resolved, That the Secretary of the Interior is hereby requested to inform the House in detail as to the proceedings had and expenditures made by his Department in carrying out the provisions of sections 20, 21, and 22 of an act making appropriations for current and contingent expenses of the Indian Department, etc., approved August 15, 1894, with the names and residences of commissioners appointed under the provisions of said sections; with copies of instructions given by his Department to said commissioners, and with a statement, if not incompatible with the public service, of the probable time when that provision of said sections can be executed which provides for a restoration to the public domain of certain lands within the Uncompahgre Indian Reservation in the Territory of Utah.

In reply, I have the honor to state that under date of November 28, 1894, S. S. Scott, of Uchee, Ala., William S. Davis, of Little Rock, Ark., and Timothy A. Byrnes, of Atlantic City, N. J., were appointed commissioners "to allot lands to the Uncompahgre Indians in Utah according to the treaty of 1880, and to negotiate with the Indians of the Uintah Reservation in Utah for the relinquishment of certain lands in both cases under the provisions of the act of Congress approved August 15, 1894."

Under date of December 7, 1894, instructions for the guidance of this commission in the discharge of its duties were prepared and submitted to the Department, which instructions were approved by the Secretary December 8, 1894.

December 10, 1894, copies of these instructions were handed Messrs. Scott and Davis, and a copy mailed to Mr. Byrnes, at the Uintah Agency.

Under date of January 8, 1895, the commissioners submitted a report relative to the progress of their work on the Uncompahgre Reservation, and referred to the provisions in the act of June 5, 1880 (21 Stat. L., 199), ratifying the agreement with the Ute Indians, which requires the Uncompahgre Indians to pay \$1.25 per acre for the lands allotted them.

They stated that the Indians were unable to see why they should be required to pay for their allotments while the Uintahs living alongside them were not required to make this payment. They (the commissioners) anticipated great difficulty in satisfactorily explaining this matter to the Indians, and suggested whether it would not be best for the Government to relieve the Uncompahgres of this payment.

In reply the commissioners were advised, under date of February 4, 1895, that I had submitted a copy of their report, together with the report of Major Randlett, acting Indian agent, addressed to them upon the same subject, to the Department, with recommendation that the

same be transmitted to the Senate Committee on Indian Affairs with request that a section be added to the Indian appropriation bill the effect of which would be to relieve the Indians of this payment.

I added that I did not know whether there would be any chance of obtaining this legislation, but that they would be able to assure the Indians that they had done all in their power to relieve them of this requirement, and that this office had cooperated with the commission in this matter.

Under date of March 22, 1895, the commissioners submitted the following statement:

Your letter of the 15th instant was received by last mail. In it you state that "the Secretary of the Interior is desirous of knowing how soon a report may be reasonably 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."

The commission begs to say in reply that no exploration of the reservation has been possible since it reached this place. The snow has been of such depth as utterly to prevent all travel over the reservation; and even had such travel been practicable no fair idea could have been formed as to the character of lands so heavily coated, as they have been, with snow. This covering is, however, at last beginning to disappear, and although it is still, judging from the outlook in the vicinity of this place, at considerable depth in certain portions of the reservation, it is supposed that the way will be sufficiently open for the commission to undertake the exploration required within a few days. It is thought, too, that this work can be finished in three or four weeks. You may be sure that it will be pushed with due rapidity. Immediately upon its completion a report will be forwarded embracing the information desired.

Under date of May 6, 1895, the commissioners submitted a report as to "what portions of said reservation" (the Uncompahgre) "are unsuited or will not be required for allotments," and which under the provisions of the act of August 15, 1894, were by proclamation to "be restored to the public domain and made subject to entry."

June 3, 1895, this report was submitted to the Department, with a description by legal subdivisions of the lands which might be restored.

On the 19th of August, 1895, Commissioner Davis died, and his place has not been filled.

December 21, 1895. Commissioners Scott and Byrnes submitted a report, in which they stated substantially that it was impossible to induce the Uncompahgres to take allotments in severalty as contemplated by the act of August 15, 1894, in view of the requirement that they must pay \$1.25 per acre for any and all lands allotted them.

Under date of January 14, 1896, I submitted this report to you, and after discussing the matter at some length and reviewing the work of the commission up to that time, remarked that the following questions suggested themselves:

(1) Shall the commission make any further effort to induce the Uncompahgres to take allotments in severalty under existing conditions?

(2) Is it your desire that they shall make further report of lands not suited or required for allotment, in order that such lands may be restored to the public domain?

