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NAVAJO INDIAN RESERVATION

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REPORT OF H. J. HAGERMAN
SPECIAL COMMISSIONER TO NEGOTIATE WITH INDIANS
ON THE STATUS OF NAVAJO INDIAN RESERVATION
LAND ACQUISITIONS AND EXTENSIONS WITH
SPECIFIC RECOMMENDATIONS FOR THE OUT-
SIDE BOUNDARIES OF THE RESERVATION
AND OF CERTAIN ADDITIONAL AREAS
TO BE ACQUIRED FOR THE INDIANS
OUTSIDE THE RESERVATION

PRESENTED BY MR. HAYDEN

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PREFACE

At the last session of Congress we joined in the introduction of a bill (S. 5577) the purpose of which was to overcome the disadvantages now existing by reason of "checkerboard" control of lands by Navajo Indians and private landowners within the limits of the grant originally made to the Atlantic & Pacific Railroad Co. in Arizona and New Mexico. The measure was presented with the distinct understanding that no action would be taken on it or any other similar proposal until a further study had been made to develop the facts upon which proper congressional legislation might be predicated.

With a desire to be of assistance to Congress in arriving at a correct decision, the Commissioner of Indian Affairs directed Hon. H. J. Hagerman to make an investigation and to submit a report upon the entire Navajo land situation. This document speaks for itself and clearly demonstrates Governor Hagerman's thorough understanding of the subject, a result to be expected because of his long-continued contact with all matters relating to the Navajo Indians.

No one who is at all familiar with the complexities of the problem will be surprised that it has required much time and effort to assemble the data and arrive at the opinions stated in this report. Neither should there be any surprise when we say that we do not agree with all of the conclusions expressed therein. We do, however, take this opportunity to make known our appreciation of the able and conscientious manner in which Governor Hagerman has presented the facts and we feel sure that his report will serve as the basis for the settlement of a long-standing controversy which clearly requires an early and just determination.

It is our opinion that rather than to attempt to legislate upon the entire subject in one measure, it would be better to have separate bills introduced dealing with the Navajo lands in each State. We believe that greater progress will be made if the State and county authorities in Arizona, New Mexico, and Utah are given an opportunity to study this report and then confer with their Senators and Representatives in Congress with respect to the specific measures to which they can give approval. The problem not only affects three States, but there are three interests within each State, the Navajo Indians, the private landowners, and those concerned in revenue from taxation for the support of local government, which must be considered.

Under the circumstances we shall not sponsor a single bill, but, after conferring with our constituents, we expect to introduce separate measures at the next session of Congress which will, when enacted, be helpful to all concerned.

CARL HAYDEN.
SAM G. BRATTON.

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NAVAJO INDIAN RESERVATION

[NOTE.—The original typewritten report submitted to the Commissioner of Indian Affairs on January 1, 1932, was accompanied by a number of maps and charts prepared under my direction by Messrs. Radcliffe, Sena, and other Indian field employees. These maps are so elaborate that they can not be reproduced for this report. Copies of the maps are not available for distribution, but can be examined at the Indian Office by Senators and Representatives, and others, who desire to study them in connection with this report.—H. J. H.]

SANTA FE, N. MEX., *January 1, 1932.*

Hon. CHAS. J. RHOADS,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR MR. COMMISSIONER: In the course of a letter dated March 4, 1930, approved by the Secretary of the Interior, you gave me the following instructions:

> The policy of this department is to comply as far as possible, from now on, with the expressed wishes of the Navajo Indians that their tribal funds be used for the acquisition of such additional lands as may be necessary to reasonably consolidate and hold the country now actually mainly used by them for grazing purposes. With this in view, at least 60 per cent of the money coming into their tribal funds will, until further notice, be set aside. If moneys credited to this fund are sufficient, approximately $182,000 may be used for land purchases up to July 1, 1931. When more is necessary, further authorization will be sought. We are favorable to the use, as necessary, of from a million and a half to two million dollars for land purchases, if the funds are forthcoming.
>
> You are instructed to take charge of these land consolidations, recommending and arranging for the purchase of such lands as you believe should be acquired, and for the leasing of such lands, in addition to those already leased, as may be necessary to protect the Indians' pending purchases.
>
> The department favors the settlement of these land matters in the eastern Navajo country as far as possible by exchanges under the act of March 3, 1921 (41 Stat. L. 1225–1239). You will do all you can to make this act operative and to arrange for such exchanges where, in your opinion, they will work out to the advantage of the Indians and non-Indians. The Secretary is instructing the General Land Office and the Geological Survey to cooperate fully with you.
>
> You will investigate also possible purchases and exchanges of lands to consolidate the Puertecito, Canoncito, and Ramah areas with a view of reasonably providing for these segregated bands of Navajos.

In obedience to these instructions, I have the honor to recommend:

I

That the outside boundaries of the Navajo Indian Reservation be as follows:

Beginning at a point where the one hundred and tenth meridian intersects the San Juan River, San Juan County, Utah; thence following the meanders of the San Juan River to its confluence with the Colorado River; thence following the meanders of that stream to the mouth of the Little Colorado River; thence following the Little Colorado River up, to where it intersects the east boundary of the Grand Canyon National Park; thence south along said east boundary to the northeast corner of sec. 17, T. 31 N., R. 6 E., Gila and Salt

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River meridian, Arizona; thence west along section line between sections 8 and 17 to the northwest corner of section 17; thence south to the southeast corner of sec. 31, T. 31 N., R. 6 E.; thence east 1 mile along the township line between townships 30 and 31; thence south to the southwest corner of sec. 4, T. 30 N., R. 6 E.; thence east to the southeast corner of section 4; thence south to the southwest corner of section 10; thence east to the southeast corner of section 10; thence south to the southwest corner of section 14; thence east to the northwest corner of the NE. ¼ in section 23; thence 2 miles to the southeast corner of the SW. ¼ in section 26; thence west one-half mile to the southeast corner of sec. 27, T. 30 N., R. 6 E., Gila and Salt River meridian; thence south 7 miles to the southwest corner of sec. 35, T. 29 N., R. 6 E.; thence east 1 mile; thence south 1½ miles to the southwest corner of the NW. ¼ in sec. 12, T. 28 N., R. 6 E.; thence east through the center of section 12 to the range line between ranges 6 and 7 east; thence south along said range line, 4½ miles to the southeast corner of T. 28 N., R. 6 E.; thence west along the township line between townships 27 and 28, 3 miles to the northwest corner of sec. 3, T. 27 N., R. 6 E.; thence south 6 miles to the southeast corner of sec. 33, T. 27 N., R. 6 E.; thence east along township line between townships 26 and 27, 6½ miles to the northeast corner of the NW. ¼ in sec. 3, T. 26 N., R. 7 E.; thence south 2 miles to the southeast corner of the SW. ¼ in sec. 10, T. 26 N., R. 7 E.; thence east 4½ miles to the southeast corner of sec. 8, T. 26 N., R. 8 E.; thence north 4 miles to the northwest corner of sec. 28, T. 27 N., R. 8 E., Gila and Salt River meridian, Arizona; thence east 1 mile to the southeast corner of section 21; thence north 4 miles to the northeast corner of sec. 4, T. 27 N., R. 8 E.; thence east along township line between townships 27 and 28 north, to its intersection with the Little Colorado River; thence up that stream to the intersection of range line between ranges 10 and 11 east, Gila and Salt River meridian; thence south along range line between ranges 10 and 11 east to the intersection of range line with the north right of way of the Atchison, Topeka & Santa Fe Railway; thence easterly along the north right of way of township line between townships 19 and 20 north Gila and Salt River meridian; thence east along this line to the corner of sec. 33 and 34, T. 20 N., R. 14 E., Gila and Salt River meridian; thence north 6 miles to the fifth standard parallel between townships 20 and 21 north; thence east along said standard parallel to the southwest corner of T. 21 N., R. 27 E., Gila and Salt River meridian, Arizona; thence north 6 miles to the northeast corner of T. 21 N., R. 26 E.; thence east 6 miles to the northeast corner of T. 21 N., R. 27 E.; thence south 2 miles; thence east 12 miles; thence south 4 miles; thence east along the township line between townships 20 and 21 north to the boundary line between the States of New Mexico and Arizona; thence north along said boundary line to its intersection with the north line of sec. 34 T. 12 N., R. 21 W., New Mexico principal meridian; thence east to the range line between ranges 20 and 21 west; thence north 6 miles; thence east 5½ miles to the northeast corner of sec. 36 T. 13 N., R. 20 W., New Mexico principal meridian; thence north 5 miles; thence east 8 miles; thence north 4 miles; thence west 2 miles; thence north 2 miles; thence west 6 miles; thence north 6 miles; thence west along the township line between townships 15

and 16 north to the boundary line between Arizona and New Mexico; thence north along said boundary line to a point where it intersects the south boundary line of the land withdrawn by Executive order of January 6, 1880; thence east along said line to its intersection with the range line between ranges 17 and 18 west; thence south along said range line to the southeast corner of T. 14 N., R. 18 W., New Mexico principal meridian; thence east along the township line between townships 13 and 14 north, to the east boundary line of the Fort Wingate Military Reservation; thence north along said boundary line to its intersection with the north right-of-way line of the Atchison, Topeka & Santa Fe Railway; thence following said north right-of-way line to its intersection with the township line between townships 13 and 14 north; thence east along that township line to the southeast corner of T. 14 N., R. 12 W.; thence north 6 miles; thence east 6 miles; thence south 12 miles; thence east 3 miles; thence north 24 miles along a line bisecting Tps. 13, 14, 15, and 16 N., R. 10 W., New Mexico principal meridian; thence west to the southeast corner of T. 17 N., R. 11 W.; thence north 6 miles; thence west 6 miles; thence north along the range line between ranges 11 and 12 west, to the township line between townships 28 and 29 north; thence west to the southeast corner of T. 29 N., R. 14 W.; thence north to the San Juan River; thence following the meanders of said river down, to where it crosses the east line of the Navajo Reservation as established by the treaty of June 1, 1868; thence north along said east boundary to its intersection with the Colorado-New Mexico State line and the northeast corner of the treaty reservation of June 1, 1868; thence west to the boundary line between Colorado and Utah; thence north along that boundary line to its intersection with the section line between secs. 27 and 34 in T. 39 S., R. 26 E., Salt Lake base and meridian, Utah; thence west along that section line to the southwest corner of sec. 25, T. 39 S., R. 25 E.; thence north 1 mile; thence west 5 miles; thence west along the section line between secs. 24 and 25, T. 39 S., R. 24 E., Salt Lake meridian, to where it intersects Montezuma Creek or wash within T. 39 S., R. 24 E., Salt Lake meridian, San Juan County, Utah; thence down along said creek or wash to its confluence with the San Juan River; thence along that stream to the point of beginning, containing approximately 16,590,840 acres; and that such legislation be enacted and such appropriations be made as may be necessary to so define such boundaries and to secure the lands within them not now in Government or Indian ownership.