(3) Shall the commission suspend work among the Uncompahgres and proceed to negotiate with the Indians of the Uintah Indian Reservation for the relinquishment to the United States of the interest of said reservation not needed for allotments in severalty to said Indians, and if possible procure the consent of said Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty within said reservation, etc.?

I also suggested that the best way out of the difficulties met with in carrying out the present law would be to obtain some such legislation as the following:

To enable the Secretary of the Interior to negotiate with the Uncompahgre tribe of Indians and with the Indians residing on the Uintah Indian Reservation, in

Utah, for such modification of existing treaties and agreements with said Indians and such change in their reservations as may be deemed desirable by said Indians and the Secretary of the Interior, ——— thousand dollars, or so much thereof as may be necessary; but no agreement made shall take effect until ratified by Congress.

The expenditures by the commission, including the sum of \$1,403 advanced for the present quarter, amount to \$14,440.45.

In reporting on the resolution I have not confined myself strictly to its terms, but have also given in brief the action taken by this office in carrying out the provisions of the act of August 15, 1894.

In view of the recommendations contained in office reports of June 3, 1895, and January 14, 1896, which have not yet been acted upon by you, I have not deemed it advisable to express any opinion as to "the probable time when that provision of said sections can be executed which provides for a restoration to the public domain of certain lands within the Uncompahgre Indian Reservation in the Territory of Utah."

I inclose copies of the letter of instructions given the commission, its report of January 8, 1895, of the report of this office thereon of January 26, 1895, of the report of this office dated June 3, 1895, and of office report of January 14, 1896.

The reports of the commission of May 6, 1895, and December 21, 1895, are in your office.

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

The SECRETARY OF THE INTERIOR.

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 fieldwork 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 friend—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.
Quo 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 Confederate 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 Randlett and other reliable parties in the vicinity of these agencies, it will be no easy matter to induce the Uncompahgres 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 reservations 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 hereinbefore 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 Commissioners.

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

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 26, 1895.

SIR: Under date of January 8, 1895, the Ute Commission submitted a report relative to the progress of their work on the Uncompahgre Reservation. The commissioners refer to the provision in the act of June 5, 1880 (21 Stats., 199), ratifying the agreement with the Ute Indians, which requires that the Uncompahgre Indians shall pay \$1.25 per acre for the lands allotted them, and state that these Indians are unable to see why they should be required to pay for the lands to be allotted them while the Uintahs living alongside of them are not required to make this payment. They anticipate great difficulty in satisfactorily explaining this matter to the Indians,

and suggest whether it would not be best for the Government to relieve the Indians of this payment. They say:

"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."

They further state that 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 other aboriginal brethren within the limits of the United States."

I am also in receipt of a copy of a communication addressed by Maj. James F. Randlett, U. S. A., acting Indian agent in charge of the Uncompahgre and Uintah Utes to the commission, under date of December 24, 1894, upon the same subject. Major Randlett refers at length to the agreement of 1880 and the act by which it was ratified, and the operations of the commission appointed under said act to carry it into effect. He also refers to the wrong committed upon the Uncompahgre Indians by the commissioners charged with removing them to the Grand River, and the failure of the Government to furnish them with houses, wagons, agricultural implements, saw and grist mills, etc., and, as agent for the Indians, informs the present commission that it will be a hard task for them to convince the Indians that it is just to hold them to the stipulation of the agreement of 1880 for payment of their allotments while the said agreement has been violated in numerous ways by the Government, and concludes as follows:

"I presume you will consider it to be your first duty under the law to ascertain what lands can be cut off from the reservation as not wanted for allotment, and as you will experience much difficulty and delay in accomplishing this, on account of the extent of the reservation and the very small quantity of agricultural land to be found within its limits, I beg that you will consider the question herein raised for the purpose of securing more liberal and just dealing with these Indians from the Government, and that if my conclusions are deemed correct, and you can find it consistent to do so, I pray that you will present the subject for the consideration of the honorable Secretary of the Interior to the end that Congress may be asked to repeal the clause in the act of August, 1894, requiring \$1.25 per acre for lands to be allotted to them, and to make the necessary appropriations for supplying them with houses and agricultural implements, and in building substantial and complete irrigating ditches, so that it may be reasonable to expect them to become self-supporting. As agent for these Indians it is my determination to cooperate with you with due sense of my duty to the Government and the obedience I owe to the law of the land, while at the same time I will hope that our work may be carried on in such manner and to such end that no further injustice may come to these poor man-cursed fellow-creatures, and that our efforts for fair dealing with all concerned will be approved by the authority that has intrusted us, and result in reclaiming these Indians from barbarism and ultimately establishing them in ways of right living as American citizens."

The provision in the act of August 15, 1894 (28 Stat. L., 337), to which the commissioners and Major Randlett refer, is as follows:

"*And provided*, That said Indians shall pay \$1.25 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."

It is considered necessary to go at length into the history of the agreement of 1880 and the action taken thereunder, as the facts are not only well known to the Department and the committees of Congress, but are fully set out in the communication of Major Randlett and the commissioners.

While under the strict letter of the law the Government is doubtless in a position to enforce payment for this land, yet I believe that equity and a sense of fair dealing with these Indians require that this provision should not be enacted. I am also of the opinion that a waiver of this requirement would produce such good feeling among the Indians as would remove many of the difficulties which now beset the

commission and render its success in carrying out the provisions of the act of 1894 much more certain.

I therefore have the honor to recommend that the inclosed copies of the correspondence be transmitted to the Senate Committee on Indian Affairs with the recommendation that the following section be added to the Indian appropriation bill:

"SEC. —. That the requirement of the Act approved June fifteenth, eighteen hundred and eighty, entitled 'An Act to accept and ratify the agreement submitted by the Confederated Bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes,' and to make the necessary appropriations for carrying out the same, and that contained in section nineteen of the Act approved August fifteenth, eighteen hundred and ninety-four, entitled 'An Act making appropriations for the current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes,' which requires the Uncompahgre Ute Indians to pay the sum of one dollar and twenty-five cents per acre for the lands that may be allotted them in Utah, be and the same is hereby waived by the United States and the allotments provided for in said agreement and said Act of August fifteenth, eighteen hundred and ninety-four, shall be made without any price to be paid or charge to be made against any funds to the credit of the Indians."

Very respectfully, your obedient servant,

D. M. BROWNING, *Commissioner*.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, June 3, 1895.

SIR: Section 20 of the act of Congress approved August 15, 1894 (28 Stat. L., 286), which authorizes the appointment of a commission to allot in severalty to the Uncompahgre Indians within their reservation, in the Territory of Utah, agricultural and grazing lands, contains the following clause:

"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."

I am now in receipt of a report from the Ute Indian commissioners, dated May 6, 1895, relative to the lands which may be opened under the above provision. Report inclosed herewith.

The commissioners do not hesitate to say, after a thorough exploration of the country east of Green River, which embraces about 1,800,000 acres of the 2,000,000 acres that make up the entire reservation, that there is no arable land upon it suitable for Indian allotments, except about 10,000 acres of bottom land extending 10 or 12 miles up the White on both sides from its mouth.

They also say: "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 to 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 ground and sheets of rock, seamed and fissured, along which in every direction are crags, precipices, and piles of bowlders terribly broken up 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."

From this report it appears that the commission is satisfied that none of the reservation east of Green River, except the valley of the White, is suitable for agricultural allotments. The commissioners therefore suggest that that portion of the Uncompahgre Reservation east of Green River and north of White River, but not including the bottom lands of the two rivers, may be opened to settlement.

They do not make a similar recommendation as to the lands east of Green River and south of White River, for the reason that, although unsuited to agricultural allotments, 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.

The report being somewhat contradictory and not being able to positively determine whether the commissioners proposed to reserve the bottom lands of the White River for a distance of 10 or 12 miles, or to the Colorado line, I sent them the following telegram on May 31, 1895:

"Does your report of May 6th contemplate reserving for allotments to Indians any bottom or other lands on north side of White River east of range line between ranges 21 and 22 east Salt Lake meridian? Wire answer."

In reply Chairman Scott replied on the same day, as follows: "Our report was intended to reserve all the bottom lands on the White River between its mouth and the Colorado line."

In accordance with the suggestion of the commission, as above explained, I have the honor to recommend that the following-described portion of the Uncompahgre Indian Reservation in Utah be opened to settlement under the provisions of the act of August 15, 1894 (28 Stat. L. 286), viz:

Beginning at a point where the section line between sections 13 and 24, in township 9 south, range 25 east, Salt Lake meridian, if extended, intersects the eastern boundary of Utah Territory; thence west on the section line between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, in township 9 south of ranges 25, 24, and 23 east of said meridian; thence north on the range line between ranges 22 and 23 to the northeast corner of township 9 south, range 22 east; thence west on the north boundary of said township to the northeast corner of section 4 of said township; thence north on section line to the northeast corner of section 21, township 8 south; thence west on the section line to the northwest corner of section 19 in said township; thence north on the range line between ranges 21 and 22 east to the southeast corner of township 6 south of range 21 east; thence east on the south boundary of township 6 south, range 22 east, to the southeast corner of said township; thence north on the range line between ranges 22 and 23 east to the northeast corner of section 25, township 6 south, range 22 east; thence east on the south line of sections 19, 20, 21, 22, 23, and 24 of township 6 south, range 23 east, to the range line between ranges 23 and 24 east; thence south on said range line and following the present boundary of the reservation to the southwest corner of township 6 south, range 24 east; thence east on said reservation boundary to the southeast corner of fractional township 6 south, range 26 east; thence south on said reservation boundary, being the east boundary of Utah Territory, to the place of beginning.

It is altogether desirable that the lands to be opened to settlement should be described by legal subdivisions of the public survey. To describe them as being all the lands "between (not including) the bottom lands" of Green and White rivers would be too indefinite and not at all satisfactory. I have therefore followed lines of the public survey in describing the lands to be opened to settlement, and have taken care to reserve enough lands along both rivers to embrace, it is thought, all the bottom lands of both of said rivers. If more land is reserved than will be needed for allotments to the Indians the surplus not so needed can be opened at some future time.

I inclose for your convenience a map of Utah, showing the lines by which the tract it is proposed to open is bounded.

Very respectfully, your obedient servant,

THOS. P. SMITH, *Acting Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 14, 1896.

SIR: I have the honor to submit for your consideration the following statement of facts relative to the work of the Uncompahgre and Uintah Ute commission, showing what has thus far been accomplished and the seeming difficulties in the way of the successful accomplishment of the aims and purposes of the law under which said commission is now operating.

The law (28 Stats., pp. 337-338), briefly stated, provides for the appointment of a commission of three persons to allot in severalty to the Uncompahgre Utes, within their reservation, in Utah, agricultural and grazing lands according to the treaty (agreement) of 1880 (21 Stats., p. 199)—to heads of families, each, 160 acres of agricultural lands, and not to exceed 160 acres of grazing lands additional; to single persons over 18 years of age, each, 80 acres of agricultural, and not to exceed 80 acres of grazing lands additional; to orphan children, each, same as last mentioned; to each other person under 18 years of age, born prior to such allotment, same as last; provided that, with the consent of the commission, any adult Indian may select a less quantity of land, if more desirable on account of locality.

It is also provided that said Indians shall pay \$1.25 per acre for the lands that may be allotted to them, from the money realized from the sale of the lands in Colorado from which they were removed when they were taken to Utah.

A further important provision is that said commission shall, as soon as practicable after appointment, report to the Secretary of the Interior what portions of said Uncompahgre 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 thereafter set forth.

After indicating the manner in which the unallotted lands shall be disposed of, the law imposes a further duty upon the commission, as follows:

"That said commission shall also negotiate and treat with the Indians properly residing upon the Uintah 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."

The commission, Messrs. Scott, Byrnes, and Davis, entered upon their duties under instructions approved by you December 8, 1894.

On January 8, 1895, they submitted a report in which they referred to the provisions in the act of June 5, 1880 (*supra*), ratifying the agreement with the Utes, which require that the Uncompahgre Indians shall pay \$1.25 per acre for the lands allotted them, and stated that these Indians were unable to see why they should be required to pay for the lands to be allotted to them while the Uintahs, living alongside, were not required to make such payment. The commission anticipated great difficulty in satisfactorily explaining this matter to the Indians and suggested whether it would not be best for the Government to relieve the Indians of this payment. January 26, 1895, I recommended that a section be added to the then pending Indian appropriation bill relieving the Uncompahgre Indians of the payment required by the act of June 5, 1880, but favorable action was not taken by Congress. As we have already seen, the requirement as to this payment is repeated in the act of August 15, 1894 (*supra*).

In your Annual Report for 1895 (p. 10) I observe that you do not feel inclined to favor the suggestion for relieving these Indians of this payment. You remark: "If they are given agricultural lands, as the agreement specifies, I see no reason why the credits should not be made upon the trust fund, unless the delay in allotment is cause for complaint on the part of the Indians." It may be proper to state here that no complaint has been made by the Indians, so far as I know, on account of the delay in making allotments to them.