All of the country within these lines is already now mainly used by the Navajo Indians with the exception of the district around Polacca, Oraibi, and Moencopi which is occupied and used by the Hopi Indians.

The area within said lines is made up as follows:

Item 1.—The treaty area, containing 3,414,528 acres, more or less, as defined in article 2 of the treaty of 1868 between the Government of the United States and the Navajo Indians, as follows:

The United States agrees that the following district of country, to wit: bounded on the north by the thirty-seventh degree of north latitude, south by an east and west line passing through the site of old Fort Defiance, in Cañon Bonito, east by the parallel of longitude which, if prolonged south, would pass through old Fort Lyon, or the Ojo-de-oso, Bear Spring, and west by a parallel of longitude about 109° 30′ west of Greenwich, provided it embraces the outlet of the Cañon-de-Chelly, which cañon is to be all included in this reservation, shall be, and the

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same is hereby, set apart for the use and occupation of the Navajo tribe of Indians, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them; and the United States agrees that no persons except those herein so authorized to do, and except such officers, soldiers, agents, and employees of the Government, or of the Indians, as may be authorized to enter upon Indian reservations in discharge of duties imposed by law, or the orders of the President, shall ever be permitted to pass over, settle upon, or reside in, the territory described in this article.

Item 2.—The area of about 957,817 acres "set apart as an addition to the present reservation for the Navajo Indians" by an Executive order dated October 29, 1878, in the following language:

EXECUTIVE MANSION, *October 29, 1878.*

It is hereby ordered that the tract of country in the Territory of Arizona lying within the following-described boundaries, viz, commencing at the northwest corner of the Navajo Indian Reservation, on the boundary line between the Territories of Arizona and Utah; thence west along said boundary line to the one hundred and tenth degree of longitude west; thence south along said degree to the thirty-sixth parallel of latitude north; thence east along said parallel to the west boundary of the Navajo Reservation; thence north along said west boundary to the place of beginning, be, and the same hereby is, withdrawn from sale and settlement and set apart as an addition to the present reservation for the Navajo Indians.

R. B. HAYES.

Item 3.—The area comprising about 996,403 acres "set apart as an addition to the present Navajo Reservation" by an Executive order dated January 6, 1880, as amended by the order of May 17, 1884. These two orders are as follows:

EXECUTIVE MANSION, *January 6, 1880.*

It is hereby ordered that the following-described country lying within the boundaries of the Territories of New Mexico and Arizona, viz, commencing in the middle of the channel of the San Juan River where the east line of the Navajo Reservation in the Territory of New Mexico, as established by the treaty of June 1, 1868 (15 Stat. 667), crosses said river; thence up and along the middle channel of said river to a point 15 miles due east of the eastern boundary line of said reservation; thence due south to a point due east of the present southeast corner of said reservation; thence due south 6 miles; thence due west to the one hundred and tenth degree of west longitude; thence north along said degree to the southwest corner of said reservation in the Territory of Arizona, as defined by Executive order dated October 29, 1878, be, and the same is hereby, withdrawn from sale and settlement and set apart as an addition to the present Navajo Reservation in said Territories.

R. B. HAYES.

EXECUTIVE MANSION,
Washington, May 17, 1884.

It is hereby ordered that the Executive order dated January 6, 1880, adding certain lands to the Navajo Reservation, in New Mexico and Arizona Territories, be, and the same is hereby, amended so as to exempt from its operation and exclude from said reservation all those portions of townships 29 north, ranges 14, 15, and 16 west, of the New Mexico principal meridian, south of the San Juan River, in the Territory of New Mexico.

CHESTER A. ARTHUR.

Item 4.—A tract of land in Arizona comprising 2,499,558 acres and described in the following Executive order:

EXECUTIVE MANSION, *December 16, 1882.*

It is hereby ordered that the tract of country in the Territory of Arizona lying and being within the following-described boundaries, viz, beginning on the one hundred and tenth degree of longitude west of Greenwich, at a point 36° 30′ north; thence due west to the one hundred and eleventh degree of longitude west; thence due south to a point of longitude 35° 30′ north; thence due east to the one hundred and tenth degree of longitude west; thence due north to place of beginning, be, and the same is hereby, withdrawn from settlement and sale, and set apart for the use and occupancy of the Moqui and such other Indians as the Secretary of the Interior may see fit to settle thereon.

CHESTER A. ARTHUR.

Item 5.—An area of about 2,373,870 acres "set apart as a reservation for Indian purposes" by an order of May 17, 1884, as amended by the order of November 19, 1892. These orders read as follows:

EXECUTIVE MANSION,
Washington, D. C., May 17, 1884.

It is hereby ordered that the following-described lands in the Territories of Arizona and Utah be, and the same are, withheld from sale and settlement and set apart as a reservation for Indian purposes, viz:

Beginning on the one hundred and tenth degree of west longitude at 36° and 30′ north latitude (the same being the northeast corner of the Moqui Indian Reservation); thence due west to the one hundred and eleventh degree 30 minutes west longitude; thence due north to the middle of the channel of the Colorado River; thence up and along the middle of the channel of said river to its intersection with the San Juan River; thence up and along the middle channel of San Juan River to west boundary of Colorado (32° west longitude, Washington meridian); thence due south to the thirty-seventh parallel north latitude; thence west along said parallel to the one hundred and tenth degree of west longitude; thence due south to place of beginning: *Provided*, That any tract or tracts within the region of country described as aforesaid which are settled upon or occupied, or to which valid rights have attached under existing laws of the United States prior to date of this order, are hereby excluded from this reservation.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
Washington, D. C., November 19, 1892.

It is hereby ordered that the Executive order of May 17, 1884, by President Chester A. Arthur, withdrawing from sale and settlement in the Territories of Utah and Arizona, be, and the same hereby is, modified so that all the lands described in said order which lie west of the one hundred and tenth degree of west longitude and within the Territory of Utah be, and the same hereby are, restored to the public domain, freed from the reservation made by said order.

BENJ. HARRISON.

The order of November 19, 1892, restores to entry what is hereinafter referred to as the Paiute Strip.

Item 6.—An area of about 36,723 acres "set apart as an addition to the Navajo Reservation" by an order dated April 24, 1886, reading as follows:

EXECUTIVE MANSION, *April 24, 1886.*

It is hereby ordered that the following-described tract of country in the Territory of New Mexico, viz, all those portions of townships 29 north, ranges 14, 15, and 16 west of the New Mexico principal meridian, south of the San Juan River, be, and the same is hereby, withdrawn from sale and settlement and set apart as an addition to the Navajo Indian Reservation.

GROVER CLEVELAND.

Item 7.—An area now known as the Leupp jurisdiction of the Navajo Indian Reservation, comprising about 425,171 acres, described as follows in an Executive order dated January 8, 1900:

EXECUTIVE MANSION, *January 8, 1900.*

It is hereby ordered that the tract of country lying west of the Navajo and Moqui Reservations, in the Territory of Arizona, embraced within the following-described boundaries, viz, beginning at the southeast corner of the Moqui Reservation and running due west to the Little Colorado River; thence down that stream to the Grand Canyon Forest Reserve; thence north on the line of that reserve to the northeast corner thereof; thence west to the Colorado River;

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thence up that stream to the Navajo Indian Reservation, be, and the same is hereby, withdrawn from sale and settlement until further ordered.

WILLIAM MCKINLEY.

Item 8.—An area of about 1,575,369 acres now a part of what is known as the Western Navajo jurisdiction of the Navajo Indian Reservation, signed by Theodore Roosevelt, and reading as follows:

WHITE HOUSE, *November 14, 1901.*

It is hereby ordered that the following-described tract of country in Arizona, viz, commencing at a point where the south line of the Navajo Indian Reservation (addition of January 8, 1900) intersects the Little Colorado River; thence due south to the fifth standard parallel north; thence east on said standard to the middle of the south line of township 21 north, range 15 east; thence north on the line bisecting townships 21, 22, 23, 24, said range 15 east, to the south line of the Moqui Reservation; thence due west to the place of beginning, be, and the same is hereby, withdrawn from sale and settlement until such time as the Indians residing thereon shall have been settled permanently under the provisions of the homestead laws or the general allotment act approved February 8, 1887 (24 Stats. 388), and the act amendatory thereof, approved February 28, 1891 (26 Stats. 794).

THEODORE ROOSEVELT.

Item 9.—An area of about 67,600 acres north of the San Juan River and adjacent to the Ute Reservation in southeastern Utah described first in an Executive order of March 10, 1905, and corrected in an amendatory order dated May 15, 1905. These orders are as follows:

THE WHITE HOUSE, *March 10, 1905.*

It is hereby ordered that the following-described lands situated in the State of Utah be, and the same are hereby, withheld from sale and settlement and set apart for Indian purposes as an addition to the Navaho Indian Reservation, viz: Beginning at the mouth of Montezuma Creek (in Utah); running thence due east to the Colorado State line; thence south along the Colorado State line to the San Juan River; thence down the San Juan River to the place of beginning: *Provided*, That any tract or tracts within the region of country described as aforesaid, which are settled upon or occupied, or to which valid rights have attached under existing laws of the United States prior to the date of this order, are hereby excluded from the reservation.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 15, 1905.*

The Executive order of March 10, 1905, setting apart certain lands in Utah as an addition to the Navaho Indian Reservation, is hereby canceled, and in lieu thereof it is hereby ordered that the following described lands situated in said State be, and the same are hereby, withheld from sale and entry and set apart for Indian purposes as an addition to the said Indian reservation, viz: Beginning at the corner to sections 25 and 30, 31 and 36, on the range line between ranges 23 and 24 east, in township 40 south, running east on the north boundary of sections 31 to 36, inclusive, in township 40 south, range 26 east, to the Colorado State line; thence south along the Colorado State line to the San Juan River; thence down the San Juan River to the meander corner to fractional sections 31 and 36, on the range line between ranges 23 and 24 east; thence north on said range line to the place of beginning: *Provided*, That any tract or tracts within the region of country described as aforesaid, which are settled upon or occupied, or to which valid rights have attached under existing laws of the United States prior to the date of this order, are hereby excluded from the reservation.