I am now in receipt of a further report from the commission, dated December 21, 1895, in which they report, in substance and effect, that it is impossible to induce the Uncompahgre Utes to take allotments in severalty as contemplated by the act of August 15, 1894, in view of the legal requirement that they must pay \$1.25 per acre for any and all lands that may be allotted to them. I inclose the report, and invite the careful attention of the Department to all that is said in advocacy of relieving the Uncompahgres from this payment.

It is very evident from this report that it would be idle to continue the efforts to induce these Indians to take allotments in severalty so long as this, to them, objectionable requirement is insisted upon. A whole year has been spent principally in the endeavor to persuade these Indians to take allotments, and the task appears to be a hopeless one under existing conditions.

There is another matter which gives serious concern, and that is, there is in reality but very little, if any, land within the entire Uncompahgre Reservation proper suitable for allotment as agricultural land. The commissioners report with positiveness that while certain parts of the reservation are suitable for grazing allotments none of it east of Green River and but little of it, comparatively speaking, west of that river is fitted for agricultural allotments to Indians.

As the Department is aware, when the Uncompahgres were removed to Utah lands were selected for them not only within what is now the Uncompahgre Reservation, but 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. The lands along the Duchesne are within the boundaries of the Uintah Reservation and the Uncompahgres are entitled to take their allotments there, but not farther than 8 miles above the mouth of the Uintah.

In the original instructions to the commission it was pointed out that there was believed to be a very considerable area of fertile land on the Duchesne as yet unoccupied, and they were instructed, if such was found to be the case, to see that every acre of it was taken in allotment. In their late report the commissioners state that there are several thousand acres subject to allotment to the Uncompahgre Indians on the Duchesne River—good agricultural land and perfectly adapted to their wants. They think that there is enough of this fine land there to furnish agricultural allotments to two or three hundred of the Uncompahgres. This, of course, is an entirely insufficient quantity. But the commissioners observe that above the 8-mile limit on the Duchesne there is ample land of fine quality to supply farms and homes for the

entire Uncompahgre tribe, taking in, of course, the land already belonging to the Uncompahgres below the 8-mile limit. It is rightly stated, however, that this land (above the 8-mile limit) belongs to the Uintah Indians, and can only be secured by negotiations with them. They suggest, however, that there would be no difficulty in negotiating for its purchase on reasonable terms, inasmuch as the Uintahs and Uncompahgres are very friendly.

Probably this assumption is correct, and the authority to negotiate with the Uintahs cited in this report (p. 2) would, it is believed, cover negotiations for the accomplishment of this object. But if the Uncompahgres, by reason of the requirement that they must pay \$1.25 per acre for their lands, object to taking allotments on that part of the Duchesne which was selected for them and where they are now privileged to take them, it is not seen how it would better the matter to procure, by purchase or otherwise, more land in that neighborhood and offer it to them in allotment upon the same conditions.

A question arises here, however, which I think should be considered:

Did the agreement and act of 1880 (*supra*) which provides that the United States shall reimburse itself from the proceeds of the sale of the Colorado lands "in payment for the lands at \$1.25 per acre which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement," contemplate that such payment should be made for any lands that might be selected for them within an existing Indian reservation—lands that had long been reserved from the public domain and set apart for Indian purposes? The agreement with the Indians provided, and it was expected, that the Uncompahgres would settle on the Grand River, near the mouth of the Gunnison, in Colorado, within the territory ceded by the Ute Indians in said agreement, if a sufficient quantity of agricultural lands could be found there, and in anticipation of their settlement there some \$21,000 was expended out of the Ute removal fund to make surveys for allotments for them there (subsequently reimbursed, 23 Stat. L., p. 95). But if a sufficient quantity of land could not be found on Grand River then they were to be settled upon such other unoccupied agricultural lands as could be found in that vicinity, and in the Territory of Utah, and for any land which might be ceded to them *outside of their reservation* for their allotments the United States was to be reimbursed in the sum of \$1.25 per acre.

It appears that a sufficient quantity of land to meet the requirements could not be found in Colorado, and lands were selected for them in Utah, *a portion of the selected lands being within the Uintah Reservation*. Whether the agreement and act of ratification really authorized or contemplated the selection of any lands for the Uncompahgres within the Uintah Reservation or not, the fact remains that lands were selected for them on said reservation, as hereinbefore stated, "along the Duchesne River, from its junction with the Green up to a point 8 miles above the mouth of the Uintah River," and the selection was approved by the Secretary of the Interior. (Annual Report Indian Office, 1881, p. 327.) Moreover, the lands that were selected for said Indians within the Uintah Reservation appear to be about the only lands of all that were selected for the Uncompahgres that are suitable for allotments for agricultural purposes, and the commissioners report that "already many farms have been opened (by the Uncompahgres) on the Duchesne, well fenced with wire and cedar posts, having necessary ditches for irrigation and good, comfortable homes, all occupied by Uncompahgre families, who are working to advantage and profit," and that "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 indicated, 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.

Then, as it turned out, the United States got the benefit of all the lands purchased from the Ute Indians by the agreement of 1880. None of the Indians were given allotments upon the lands so purchased, and it would appear from the recent reports of the Ute Commission that but very few, if any of them, can be accommodated with agricultural lands within the territory selected for them on the Green River and White River, in Utah, within the present Executive Order Reservation; this for the reason, as already stated, that there is but very little, if any, suitable land there for allotment to them. Now, if these Indians should, by proper arrangement, all be settled and given allotments on the Duchesne, within the Uintah Reservation, would it be proper for the Government to insist that they should pay \$1.25 an acre for their lands? The commissioners have found it very difficult to explain to them in any satisfactory way why they should pay for lands taken in allotment within the Uintah Reservation while their neighbors, the White River Utes, who were removed at the same time with them, and located on the Uintah Reservation, are not required to pay for theirs.

Had the Uncompahgres settled on the Grand River within their old reservation in Colorado, no payment would have been required of them for the lands taken in allotment. It was only for lands "ceded to them by the United States *outside of their*

reservation" (in Colorado) that the Government was to be reimbursed for. Now, if they take their allotments on the Duchesne, within the Uintah Reservation, will they be required to pay for them at the rate of \$1.25 per acre? If so, why should not the White River Utes be required to pay for their allotments at the same price? It has never been suggested, so far as I am aware, that the White Rivers would be required to make such payment when they come to take their lands in severalty on the Uintah Reservation.

It is not known positively whether the Uncompahgres would all be willing to settle on the Uintah Reservation, but it is inferred that they would from the recent report of the Commission, provided, of course, that they are not required to pay for the lands. Again, if they should all agree to settle there, what would become of the Executive Order Reservation—the Uncompahgre Reservation proper? The law (act August 15, 1894) provides that the lands ascertained to be unsuitable or not required for allotment shall be restored to the public domain and made subject to entry by the Whites. But would the Uncompahgres be willing to give up whatever rights they have in and to said lands in consideration of their being allowed to take lands—all of them—in allotments on the Uintah Reservation? This is a question that can only be determined by consulting them.

The questions arising in my mind after reviewing the work of the commission up to this time are:

(1) Shall the commission make any further effort to induce the Uncompahgres to take allotments in severalty under existing conditions?

(2) Is it your desire that they shall make further report of lands not suited or required for allotment, in order that such lands may be restored to the public domain?

In your annual report for 1895 (p. 10) you were pleased to recommend the passage of such legislation "as will provide for the disposal of the Gilsonite deposits by lease or sale to the highest bidder." In view of this, is it desirable that the commissioners shall be directed to make further report upon lands not suited or needed for allotments?

(3) Shall the commission suspend work among the Uncompahgres and proceed to negotiate with the Indians of the Uintah Indian Reservation "for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotments in severalty to said Indians, and if possible procure the consent of said Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty within said reservation," etc.?

In connection with the last question it has occurred to me that it might not be wise to undertake negotiations with the Uintahs until something definite is reached in regard to the final settlement of the very serious and perplexing difficulties met with in carrying out that part of the law relating to the Uncompahgres.

The Uintah Reservation is admirably adapted to Indian uses, and it seems to me that it should be kept intact for their use and occupation until it is ascertained beyond question that there is a surplus over and above the present and prospective wants of the Indians thereon and in that region of country, when such portions as are really not needed might be disposed of for white settlement. Leaving out the Uncompahgre Executive order reservation the Uintah Reservation is the only Indian reservation in the entire State of Utah, and I do not think we should be in a hurry to encroach upon it simply because it happens to be attractive to white home seekers.

I have already referred to the recommendation contained in your last annual report for further legislation in regard to the disposal of the Gilsonite deposits within the Uncompahgre Reservation. I believe that the best way out of the difficulties met with in carrying out the present law would be to obtain some such legislation as was provided in the case of the Chippewa Indians in Minnesota and other Indians in northern Montana and Fort Berthold (24 Stat. L., p. 44). For example, such authority as this:

To enable the Secretary of the Interior to negotiate with the Uncompahgre tribe of Indians and with the Indians residing upon the Uintah Indian Reservation in Utah for such modification of existing treaties and agreements with said Indians and such change in their reservations as may be deemed desirable by said Indians and the Secretary of the Interior, ——— thousand dollars, or so much thereof as may be necessary; but no agreement made shall take effect until ratified by Congress.