T. ROOSEVELT.

Item 10.—An area of approximately 1,208,486 acres, north of the railroad, in Apache County, Ariz., described in the order of November 9, 1907, and corrected by the order of January 28, 1908. The order of November 9, 1907, referring to the lands described, states:

THE WHITE HOUSE, *November 9, 1907.*

It is hereby ordered that the following-described tract of country in the Territories of Arizona and New Mexico, viz: Commencing at a point where the east

line of the Navajo Indian Reservation, as at present constituted, intersects the north boundary of township 23 north, range 13 west, New Mexico meridian; thence due east to the northeast corner of township 23 north, range 5 east; thence south to the southeast corner of township 17 north, range 5 east, New Mexico meridian; thence west to the first guide meridian; thence south on the said guide meridian to the southeast corner of township 15 north, range 9 west; thence west to the southwest corner of township 15 north, range 14 west; thence north to the northwest corner of township 15 north, range 14 west; thence due west to the boundary line between the Territories of Arizona and New Mexico; thence south on the boundary line between the Territories of Arizona and New Mexico to the northeast corner of township 23 north, range 31 east; thence west to the northwest corner of township 23 north, range 29 east; thence south to the northwest corner of township 21 north, range 29 east; thence west to the northwest corner of township 21 north, range 26 east; thence south to the southeast corner of township 21 north, range 25 east; thence west to the southwest corner of township 21 north, range 22 east; thence due north to the southern boundary of the Navajo Reservation as at present constituted, be and the same is hereby, withdrawn from sale and settlement and set apart for the use of the Indians as an addition to the present Navajo Reservation: *Provided*, That this withdrawal shall not affect any existing valid rights of any person.

THEODORE ROOSEVELT.

The order of January 28, 1908, reads as follows:

THE WHITE HOUSE, *January 28, 1908.*

Whereas it is found that the Executive order of November 9, 1907, setting apart certain lands in Arizona and New Mexico as an addition to the Navajo Indian Reservation, conflicts in part with Executive order of November 11, 1907, setting apart certain lands as an addition to the Jicarilla Indian Reservation, N. Mex., said Executive order is hereby so amended that the description of the tract of land set apart as an addition to the Navajo Reservation shall read as follows: Beginning at a point on the eastern boundary of the Navajo Reservation where it intersects what would be, if extended, the township line between townships 23 and 24 north; thence east along said township line between townships 23 and 24 north to the northeast corner of township 23 north, range 6 west, New Mexico meridian; thence south to the northeast corner of township 21 north, range 6 west; thence east to the northeast corner of township 21 north, range 5 west; thence south to the southeast corner of township 17 north, range 5 west; thence west to the first guide meridian west; thence south on said guide meridian to the southeast corner of township 15 north, range 9 west; thence west along the township line between townships 14 and 15 north to the southwest corner of township 15 north, range 14 west; thence north to the northwest corner of township 15 north, range 14 west; thence west along the township line between townships 15 and 16 north to the boundary line between the Territories of Arizona and New Mexico; thence south on said boundary line to the northeast corner of township 23 north, range 31 east, Gila and Salt River meridian, Arizona; thence west on the township line between townships 23 and 24 north to the northwest corner of township 23 north, range 29 east; thence south to the northwest corner of township 21 north, range 29 east; thence west on the township line between townships 21 and 22 north to the northwest corner of township 21 north, range 26 east; thence south to the southeast corner of township 21 north, range 25 east; thence west on the fifth standard parallel north to the southwest corner of township 21 north, range 22 east; thence north on the range line between ranges 21 and 22 east to its intersection with the south boundary of the Hopi (Moqui) Indian Reservation, Ariz.; thence east to the southeast corner of said Hopi (Moqui) Reservation; thence north on the one-hundredth-and-tenth degree of longitude west to the south boundary of the Navajo Reservation, Ariz.; thence east along the said south boundary to the boundary line between Arizona and New Mexico; thence continuing east along the boundary line of the Navajo Reservation, N. Mex., to the southeast corner of said reservation; thence north along the east boundary of said Navajo Reservation to the place of beginning.

THEODORE ROOSEVELT.

All of this country with the exception of 1,208,486 acres in Apache County, Ariz., was restored to entry by the orders of December 30, 1908, and January 16, 1911, with the exception of certain allotted lands.

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The order of December 30, 1908, restores to entry that part of these lands in New Mexico lying east of the first guide meridian west with the exception of certain designated Indian allotments. The order of January 16, 1911, restores to entry those lands in New Mexico lying west of the first guide meridian west. Total lands so restored to entry in New Mexico were 1,180,160 acres.

The term used in President Roosevelt's order of 1908 is: "And the same are hereby restored to public domain." President Taft's order of January 16, 1911, is as follows:

THE WHITE HOUSE, *January 16, 1911.*

It is hereby ordered that all lands not allotted to Indians or otherwise reserved within the townships in New Mexico added to the Navajo Reservation by Executive orders of November 9, 1907, and January 28, 1908, lying west of the first guide meridian west, be, and the same hereby are, restored to the public domain.

WM. H. TAFT.

No reason is given in either order for the restoration.

On May 24, 1911, an Executive order by President Taft ordered reserved from entry, sale, and other disposition for Indian purposes 2,750 acres which had been restored by the order of January 16, 1911. This was apparently to take care of some allotments and the agency and school farm at Crown Point which were not specifically mentioned in the order of December 20, 1908.

Item 11.—An area of approximately 94,000 acres south of the Little Colorado River in Coconino County, Ariz., described as follows in an order dated May 17, 1917, as amended by an order dated January 19, 1918. The order of January 19, 1918, is as follows:

It is hereby ordered that the following-described lands in the State of Arizona be, and they are hereby, reserved from all forms of disposal and set aside temporarily until allotments in severalty can be made to the Navajo Indians living thereon, or until some other provision can be made for their welfare:

Beginning at a point on the Little Colorado River where it intersects the eastern boundary of the Tusayan National Forest as set aside by the proclamation of June 28, 1910; thence up the Little Colorado River where it crosses the 40-mile limit of the Santa Fe Pacific Railroad; thence south and west along said 40-mile limit to the eastern boundary of said Tusayan National Forest to place of beginning; which when surveyed will cover fractional parts of T. 31, 32, and 33 N., R. 6 E.; T. 29, 30, 31, and 32 N., R. 7 E.; and T. 29, 30, and 31 N., R. 8 E., Gila and Salt River meridian, Arizona, containing approximately 94,000 acres.

This withdrawal is subject to all prior valid and existing rights and claims of any persons, and to all prior orders establishing or creating water-power designations and power-site reserves.

This order supersedes and takes the place of order No. 2612, dated May 7, 1917, and is made for the sole purpose of correctly describing the lands intended to be withdrawn by that order.

WOODROW WILSON.

THE WHITE HOUSE,
January 19, 1918.

Item 12.—An area containing 128,550 acres, described in the act of May 23, 1930 (46 Stat. L. 378), reading as follows:

An act to eliminate certain land from the Tusayan National Forest, Ariz., as an addition to the Western Navajo Indian Reservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-described land be, and the same is hereby, eliminated from the Tusayan National Forest, Arizona, and added to and made a part of the Western Navajo Indian Reservation, subject to all valid rights and claims of individuals initiated prior to the approval of this act: All that part of the Tusayan National Forest lying east of the Colorado River and north of the Little Colorado River unsurveyed, but which will probably be when surveyed in townships 32, 33, 34, 35, and 36 north, ranges 5 and 6 east; all lands in township 31 north, range 6 east, which are now a part of the Tusayan National Forest; sections 1, 2, 3, 4, and 10 to 14, inclusive, east half section 23, sections 24 and 25, east half section 26 and sections 35 and 36, township 30 north, range 6 east; sections 27 to 34, inclusive, township 30 north, range 7 east; sections 1, 2, and 11 to 14, inclusive, sections 23 to 26, inclusive, sections 35 and 36, township 29 north, range 6 east; sections 3 to 10, inclusive, and sections 15 to 36, inclusive, township 29 north, range 7 east; section 1 and north half section 12, township 28 north, range 6 east; sections 1 to 23, inclusive, and sections 29 to 32, inclusive, township 28 north, range 7 east; Gila and Salt River base and meridian, Arizona: *Provided,* That all unappropriated and unreserved public lands in sections 24 to 28, inclusive, and sections 33 to 36, inclusive, in township 28 north, range 7 east, Gila and Salt River base and meridian, Arizona, be, and the same are hereby, added to and made a part of the Western Navajo Indian Reservation, subject to all valid rights and claims of individuals initiated prior to the approval of this act.

SEC. 2. That upon conveyance to the United States of a good and sufficient title to any privately owned land within the areas described in this act, the owners or their assigns thereof are hereby authorized under regulations of the Secretary of the Interior, to select at any time within fifteen years after the approval of this Act, from the surveyed, unappropriated, unreserved, nonmineral public lands of the United States, in the State of Arizona, lands approximately equal in value to the lands thus conveyed, such values to be determined by the Secretary of the Interior, and the Secretary of the Interior is hereby authorized to issue patents for the lands thus selected: *Provided,* That the lands conveyed to the United States under authority of this Act shall thereupon become a part of the Western Western Navajo Indian Reservation.

SEC. 3. That before any exchange of lands as above provided is effected, notice of such exchange describing the lands involved therein shall be published once each week for four consecutive weeks in some newspaper of general circulation in the county or counties within which the selected lands are situated.

SEC. 4. That the State of Arizona shall have the right to select other public lands in lieu of sections 2, 16, 32 and 36 within said addition to the Western Navajo Indian Reservation, in the same manner as is provided in the Enabling Act of June 20, 1910 (36 Stat. L. 557).

Approved, May 23, 1930.

HERBERT HOOVER.

Item 13.—An area of 50,560 acres described in the act of February 21, 1931 (46 Stat. L. 1204), amending the act of May 23, 1930 (46 Stat. L. 378), reading as follows:

AN ACT To amend the act of May 23, 1930 (46 Stat. 378)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the act of May 23, 1930 (46 Stat. 378), entitled "An act to eliminate certain lands from the Tusayan National Forest, Arizona, as an addition to the Western Navajo Indian Reservation," be, and the same is hereby, amended so as to include the following-described lands subject to all the conditions and provisions of said act: Sections 10 to 15, inclusive, sections 22 to 27, inclusive, sections 34 to 36, inclusive, township 27 north, range 6 east, all of township 27 north, range 7 east; sections 4 to 9, 16 to 21, 29 to 32, all inclusive, in township 27 north, range 8 east; sections 1 and 2, the east half of section 3, the east half of section 10, sections 11 and 12, township 26 north, range 7 east; sections 5 to 8, inclusive, township 26 north, range 8 east, Gila and Salt River meridian, Arizona.

SEC. 2. That for the purpose of arriving at the values and areas of lieu lands to which private landowners are entitled under the act of May 23, 1930, as hereby amended, the value of the improvements on all privately owned lands to be conveyed or relinquished to the United States for the benefit of the Indians shall be taken into consideration and full credit in the form of lands shall be allowed therefor: *Provided,* That the State of Arizona may relinquish such lands as it sees fit, acquired pursuant to the enabling act of June 20, 1910 (36 Stat. L. 557), which may be desired as lieu land, and the State shall have the right to select other unreserved and undisposed of nonmineral public lands within

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the State of Arizona equal in area to that relinquished, the lieu selections to be made by the State in the same manner as is provided for in said enabling act.

Approved, February 21, 1931.

HERBERT HOOVER.