With such general authority, I think an agreement could be reached with the Indians which would be satisfactory both to them and the whites who were interested in procuring the legislation under which the Ute commission is now operating.

I desire to direct attention to one other point requiring your consideration. Section 20 of the act of August 15, 1894, authorizes and directs the appointment of a commission of three persons to allot lands in severalty to the Uncompahgres, and section 22 provides that said commission shall also negotiate with the Uintah Indians. The commission was originally composed of three persons, but one of the number, Mr. Davis, died on the 19th of August last, and his place has not as yet been filled. The question arises whether the commission could, as at present constituted, go on and negotiate with the Uintah Indians as provided in section 22 of the act in case it should be decided to undertake such negotiations without any further

legislation. It should be stated in connection with this subject that the chairman of the commission reports that with the commission composed of but two members the funds of the appropriation will not be exhausted—allowing for the payment of the expenses of the commission in returning to their homes—until the 25th day of May next.

Very respectfully, your obedient servant,

D. M. BROWNING, *Commissioner*.

THE SECRETARY OF THE INTERIOR.

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.

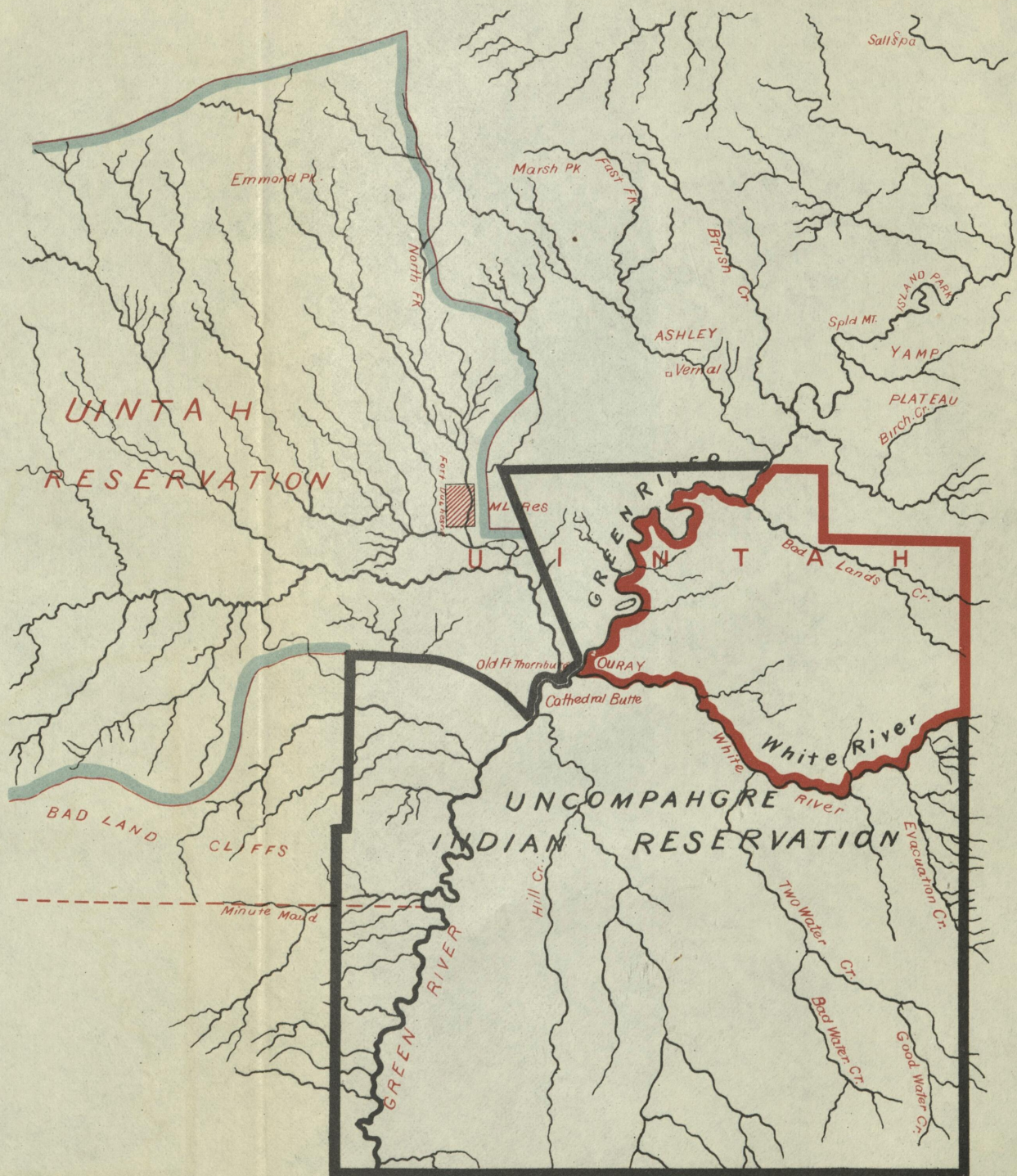
By reference to the map of Utah published by the General Land Office in 1893—a copy of which was furnished the undersigned by the Indian Office—it will be seen that the Uncompahgre Reservation proper is divided by the Green River, which enters near the middle of the northern border and passes out at 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 work 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.