Item 14.—An area adjacent to Cameron, Ariz., herein referred to as the Tappan Springs area, in Tps. 28 and 29 N., Rs. 8, 9, and 10 E. of the Gila and Salt River meridian, containing approximately 75,000 acres.

Item 15.—An area referred to as the Castle Butte area, containing approximately 730,000 acres, bounded on the north by the present so-called Hopi Reservation, on the west by the present Leupp jurisdiction, on the east by the Southern Navajo jurisdiction, and on the south by the township line between Tps. 20 and 21 N.

Item 16.—An area in Apache County, Ariz., referred to as the eastern Arizona area in Tps. 21, 22, and 23 N., Rs. 27, 28, 29, 30, and 31 E., Gila and Salt River meridian, containing approximately 165,944.45 acres.

Item 17.—An area in McKinley County, N. Mex., referred to as the Gallup area, situated between the present Navajo and Zuni Reservations, in Tps. 12, 13, 14, and 15 N., Rs. 18, 19, 20, and 21 E., New Mexico principal meridian, containing 129,121.18 acres. This area is bounded on the north by the southern boundary of the present Navajo Reservation, on the east by the township line between Tps. 17 and 18 W. of the New Mexico principal meridian, on the west by the Arizona-New Mexico State line, and on the south by a zigzag line as indicated on the inclosed maps.

Item 18.—An area in McKinley County east of the area described in item 17 above, lying between ranges 16 and 17 north and the right of way of the Santa Fe Railway, and bounded on the east by the half township line running through Tps. 13, 14, 15, and 16 N., R. 10 W. This is referred to as the Thoreau area and contains approximately 475,566.69 acres.

Item 19.—An area 12 miles in width, referred to as the Eastern Navajo area, made up of T. 17 N., R. 11 W., and Tps. 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28 N., Rs. 12 and 13 W., and those parts of T. 28 N., Rs. 12 and 13 W., south of the San Juan River, and containing approximately 588,000 acres.

Item 20.—An area in southern Utah known as the Paiute Strip, bounded on the north and west by the Colorado and San Juan Rivers, on the east by the township lines between Tps. 17 and 18 W., and on the south by the Utah-Arizona State line, containing approximately 498,208 acres. This is the same area restored to entry by the order of November 19, 1892, quoted above.

Item 21.—An area in southeastern Utah described as follows:

Beginning at a point where the west rim of Montezuma Creek or Wash intersects the north boundary line of the Navajo Indian Reservation in Utah; thence northerly along the western rim of said creek or wash to a point where it intersects the section line running east and west between sections 23 and 26, township 39 south, range 24 east, Salt Lake base and meridian in Utah; thence eastward along said section line to the northeast section corner of section 26, township 39 south, range 25 east; thence south 1 mile along the section line between sections 25 and 26 to the southeast section corner of section 26, township 39 south, range 25 east; thence eastward along the section line between sections 25 and 36, township 39 south, range 25 east, extending through township 39 south, range 26 east, to its intersection with the boundary line between Utah and Colorado; thence south along said boundary line to its intersection with the north boundary line of the Navajo Indian Reservation; thence in a westerly direction along the north boundary line of said reservation to the point of beginning.

Containing approximately 51,480 acres.

Examining more in detail these various areas:

Item 1—Treaty area.—The treaty land of 3,414,528 acres described in the treaty of 1868 is generally considered to be held in fee by the Indians. The term used in the treaty is that the land designated is "set apart for the use and occupation of the Navajo Tribe of Indians and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States to admit among them. And the United States agrees that no persons except those herein so authorized to do, and except such officers, soldiers, agents, and employees of the Government or of the Indians as may be authorized to enter upon Indian reservations in discharge of duties imposed by law or the orders of the President, shall ever be permitted to pass over, settle upon, or reside in the tract described in this order."

Moreover, article 10 is as follows:

No future treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force against said Indians unless agreed to and executed by at least three-fourths of all the adult male Indians occupying or interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive without his consent any individual member of the tribe of his rights to any tract of land selected by him as provided in article (5) of this treaty.

The courts have held, in effect, that the Indians have "bought and paid for" this land. None of these treaty lands of the Navajos passed to the Atlantic & Pacific Railroad by virtue of its grant of 1866. No leases for oil or mineral within the treaty area can be made without the consent or authorization of the Navajo Tribe, and the tribal council was organized for the purpose of passing upon matters affecting their lands and other tribal matters. Some oil has been developed upon the treaty area, from which the Indians have received about $1,100,000 in bonuses and royalties. No oil has been developed elsewhere on the reservation.

Item 2—957,917 acres.—The wording of this order is that the area described, which adjoins the treaty area on the west, "be, and the same hereby is, withdrawn from sale and settlement and set apart as an addition to the present reservation for Navajo Indians."

This would indicate that the purpose of the order was to give the area the same status as the treaty area.

Item 3—The area referred to in the orders of January 7, 1880, and May 17, 1884, containing 996,403 acres.—The language used in the order of 1880 is practically the same as that used in the order of 1878. The land "is withdrawn from sale and settlement and set apart as an addition to the present Navajo Reservation in said Territories."

Item 4—2,499,558 acres.—This is an order of President Arthur setting aside a certain large area for the "use and occupancy of the Moqui and such other Indians as the Secretary of the Interior may see fit to settle thereon." There has been a great deal of discussion concerning this order and this area. Within it is the Hopi country—formerly called Moqui—and clustered around the first, second, third, and fourth mesas, where are situated the Hopi villages of Polacca, Oraibi, Hotevilla, Toreva, Chomopovi, Mishongnovi, Walpi, Tewa,

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Sichumnavi, Shipaulavi, Moencopi, and others. The Hopis range out for some little distance from these villages, but occupy only a small portion of the whole so-called Hopi Reservation. The outside boundaries of this reservation as decreed by the order of December 16, 1882, are purely arbitrary. The area is administered by a superintendent stationed at Keams Canyon, near the first mesa. That part of the area described in the 1882 order which is situated in the northwest part of the tract beyond the Dot Klish Canyon is now attached for administrative purposes to the Western Navajo jurisdiction. Within that part of the so-called Hopi Reservation now under the jurisdiction of the superintendent at Keams Canyon there are 2,600 Hopis and 3,550 Navajo Indians. The whole area is considered and treated as a part of the Navajo Reservation. It has been hoped for many years that the Hopi and the Navajo Indians, whether they are located within the so-called Hopi Reservation or elsewhere in the Navajo country, could all be treated alike by the Government without necessarily any segregation of any particular areas of land for the exclusive use of the Hopi Indians. It is now believed, however, that the only way of settling the question to the satisfaction of all concerned is to segregate certain reasonable areas for the exclusive use of the Hopis. The areas which in our opinion should be so segregated for the present use of these Hopi Indians are more particularly set out and described later in this report. It is apparent on the face of it that in order to clarify the status of these lands, further definitions by Congress are necessary.

Item 5—Executive orders of May 17, 1884, and November 19, 1892, 2,373,870 acres.—These orders comprise a vast area of country between the San Juan and Colorado Rivers and the Utah-Arizona line, and another large tract in what is now the northern part of the Western Navajo jurisdiction. That part of the strip between the rivers and the State boundary line which lies east of the one hundred and tenth meridian is in the Northern Navajo jurisdiction. That part of it lying west of the one hundred and tenth meridian, known as the Paiute Strip, was restored to entry by the order of 1892. The 1884 order states that the areas withdrawn "are withheld from sale and settlement and set apart as a reservation for Indian purposes." It is apparent on the face of it that in order to clarify the status of these lands, further definitions by Congress as to said status are necessary.

Kayenta is situated in that part of the 1884 withdrawal which is in northern Arizona. Kayenta has for many years been the headquarters of this remote and quite inaccessible country. Near it are numerous prehistoric ruins, and in part of it the famous Monument Valley, extending over the Utah border in the Paiute country. The Indians of this region are more remote from contacts with the white civilization than any other Indians in the Navajo country. On account of their distance from communication with the outside world they have probably been neglected. They have from time immemorial used the Paiute Strip north of them, which will be described more in detail later in this report. Everything indicates that this country should be set apart and administered from a headquarters at Kayenta.

Item 6—36,723 acres.—This order was made so as to include in the reservation a strip of land between the San Juan River and that

area added to the reservation by the order of January 6, 1880. This strip so added by the order of April 24, 1886, is of much importance, as it contains a considerable acreage of valuable agricultural land in the San Juan River bottoms between Farmington and Shiprock, some of which is already irrigated by the Indians and much more be irrigated by the expenditure of a reasonable amount of money. This land is definitely set apart as "an addition to the Navajo Reservation."

Items 7 and 8.—Item 7, the Leupp area, containing 425,171 acres, and item 8, the Western Navajo area, containing 1,575,369 acres, should be considered together.

The Leupp area, described in the order of January 8, 1900, was simply "withdrawn from sale and settlement until further ordered." The Western Navajo area, described in the order of November 14, 1901, was "withdrawn from sale and settlement until such time as the Indians residing thereon shall have been settled permanently under the provisions of the homestead laws or the general allotment act approved February 8, 1887." Neither of these orders definitely added the country to the Navajo Reservation, and there are even now very few Indian homesteads or allotments within these areas.

It is apparent on the face of it that in order to clarify the status of these lands, further definitions by Congress as to such status are necessary.

In spite of the fact that both of these orders were on their face merely temporary withdrawals, all of the lands described in them have ever since been treated as parts of the Navajo Reservation. The act of Congress of May 23, 1930 (46 Stat. L.,378) provides that certain areas in the Tusayan Forest and others adjacent thereto are "added to and made a part of the Western Navajo Indian Reservation." It seems that by this very recent act of Congress and by another act in 1931, therefore, that the country set aside by the order of November 19, 1901, while on the face of it merely a temporary withdrawal, is and long has been looked upon and recognized by Congress just as much a definite part of the Navajo Reservation as those areas which by the terms of the orders, were called additions to the Navajo Reservation. Moreover, the United States accepted from the Santa Fe Pacific Railroad Co. in 1912 a deed to all of the odd-numbered sections acquired by them under the grant of 1866 within these two areas, amounting in all to about 327,000 acres. The deed to this last large acreage from the railroad company to the United States was prepared, proffered, accepted, and recorded by the Government, although thereafter, upon objection by the State of Arizona, it was held by the Attorney General that this transaction could not have been or had not been legally carried out, and the railroad was denied its exchange rights. This deed was proffered and accepted, apparently by virtue of a law providing for exchanges, passed in 1904. This provision is contained in the Indian appropriation act approved April 21, 1904, in the following paragraph:

> That any private land over which an Indian reservation has been extended by Executive order, may be exchanged at the discretion of the Secretary of the Interior and at the expense of the owner thereof and under such rules and regulations as may be prescribed by the Secretary of the Interior, for vacant, nonmineral, nontimbered, surveyed public lands of equal area and value situated in the same State or Territory.

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However, under this law, odd-numbered sections belonging to the railroad which fell within all other parts of the Navajo Reservation, with the exception of the treaty part, were exchanged; but, after the decision of the Attorney General, above referred to, and after the 327,000 acres had been deeded by the railroad to the Government, the land was never deeded back by the Government to the railroad, but the deed was held by the Government in spite of the fact that, as claimed by the railroad, it had spent a large sum of money in examining the reservation lands, and had sold a good many of its exchange rights. It is apparent that the deed was accepted and the transaction approved by the Bureau of Indian Affairs.

From 1912 on, the railroad continually objected to the status of the matter until, in 1928, under Commissioner Burke, during the time when the writer of this report had nothing to do with Navajo matters, an understanding was reached to pay the railroad for the 327,000 acres at a flat rate of $1 an acre when or if money became available, on the understanding that the railroad would sell certain other lands outside of this area at the same rate. Since then two deeds have been made from the railroad company to the United States in trust for the Navajo Indians, one for 52,133.37 acres and the other for 24,435.6 acres at $1 an acre, which apparently puts this 76,568.97 acres so bought and paid for in a better position than the remainder of the lands in the two additions under discussion. The 76,568.97 acres so paid for are now held in trust for the Navajo Indians.

It is true that in 1919 another exchange act for the purpose of consummating exchanges in the Leupp and Western Navajo areas was passed, but this act made it necessary for the lieu as well as base lands to be within the Leupp and Western Navajo areas, so that if it had been carried out, these areas which have been looked upon for 30 years as part of the reservation would be diminished by the amount taken over by the railroad. But the Government on the one hand, would not consent to give up any of the Indian area, nor would the railroad, on the other hand, have consented in any case to make the exchanges under this law which, as they claim, was entirely different from the 1904 law under which the exchange was initially negotiated with the Office of Indian Affairs.

The 76,568.97 acres already paid for at $1 an acre is in the northernmost part of the railroad area in the Western Navajo jurisdiction. None of it is within the Leupp jurisdiction.

In spite of this very uncertain and illy defined status as herein portrayed the Government went ahead and treated the Leupp district as defined in the 1900 order as Indian land. It has built there an Indian school at a cost of several hundred thousand dollars, not knowing whether it is on an odd or even numbered section—that is, whether it is on railroad or Government land. Moreover, within the area defined in the order of January 8, 1900, there is a large acreage belonging to other parties than the Santa Fe Pacific Railroad Co. The odd-numbered sections in a strip 3 miles in width in the west half of Tps. 21, 22, 23, and 24 N., R. 15 E., inside the Leupp area as defined in said order, belong to the New Mexico & Arizona Land Co. They were acquired by said company prior to January 8, 1900. These odd-numbered sections in Tps. 22, 23, and 24 north are now leased by the New Mexico & Arizona Land Co. to the Government for these Indians, but those in T. 21 N. are leased to non-Indians. Sections 1, 3, 9, 11, 13, 15, 21, 23, 25, 27, 33, and 35, in Tps. 21 and 23 N., R. 11 W., in the southwest corner of the Leupp area, still belong to private parties, to wit, the Babbitt Bros., of Flagstaff, Ariz.

It is apparent that before any more money is spent by the Government in this country the status should be defined.

It is possible that these lands within the Leupp area above described, belonging to the New Mexico and Arizona Land Co. can now be secured by exchange if an exchange law similar to the one proposed during the last session of Congress is enacted. It is more than probable that had this law been enacted these particular lands would already have been acquired by exchange.

As for the lands in the southwest corner of the tract, belonging to the Babbitt Bros., no arrangements for their acquisition have yet been reached. Part of them lie south of the right of way of the Atchison, Topeka & Santa Fe Railroad and are not used by the Indians. Those that lie north of the railroad are apparently used by Indians and non-Indians; but the whole area should if possible be acquired by the Government.

Item 9.—This is a triangular area containing 67,600 acres in southeastern Utah, north and east of the San Juan River and bounded on the east by the Utah-Colorado line. While this is outside of what had hitherto been considered the natural northern boundary of the Navajo country, it was so segregated and so generally used by the Indians that it would seem necessary to set it aside for their exclusive use. It was proposed in the last Congress to add to this tract another area of about 50,000 acres joining it to the north in order to segregate for the Indians the whole of the tract in this district which they have been for many years using. (See item 22 above.) We believe that there are a few non-Indian homesteads and other holdings in these two areas but have not had an opportunity of definitely checking them. If there are, they should be secured by the Government.

Item 10.—An area of about 1,208,486 acres in Apache County, Ariz., bordered on the east by the New Mexico-Arizona State line.

This country was added to the reservation by the orders of November 7, 1907, and January 28, 1908. As stated above, these orders also added to the reservation in New Mexico a large area in McKinley County and San Juan County, but all of the country so added in New Mexico was subsequently restored to entry. The term used in President Roosevelt's order in 1907 is that the "same is hereby withdrawn from sale and settlement and set apart for the use of the Indians as an addition to the present Navajo Reservation." This, as most of the other Executive orders, has a proviso in it that the withdrawal shall not affect any existing valid rights of any person.

Item 11—94,000 acres.—This is a tract of some 94,000 acres south and west of the Little Colorado River in Coconino County, Ariz., lying between the river and what was then the eastern boundaries of the Tusayan National Forest, a strip of country rather inferior in quality but which had long been used almost exclusively by the Indians. The Indians had been drifting farther and farther south and west from the river through this strip and other areas adjacent to it, so that it became more and more difficult for the non-Indians who were using it to get on there. The order of January 19, 1918, is not

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in its terms a definite addition to the reservation, but President Wilson, in the order, stated:

> It is hereby ordered that the following-described lands in the State of Arizona be, and they are hereby, reserved from all forms of disposal and set aside temporarily until allotments in severalty can be made to the Navajo Indians residing thereon or until some other provision can be made for their welfare.

However, as in the case of the Leupp and Western Navajo orders, the area was looked upon definitely as an addition to the reservation, and after the order was made few or no allotments were made therein. The country is of no use to anyone but Indians.

It is apparent on the face of it that in order to clarify the status of these lands further definitions by Congress are necessary.

Item 12.—An area of 128,550 acres described in the act of Congress of May 23, 1930. This, with the amendatory act of February 21, 1931, are the latest additions to the Navajo country.

These acts were passed upon the initiative of the Representatives in Congress from Arizona and with the full cooperation of the Indian Office and the Department of Agriculture. The 1930 act definitely adds to the reservation a strip between the western boundary of the area described in the order of November 14, 1901, and the Colorado River which is known as the Bodaway country. The rest of the country described in the 1931 act is an area which has been for many years controlled through the ownership of the odd sections by the Campbell-Francis Sheep Co. It is excellent range, but because of the surrounding Indians it became difficult for the non-Indians to carry on there, and provisions were made in this act for the acquisition of the area by exchange.

Item 13.—Item 13 adds 50,560 acres more to the reservation as an amendment to the act mentioned in item 12. The odd sections in both areas are, as stated above, controlled by the sheep company, and upon the passage of these acts regulations were made by the General Land Office, with the approval of the Secretary of the Interior, for the carrying out of the exchanges therein provided. Some delay has been caused in the appraisal of the base lands and in the selection and appraisal of the lieu lands, but matters have now been adjusted and it is hoped that the exchanges will be consummated in the near future.

It seems clear that the school sections within both of these areas—that is, sections 16 and 36, 2 and 32, granted to and held by the State of Arizona for school purposes, can, without any difficulty, be exchanged by the State for outside lands under the provisions of these acts; but some doubt has arisen as to whether or not the other even-numbered sections held by the State of Arizona as indemnity lands in the 50,000 acres included in the act of 1931 can, without further legislation, be so exchanged. From interviews had with the Senators and the State authorities of Arizona, it seems certain that Arizona desires to effect exchanges for all of its lands within these tracts and it is believed that arrangements to do so can be effected. If it transpires that further legislation is necessary in order to make it possible to complete this consolidation and exchange, such legislation should be enacted. If the State lands are not exchanged, they will simply have to be leased by the Government from the State for Indian use. Such arrangement, however, is not satisfactory.

It is interesting to again emphasize the fact that the act of 1930 is entitled—

> An act to eliminate certain lands from the Tusayan National Forest, Arizona as an addition to the Western Navajo Indian Reservation.

In the body of the act it states:

> *Be it enacted, etc.,* * * * that the following described land be, and the same is hereby, eliminated from the Tusayan National Forest, Arizona, and added to and made a part of the Western Navajo Indian Reservation.

Subject to valid rights, etc.

Again, later in the law, in section 2, providing for the exchange of the lands held by private parties, it is stipulated "that the lands conveyed to the United States under authority of this act shall thereupon become a part of the Western Navajo Indian Reservation."

We again therefore emphasize that the areas described in these two acts of Congress are made definitely and unequivocally a part of the Navajo Indian Reservation, and that they seemed to recognize repeatedly the fact that the Western Navajo country is a part of the Navajo Reservation.

Item 14.—This is an area of approximately 75,000 acres, which we have designated as the Tappan Springs area, because within it lies a spring by that name which has been a topic of discussion and controversy for many years and a subject of voluminous correspondence. This spring is situated in a barren, rocky depression in the hills, between 2 and 3 miles west of the Cameron Bridge, on the south side of the Little Colorado River. Before the township in which it is situated was actually surveyed, an Indian allotment was made which it was supposed covered the spring. The odd-numbered sections in the vicinity had been purchased from the railroad company by the Babbitt Bros. or their assignors, and it is stated that it was subsequently determined that the springs, or part of them, were on railroad instead of Government land, and that they are actually situated in sec. 33, T. 29 N., R. 9 E. Thereafter, long negotiations were carried on between various superintendents of the Western Navajo jurisdiction and the Babbitt Bros. for the acquisition of the country surrounding these springs, and proposals were made for the sale to the Government for the Indians of the odd-numbered sections controlled by the Babbitt Bros. within the 75,000 acres in what we are now designating as the Tappan Springs area. Part of these 75,000 acres is of inferior quality as grazing land. It is stated by the Babbitt Bros. that much of it was formerly good range, but that it has been badly overgrazed by the Indians.

This tract is bounded on the west by a steep escarpment, above which the country is good. Below this escarpment it is not so good. It is, however, maintained that the Tappan Spring is essential for the proper control not only of the Babbitt lands but also of the Campbell-Francis areas to the west. To some extent this is true.

The Babbitt Bros. insist, however, that whatever be the quality of the land, the Government has committed itself to this purchase at the figure of $3 an acre. In 1928, during that period when the writer of the present report had nothing to do with Navajo matters, conversations were held in Washington and elsewhere between the representatives of the Bureau of Indian Affairs and the Babbitt Bros. which resulted in the purchase from the Babbitt Bros. of 20,199

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acres of land within this area at $3 an acre. These 20,199 acres included the lands held by the Babbitt Bros. adjacent to the Tappan Springs, and also one or two tanks which had been built by the Babbitts. This purchase of 20,199 acres was made on the understanding that, as soon as money became available the balance of the tract, consisting of 17,244.4 acres should be bought and paid for at the rate of $3 an acre. As evidence of such understanding, the following letter, written by Commissioner Burke on October 6, 1928, to the Babbitt Bros. Trading Co. and approved by Assistant Secretary Edwards is herein included so that the matter may be made clear for the information of the office and of Congress:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, October 6, 1928.