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.

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.

UINTAH AND OURAY AGENCY,

White Rocks, Utah, January 14, 1896.

SIR: Referring to instructions directing me to cooperate with the board of commissioners appointed under the provisions of section 20, act of Congress, approved August 15, 1894, for service connected with the Indians, and the reservations of this agency, I have the honor to report that I have rendered to said commissioners all the assistance in my power, and that I believe they have accomplished as much of the purpose required of them as a proper regard for the best interest of the Government, and a just and humane respect for the rights of the Indians concerned, has permitted. It is a truth known to all that have cared to inform themselves in the premises, that the Uncompahgre Reservation contains insufficient land capable of being made agricultural for supplying the individual allotment-allowance provided for by law for the Uncompahgre Utes now residing upon it, and that the cry that white home seekers are waiting in disappointment and distress the opening of the surplus lands of this reservation for them to settle upon, is simply clatter that has originated with the impatient, greedy capitalists, and their unprincipled employees, who have been for years waiting and watching for expected events that would give to them opportunities to grab and gobble up the asphalt mineral deposits that are located on the lands that will not be required in locating homesteads for the Indians.

During the service of the commissioners herein referred to the lands of the Uncompahgre Reservation that are so located as to be made available for agricultural purposes have been carefully observed, and in the plans working for the allotment of these lands to Indians full consideration has been given to the importance of providing canals and ditches for the conveyance of water thereto for irrigating purposes. Such canals and ditches have been commenced, and their construction so far advanced that they will practically be completed by the end of the present fiscal year, and embrace a system capable of irrigating all the lands of this reservation worth considering as agricultural and suitable for allotment. Besides this, a large number of homesteads with legal allotment of acreage have been laid out on section lines and inclosed with fence constructed of barbed wire on cedar posts that may be expected to last forty years. Upon 20 of these farms substantial log houses for dwellings have been constructed. These houses have paneled doors, double-sashed glass windows, shingle roof, and brick chimneys; they are respectable looking cottages. In my judgment the allotment of lands to the Uncompahgre Utes in the manner described has been commenced in a practical, humane, and common-sense way, and considering the peculiar provisions of the law under which the commissioners for such allotment are serving, no more could have been accomplished, and to have attempted more would have jeopardized the best interest of the public service.

Referring to the instructions for me to try and convince the Indians properly residing on the Uintah reservation of the advantage that would accrue to them by relinquishing a portion of their lands, I have to state that from time to time during the past year I have presented this matter to representative men of these tribes, and feel authorized to state that the way is clear for the Commissioners to commence their work of negotiating with these Indians, as prescribed for them in section 22 of the act of August, 1894, herein before referred to, and I have no doubt that for a just and fair compensation these Indians can be induced to relinquish to the United States from the west side of their reservation 1,000,000 acres of their lands.

About the same number of farms have been laid out on the Uintah Reservation with same improvements as has been done on the Uncompahgre Reservation, and the preliminary work of allotting lands advanced fully as much, perhaps more, than has been accomplished with the Uncompahgres. I feel confident that if Congress removes the provisions for the Uncompahgres to pay for lands allotted to them, that when the spring opens the largest portion of that band can be located; that the Uintahs will cheerfully consent to give up sufficient of their lands to supply whatever deficiency may exist in suitable lands to locate the Uncompahgres upon, and that the commissioners now serving with these Indians will be able to make a great showing in their report of next season's work.

Very respectfully,

JAMES F. RANDLETT,

Major, U. S. A., Acting United States Agent.

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.