BABBITT BROS. TRADING CO.,
Flagstaff, Ariz.

GENTLEMEN: Receipt is acknowledged of your letter of September 12, 1928, inclosing a map and list of lands owned by the Babbitt Bros. Lands (Inc.), located in Coconino County, Ariz., which it offers for sale to the United States at $3 per acre for Indian use.

In our letter to you dated August 28, 1928 (approved August 30, 1928), it was stated that a formal option was desired giving the Government the privilege to purchase during the current fiscal year that part of your holdings containing Tappan Springs, and also an option to purchase the remaining lands at a subsequent time when an additional appropriation is actually made by Congress. It was also said that in accepting such options the Government would feel obligated thereby to make the additional purchase from you when an appropriation is actually made, provided a sufficiently good title is furnished. It is believed that the language used is a sufficient commitment by the Government to purchase all of the lands owned by your company and shown on the map submitted when and if additional funds are actually appropriated by Congress. This offer is now confirmed subject to certain provisions as hereinafter set out.

As stated in our prior letter of August 28, there are great needs in other localities for the purchase of lands for the Navajos and we do not feel justified in spending the entire amount now available in the immediate purchase of all of your land. However, we are willing to spend a fair proportion of the amount now available during the current fiscal year in the purchase of your lands, with the understanding that the remaining acreage, amounting in all to 31,000 acres, will be purchased when and if additional funds are available at an agreed price of $3 per acre.

Under the circumstances, it is believed that the furnishing of a formal option may be waived provided you will cause to be prepared and submitted to this office an abstract of title covering all your holdings in Tps. 29 N., R. 9 E., 28 N., R. 9 E., and 28 N., R. 10 E., amounting to 20,182.23 acres, and a deed therefor running to the United States in trust for the Navajo Tribe.

The statement is made in your letter that the location of Tappan Springs has been noted on the map submitted, but an examination of the map fails to confirm your statement. However, a report on file here shows that the springs are located in sec. 33, T. 29 N., R. 9 E., which is one of the sections we are now ready to purchase out of this year's funds. If after receipt here title and deed are found to be satisfactory to the officials of this department and upon acceptance thereof prompt steps will be taken to make settlement after recordation of the deed in Coconino County.

Before payment can be made for the land, if purchased, it will be necessary for the company to obligate itself to pay all taxes accrued on the lands conveyed up to the time of the consummation of sale. In the event taxes have been paid for the current year, a showing to that effect in the abstract of title will be sufficient. Prompt attention to this matter will be appreciated.

Sincerely yours,

CHAS. H. BURKE, *Commissioner.*

Approved, October 9, 1928.

JOHN H. EDWARDS, *Assistant Secretary.*

In 1931, because certain funds were available for the purchase of lands, the Babbitt Bros. asked that the Government purchase the balance of the lands in this area. On June 15, 1931, the following letter from the Babbitt Bros. was received:

BABBITT BROS. TRADING CO.,
Flagstaff, Ariz., June 15, 1931.

HON. H. J. HAGERMAN,
Special Commissioner Indian Field Service,
Santa Fe, N. Mex.

DEAR MR. HAGERMAN: In compliance with your letter of the 12th, we respectfully advise that the following described lands in township 28 north, range 9 east, belonging to Babbitt Bros. (Inc.), and the sections in township 28 north, range 8 east, belonging to M. I. Powers, are the lands still held in a township and a half about which the writer spoke to you last week, and about which we have been corresponding for the past two years:

	Acres
Twp. 28 N., R. 9 E.:	
Sec. 1	653.24
Sec. 3	648.96
Sec. 5	644.76
Sec. 7	615.60
Sec. 9	640.00
Sec. 11	640.00
Sec. 13	640.00
Sec. 15	640.00
Sec. 17	640.00
Sec. 19	620.48
Sec. 21	640.00
Sec. 23	640.00
Sec. 25	640.00
Sec. 27	640.00
Sec. 29	640.00
Sec. 31	622.16
Sec. 33	640.00
Sec. 35	640.00
	11,485.20
Twp. 28 N., R. 8 E.:	
Sec. 1	640.04
Sec. 3	638.80
Sec. 11	640.00
Sec. 13	640.00
Sec. 15	640.00
Sec. 23	640.00
Sec. 25	640.00
Sec. 27	640.00
Sec. 29	640.00
	5,758.84

From the above figures you will notice that the total acreage involved is 17,244.04 belonging to us.

I am also inclosing two copies of letter from the Department of the Interior, Office of Indian Affairs, Washington, dated October 6, which letter is signed by Charles H. Burke as commissioner, and approved October 9, 1928, by John H. Edwards, Assistant Secretary of the Interior. This is the letter we have referred to as being the one which obligated the department to the purchase of these lands at an agreed price of $3 per acre.

We are very glad you have definitely decided to recommend the purchase of this acreage, provided there are sufficient funds available for the purchase, which we understand there will be after July 1.

Sincerely yours,

P. J. MORAN, *Credit Manager.*

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This was followed by a letter from Mr. Hagerman to the Commissioner of Indian Affairs, dated June 17, 1931, as follows:

SANTA FE, N. MEX., *June 17, 1931.*

Hon. CHAS. J. RHOADS,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR MR. COMMISSIONER: I have the honor to inform you that Mr. P. J. Moran, credit manager of Babbitt Bros. Trading Co., of Flagstaff, Ariz., came here recently to see me in regard to the purchase by the Government, in trust for the Navajo Indians, of the balance of the tract of land near the Cameron Bridge which they state that the Government agreed to buy from them when the money should be available. Babbitt Bros. have been constantly at me since 1928 to secure my approval to the consummation of this transaction.

The agreement, or understanding, upon which they base their demand is in the form of a letter dated October 6, 1928, signed by Commissioner Burke and approved by Assistant Secretary John H. Edwards, copy of which is herewith inclosed. This agreement or understanding was made at a time when I had nothing to do with Navajo land matters. I believe that an examination of the records will demonstrate that both I, and Mark Radcliffe (who was then my assistant and is now field agent of the Indian Office) were always of the opinion that $3 an acre was much too high a price for any of this land included in the Babbitt area. The main purpose of buying the tract was to secure Tappan Springs. However, the letter of October 6 seems to indicate that the Babbitt Bros. would not have deeded to the Government that part of the area containing Tappan Springs had it not been understood and agreed that the balance of the land not then paid for should later be paid for at the same rate of $3 an acre.

I told Mr. Moran that I would recommend the consummation of this transaction provided there are sufficient funds available for the purchase after July 1. I, therefore, do make such recommendation with the understanding that all of the other proposed purchases of lands for these Indians in various other parts of Arizona and New Mexico shall be carefully considered in connection with this particularly proposed transaction. My strong impression still is, and in that Mr. Radcliffe joins me, that none of these Babbitt lands in the two remaining townships, are themselves worth anywhere near $3 an acre; and while Babbitt Bros. insist that the lands have been grazed off by the Indians themselves, I do not, myself believe that it was ever any good. I have asked Radcliffe to make a personal examination of the lands in the near future and I will join him in it if I am able to do so.

If the Government is legally, or even in honor bound by the commitments of its officials to complete the transaction, that of course is another matter and one which it is not for me to pass an opinion upon. The matter can be taken up personally with Commissioner Rhoads when he comes out here.

Respectfully,

H. J. HAGERMAN,
Special Commissioner to Negotiate with Indians.

On June 18, 1931, the commissioner wrote Mr. Moran, credit manager of Babbitt Bros., the following letter:

JUNE 18, 1931.

Mr. P. J. MORAN,
Credit Manager Babbitt Bros. Trading Co.,
Flagstaff, Ariz.

DEAR SIR: We have your letter of June 9, 1931, in further reference to the purchase of the balance of the lands held by your company in the vicinity of Tappan Springs.

It has been our desire to consummate as rapidly as possible the purchase of land for the benefit of the Navajo Indians, but, due mainly to the fact that the available amount of money on hand for purchase of lands for these Indians is somewhat limited, and has been for the past year, we are unable to see our way clear at this time to actively consider purchasing the holdings of your company.

Your offer has heretofore been of record in this office, and as soon as we have sufficient money available to justify Navajo land purchases on a more extensive scale, the matter will be given due consideration.

Sincerely yours,

C. J. RHOADS, *Commissioner.*

Since last June we have had further conversations with Babbitt Bros. in regard to the possible acquisition from them by exchange of their tracts adjacent to the present Leupp jurisdiction. They desire to exchange these tracts, thereby settling the boundaries in this district. One of these areas west of the Leupp jurisdiction is made up of the odd sections in Tps. 11 E., 21 and 22 N., the other is a triangular tract south of the Leupp jurisdiction and north of the Atchison, Topeka & Santa Fe Railroad in Tps. 19 N., R. 14 E., and 20 N., Rs. 12, 13, and 14 E., containing together about 38,780 acres of Babbitt lands. These tracts it would be very helpful to secure for the Leupp Indians, if and when the Leupp area is definitely fixed in accordance with the recommendation of this report. In these conferences in regard to these additional Leupp areas the hope was expressed that the additional 17,244 acres near Cameron, as well as these 38,750 acres adjacent to the Leupp Reservation, might all be secured by exchange after the passage of suitable exchange legislation. If this can be arranged, it would, of course, obviate the necessity of providing funds for the purchase of the 17,244.04 acres. If it can not be arranged then the 17,244.04 acres should be paid for at the best figure possible to negotiate.

It is also proposed to add a strip west of the reservation in fractional Tps. 23, 24, and 25 N., R. 11 E., containing 14,173.78 acres, the odd sections being Santa Fe lands.

Item 15—Known as the Castle Butte area—730,000 acres.—This area, known as the Butte country because it contains Chimney Butte and various other picturesque buttes and mountains, has for many years been mostly used by the Navajo Indians. It was withdrawn from entry by an order dated March 13, 1908, which order has, up to the present time, remained in force. Several times during the past 23 years attempts have been made by the people of Arizona to secure the restoration to the public domain of the Government sections in this tract. But in recent years its permanent withdrawal has been accepted by the non-Indian residents in the vicinity as the best policy for the Indians and non-Indians alike. Most of the odd sections in the 16 western townships, that is, Tps. 21, 22, 23, and 24 N., Rs. 15, 16, and 17 E., are in the hands of the New Mexico & Arizona Land Co. Most of the balance of the odd sections, namely, those in Tps. 21, 22, 23, and 24 N., Rs. 19 and 20 E., are owned by the Santa Fe Pacific Railroad Co. Practically all of the odd sections owned by the New Mexico & Arizona Land Co., with the exception of those in T. 21 N., R. 15 E., and in the south half of T. 21 N., Rs. 16 and 17 E., are now annually leased for grazing purposes to the Indians. The same is true of most of the railroad lands still held by the Santa Fe Pacific Co.

There have been, however, and still are, a number of private holdings within this area. Most of the private holdings control waterings in the desirable districts. The Government, for some years, being convinced that this whole area should ultimately be acquired for the Indians, has been negotiating for the purchase of these private holdings. In 1929 the Marty tract, comprising 10,240 acres in Tp. 23 N., R. 21 E., was purchased for the sum of $34,000, and in the same year another tract, known as the Bailey tract of 147 acres, in sec. 30, T. 24 N., R. 19 E., was purchased for $7,000.

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Outside of the lands above mentioned, there are a number of other tracts and improvements which should be acquired if the area is secured as a part of the reservation. These are in part as follows:

1. Various buildings, tanks, etc., in Tp. 23 N., R. 19 E., put in by a trader named J. W. Bush, which he values at $10,000. These improvements are all on leased land and his estimates as to their value are entirely too high.
2. Sections 3 and 11, Tp. 23 N., R. 21 E., held by the Haldeman Trading Co. It would probably be difficult to obtain these lands at all; and if so, it would be better simply to leave them in the hands of their present owners.
3. In Tp. 24 N., R. 21 E. The State Land Holding Co. interest in S. ½ S. ½ sec. 1; S. ½ S. ½ sec. 5; N. ½ and SW. ¼, sec. 7; and all odd-numbered sections from 9 to 35, inclusive. It has not yet been possible to make a tentative arrangement for the acquisition of these lands.

A strip along the eastern border of this Castle Butte tract joining the Painted Desert is of poor quality, but the land generally is of much better quality than the average of the grazing lands in this part of Arizona. Some non-Indian cattle still graze on the southern part of the district, but generally speaking it is now almost entirely used by the Indians. For administrative purposes it is under the jurisdiction of the superintendent of the Leupp Agency and is universally considered a part of that reservation. It is to all intents and purposes now Indian country. It is apparent on the face of it that in order to clarify the status of these lands further definitions by Congress are necessary.

It is thought that the Santa Fe Pacific Railroad Co. and the New Mexico & Arizona Co. lands, which comprise practically all of the odd sections which have not already been acquired by the Government, can be secured by exchange if an exchange bill is enacted for Arizona similar in purport to the 1921 act providing for exchanges in San Juan, McKinley, and Valencia Counties in New Mexico. Such a bill was prepared at the last Congress, which was as follows:

A BILL To permit relinquishments and reconveyances of privately owned land within certain counties in the State of Arizona to the United States for the benefit of the Navajo Indians, and for other purposes

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 is hereby authorized, in his discretion, under rules and regulations to be prescribed by him, to accept relinquishments and reconveyances to the United States of privately owned lands, including patented and nonpatented Indian allotments and selections, within the counties of Apache, Navajo, and Coconino, Arizona, and any Indian so relinqhishing his or her right shall be entitled to make lieu selections within the areas consolidated for Indian purposes by this act. Upon conveyance to the United States of a good and sufficient title to any such privately owned land, except Indian allotments and selections, the owners thereof, or their assigns, are hereby authorized, under regulations of the Secretary of the Interior, to select from the unappropriated, unreserved, nonmineral public lands of the United States within said counties in the State of Arizona lands approximately equal in value to the lands thus conveyed, and where surrendered lands contain springs or living waters, selection of other lands taken in exchange thereof may be of like character or quality, such values to be determined by the Secretary of the Interior, who is hereby authorized to issue patents for the lieu lands so selected. In all selections of lieu lands under this act notice to any interested party shall be by publication. Any privately owned lands relinquised to the United States under this act shall be held in trust for the Navajo Tribe of Indians; and relinquishments in Navajo County, Arizona, excluding Indian allotments and selections, shall not extend south of the township line between townships 20 and 21 north, Gila and Salt River base and meridian.

SEC. 2. The purpose of this act being to overcome the disadvantages now existing of "checkerboard" control of lands by Indians and private landowners, to the end that the holdings of the respective parties may be unified or consolidated, it is hereby enacted that pending the completion of exchanges authorized by this act no further allotments of lands to Indians shall be made in the counties of Apache, Navajo, and Coconino, Arizona, and the counties of McKinley, San Juan, and Valencia, New Mexico; and thereafter allotments to Indians in said counties shall be confined to lands within Indian reservations or to lands heretofore or hereafter acquired by the United States in said counties for the benefit of Indians generally.

The bill was defeated in committee apparently because of the provision in it against further allotments in certain areas, both in Arizona and New Mexico pending the completion of these acquisitions and transfers, which provision was added to the bill as first proposed by Representatives in Congress from New Mexico and Arizona. Had it been passed, consolidations to the decided benefit of the Indians would doubtless have been consummated by this time.

The temporary withdrawal of large areas in New Mexico and Arizona on July 8, 1931, now makes the provision in the above quoted bill about the allotting superfluous, and the bill should be again introduced and passed at the present Congress, unless this area is, as herein recommended, at once added to the Navajo Reservation, in which case the exchanges could probably be effected under the act of April 21, 1904. However, if there is a delay in defining the outside boundaries of the reservation as herein recommended, this measure providing for immediate exchanges outside the reservation should unquestionably at once be enacted into law, for the longer the delay the less chance there will be to successfully effect the exchanges which it was hoped that the above bill would bring about in this and the eastern Arizona area. It is a fact that the New Mexico and Arizona Land Co. had tentatively agreed that if the bill above quoted were passed they would be agreeable to at once negotiate for these exchanges in this Castle Butte area; but on account of a change in the management of the company since then, it is now not so certain that these lands within the area can be so acquired by exchange.

Item 16—165,944.45 acres.—This district is situated in Apache County, Ariz., south of that part of the present Navajo Reservation created by the Executive orders of January 28, 1908, and January 16, 1911, adjacent to the New Mexico-Arizona State line, and most of it north of the right of way of the Atchison, Topeka & Santa Fe Railway Co. This country is now under the jurisdiction of the Southern Navajo Agency. Practically all of the even-numbered sections in this tract are already allotted. There are also a good many allotments in Tps. 19 and 20 N., Rs. 28, 29, and 30 W., south of the railroad; but it does not appear practicable at this time to arrange for exchanges with the railroad company for any of the lands in this district except those herein proposed and as marked upon the map.

During the months of November and December, 1931, an intensive survey was made of this district and of what is called the Gallup area, item 17, adjacent thereto in New Mexico, by Mark W. Radcliffe, field agent of the Indian Office, with engineers and surveyors of the railroad company, and detailed maps have been made of the whole district, showing the exact status of the various subdivisions. The area in item 16, as marked upon the key map, is the additional country which it is believed at this time can be acquired through exchange if an exchange law as recommended above (see item 15) is

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passed for Arizona, or without such a law, under the act of 1904, if this area is added to the reservation.

In addition to the country included in item 16, it is believed that some other tracts south of the railroad in this district should be permanently withdrawn from entry for the benefit of certain groups of Navajo Indians who are residing there, but at this time it is not possible to clearly designate what such tract or tracts should be.

Item 17—129,121.18 acres.—An area in western McKinley County, N. Mex., adjacent to the area described in item 16, situated in the vicinity of the town of Gallup.

During the past 20 years a great many allotments have been made in this district—that is, the district bounded on the north by the Navajo Reservation, on the east by Fort Wingate, on the south by the Zuni Reservation, and on the west by the New Mexico-Arizona State line. In spite of the fact that the town of Gallup is situated in the very midst of this district, these allotments have been made without any particular objection on the part of the non-Indian population in this country. The people of Gallup have for years realized that their main source of income, with the exception of that derived from the coal-mining industry in this vicinity, has been, directly or indirectly, through Navajo Indian trade.

As will appear from the maps mentioned above under item 16, a very careful survey of the actual condition in this country has been made prior to defining what we believe should be the outside boundaries of the Navajo country in this district. It is impossible to recommend that all of the townships containing numbers of allotments should now be included in the reservation, as many of them contain large numbers of homesteads which it would be very difficult to get and because, moreover, there are in the district outside of the operating coal mines numerous additional areas which actually are underlaid with coal, or so classified by the Geological Survey, which, because of that it would be very difficult to obtain for exchange and consolidation purposes. The line, therefore, as marked and recommended in this section is one which we believe is, under all the circumstances, amply justified and one which on examination we do not feel would be unacceptable to the people of this community.

There are a good many Indian allotments outside of the lines proposed, and it is possible that upon further examination, as in the case of item 16 above, certain areas outside of the proposed reservation lines should later be segregated for the exclusive use of the Indians. In the meantime, the allottees outside of these proposed lines in this district will not in any way be interfered with. It is not proposed that they shall be pushed back into the reservation or even urged to go back into it unless they desire to do so.

The details of all the tracts and subdivisions are shown on the map filed herewith and further descriptions of them will not be forthcoming until later, when it is expected proposals will be made by the railroad company for exchanges in this district.

Item 18—the Thoreau area, 475,566.69 acres.—This area as designated is bounded on the west by the township line between Tps. 17 and 18 W., which is the present boundary line between the Southern and Eastern Navajo jurisdictions of the Navajo Reservation; on the north by the southern boundary line of the Navajo Reservation and its extension eastward; on the east by a line through the middle of

Tps. 13, 14, 15, and 16 N., R. 10 W.; and on the south by the right of way of the Atchison, Topeka & Santa Fe Railway Co. It also includes part of what was formerly the Fort Wingate Military Reservation.

Within this area certain purchases have already been made for the benefit of the Navajo Indians:

1. From the Santa Fe Pacific Railroad Co., 42,099.71 acres, at $1 an acre, being the odd sections in Tps. 16 N., Rs. 16 and 17 W.; in Tps. 14 and 15 N., Rs. 16 and 17 W., outside of the former Fort Wingate Military Reservation; and in fractional Tp. 17 N., Rs. 14, 15, 16, and 17 W., being a strip between the southern boundary of the Navajo Reservation and the township line between Tps. 16 and 17 N.

There are approximately 135 Indian allotments within this area so bought from the railroad company. Outside of the land held by the Rehoboth Mission on the highway 5 miles east of Gallup, there are but two or three homesteads or private holdings within this tract which, we understand, have already been abandoned. There is no reason for trying to acquire the Rehoboth Mission lands for the Indians, inasmuch as this highly efficient and most admirable institution is conducted for the benefit of the Indians. Any other private holdings should, as opportunity offers, be acquired.

2. Those parts of what was formerly the Fort Wingate Military Reservation lying north of the right of way of the Atchison, Topeka & Santa Fe Railway Co. within Tp. 15 N., Rs. 15, 16 and 17 W., containing 7,380 acres.

It is recommended that the whole area of this former military reservation, with the exception of fractional Tp. 13 N., Rs. 15, 16, and 17 W., be now included within the outside boundaries as herein designated. It appears that by a proclamation of President Coolidge made on the 29th day of August, 1924, the whole Fort Wingate area was included within the boundaries of the Manzano National Forest. If that part of the former Fort Wingate Military Reservation which we now recommend should be added to the Navajo Reservation is still included in the forest, then adjustments should be made accordingly. Already approximately 17,280 acres south of the railroad have been set aside for the use of the Charles H. Burke School. Approximately 7,360 acres south of the railroad, in the northwestern part of the tract, are still reserved by the War Department for the storage of T. N. T. When the T. N. T. is ultimately disposed of the area now administered by the War Department should also be definitely added to the reservation.

3. The odd-numbered sections in Tp. 16 N., R. 16 W., and in the north half of Tp. 15 N., R. 16 W., bought in 1930 from the New Mexico and Arizona Land Co. at $2 an acre, containing 16,491.37 acres, and conveyed to the United States of America in trust for the Navajo Indians.

This is good pasture land though at present overgrazed, somewhat better in quality than the lands bought from the Santa Fe Pacific Railroad Co. adjacent to it on the west. It also contains some timber. This was the lowest price which the New Mexico & Arizona Co. would take for the lands, which it is considered were highly desirable for the Indians. They were purchased in pursuance of the policy adopted by the Indian Office of acquiring by purchase or exchange as many of the lands controlling the district adjacent to the Eastern Navajo area as possible. There were approximately 96 Indian allotments in this area.

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4. An area of 17,842.58 acres in Tps. 15 N., R. 12 W., 16 N., R. 12 W., 17 N., R. 12 W., 15 N., R. 13 W., 15 N., R. 14 W., 16 N., R. 14 W., and 16 N., R. 15 W., deeded in 1919 by the New Mexico & Arizona Land Co. to the United States for the benefit of the Navajo Indians.

These lands were reconveyed to the United States and other lands selected in lieu thereof under the provisions of the act of Congress of April 21, 1904, quoted above, and in accordance with regulations under said act of April 21, 1904, providing for the exchange of private lands situated within Indian reservations, which regulations were promulgated by the Commissioner of the General Land Office and approved by Assistant Secretary Jones on February 27, 1915.

The 17,842.58 acres referred to were withdrawn by Executive Order No. 2513, signed by President Wilson January 15, 1917. Other lands, in addition to the 17,842.58 acres, were included in the same Executive order. This reads in part as follows:

> It is hereby ordered that the following described lands situated in the State of New Mexico which belong to or may hereafter be acquired by the United States are hereby withdrawn from settlement and sale and set apart for the use and occupancy of the Navajo and such other Indians as the Secretary of the Interior may see fit to settle thereon.

Then follows descriptions of the lands which are apparently lands upon which the Indians had settled. This order of January 15, 1917, as well as the Executive orders of December 1, 1913, and May 6, 1913, signed by President Wilson, and the orders of February 10, 1913, February 17, 1913, May 24, 1911, and January 16, 1911, were apparently made so as to secure by exchange railroad lands upon which the Indians had settled. Subsequent to the last of these orders as signed by President Wilson in 1917 large numbers of allotments in this general district were made under the general allotment laws.

The question might arise as to whether or not the tracts withdrawn under these various orders for the purpose of adjusting conflicts between allotted or other Indians and privately owned areas are, because of such orders, in any different status from allotments made on the public domain to Indians which were not in any way in conflict with non-Indian ownership.

The representative of the New Mexico & Arizona Land Co. informs us that after his company had filed its formal application to surrender this 17,842.58 acres and select other lands in lieu thereof under the provisions of the act of April 21, 1904, the Commissioner of the General land Office requested that they express their willingness to surrender this acreage and select other lands in lieu thereof under the provisions of the act of March 4, 1913 (37 Stat. L. 1007), as extended by the act of April 11, 1916 (39 Stat. L. 48), and June 30, 1919 (41 Stat. L. 9). On their stating to the commissioner that they had already tentatively surrendered said lands under the act of April 21, 1904 (33 Stat. L. 211), he advised that would be satisfactory.

The act of March 4, 1913 (37 Stat. L. 1007), above referred to, provides:

> That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to request of the present claimant under any railroad land grant a relinquishment or reconveyance of any land situated within the States of Arizona, New Mexico, or California, passing under the grant, which are shown to have been occupied for five years or more by an Indian entitled to receive the tract in allotment under existing laws but for the grant to the railroad company; and upon the execution and filing of such relinquishment or reconveyance the lands shall thereupon become available for allotment, and the company relinquishing or reconveying shall be entitled to select, within a period of three years after the approval of this act, and have patented to it, other vacant, nonmineral, nontimbered, surveyed public lands, of equal area and value, situated in the same State, as may be agreed upon by the Secretary of the Interior, provided that the total area of land that may be exchanged under the provisions of this act shall not exceed 3,000 acres in Arizona, 16,000 acres in New Mexico, and 5,000 acres in California.

The act of April 11, 1916 (39 L. Stat. 48), extended the act quoted above for two years from March 4, 1916, and provided that the total area which might be exchanged thereunder should not exceed 10,000 acres in Arizona, and 25,000 acres in New Mexico. The act of June 30, 1919 (41 Stat. L. 9), further extended the act quoted for one year from March 4, 1919.

September 21, 1922 (42 Stat. L. 994), Congress again extended the period to March 4, 1923.

January 29, 1925 (43 Stat. L. 795), Congress again extended the period to March 4, 1927.

March 10, 1928, act of Congress (45 Stat. L. 299), was approved, reading as follows:

> That all of the provisions of an act entitled "An act for the relief of Indians occupying railroad lands in Arizona, New Mexico or California," approved March 4, 1913, and amended by the act of April 11, 1916, and the act of June 30, 1919, be, and the same are hereby, extended to March 4, 1931: *Provided*, That the provisions of this act shall apply only in cases where it is shown that the lands were actually occupied in good faith by Indians prior to March 4, 1913, and the applicants are otherwise entitled to receive such tracts in allotment under existing law but for the grant to the railroad company.

The representative of the New Mexico & Arizona Land Co. states that his company surrendered the 17,842.58 acres as a matter of relief to individual Indians then occupying the lands who had placed improvements thereon, on the representation and assurance of Cato Sells, Commissioner of Indian Affairs, that the remainder of their holdings in that area would be included within an extension of the Navajo Reservation, thereby putting his company in position to surrender all its holdings in said area and select other lands in lieu thereof under the provisions of the act of April 21, 1904. The representative of the company states that in his opinion this extension would have been made by an Executive order in 1919 had not Congress in the form of a rider to the Indian appropriation bill of that year made the provision that no further extensions of Indian reservations in New Mexico and Arizona might be made without an act of Congress. He states that his company would not have made the exchange indicated and surrendered the lands unless they had been assured by the Indian Office that the remainder of their holdings in that area would be extinguished by the department within a reasonable time.

This is another instance similar to that relating to the Tappan Springs area, where a tentative commitment has been made in the best of faith by the officers of the Government, which subsequent developments have made it difficult to consummate.

The New Mexico & Arizona Land Co. still owns 89,917.48 acres, all within the boundaries of what is herein designated as the Thoreau Area with the exception of the odd sections in Tp. 17 N., R. 18 W. which are, for the purposes of this report, included in the eastern Navajo area. Up to the present time the company is not willing to

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negotiate exchanges for these lands under the act of March 3, 1921. We have told them, however, that we would not recommend the purchase of these lands at $2 an acre, although we have recommended and actually purchased certain other of their lands at that figure, both because we did not consider this large tract to average as high in quality as the lands purchased, and because we believed that the company should sell a large tract, everywhere checkerboarded with Indian allotments, at a lower figure than the small areas which have already been negotiated for.

The company, after carefully considering the matter from all angles, wrote the following letter on December 21, 1931:

NEW MEXICO & ARIZONA LAND CO.,
December 21, 1931.

Hon. H. J. HAGERMAN, *Special Indian Commissioner,*
P. O. Box 1500, Santa Fe, N. Mex.

DEAR GOVERNOR HAGERMAN: Referring to our correspondence and negotiations regarding the possible purchase by the United States for the Navajos from this company of the 89,917.48 acres yet in its ownership in McKinley County, N. Mex.

Our executive committee has, on December 16, voted to offer and sell to the United States Government, the remaining acreage of the company in McKinley County, N. Mex., aggregating 89,917.48 acres, for a lump sum of $150,000, or at the rate of approximately $1.67 per acre, the company reserving oil, gas, and mineral rights.

In the opinion of the writer, this is the minimum price, and I am hopeful that you will be able to justify and recommend it.

With the season's greetings, I am,

Sincerely yours,

T. W. CABEEN, *Vice President.*

It is recommended that the offer be accepted and that the funds therefor be provided. It is, in our opinion, a reasonable figure for the land. By securing this area and the land it is hoped to secure through exchange, the main part of the area within the Thoreau and Eastern Navajo districts (items 18 and 19) will be acquired.

Most of the odd sections in the W. ½ of Tps. 13, 14, 15, and 16 N., R. 10 W., and in Tps. 15 and 16 N., R. 11 W., and Tp. 15 N., R. 14 W. are in control of the Santa Fe Railroad and can, we believe, be obtained through exchange from the railroad provided the exchanges planned and contemplated within the Eastern Navajo area as hereinafter described are successfully consummated.

Within this so-called Thoreau area which it is recommended should be added to the reservation is what is called the Mount Powell division of the Manzano National Forest, comprising approximately 35 sections in Tps. 14 and 15 N., Rs. 12, 13, and 14 W. This, however, is only forest in name, and the Forestry Department can actually exercise over it nothing but a nominal supervision, in as much as practically all of the odd-numbered sections within the so-called forest area are in the possession of the New Mexico & Arizona Land Co. and included in the area still owned by that company above referred to.

It is therefore recommended that if this general plan can be carried out, the Powell division of the forest be abandoned and the land and the forest, what there is of it within the area, be used for the benefit of the Indians under such supervision by the Department of Agriculture in cooperation with the Indian Office as may prove practicable.

There are, outside of the tract as above noted, already acquired from the Santa Fe Railroad Co., about five homesteads within this

area designated as item 18, or the Thoreau area. There are also within this Thoreau area approximately six homesteads belonging to non-Indians. A list thereof will be noted elsewhere in this report.

We have not been able to make as full an investigation of the individual tracts in this Thoreau area as has been made in the Eastern Navajo, eastern Arizona, and the Gallup areas, but among the maps which are included with this report as exhibits there is one made by Mr. Radcliffe from field notes prepared by Mr. Embon in cooperation with Mr. Stacher, superintendent of the Eastern Navajo jurisdiction, and others, which indicates most of the various holdings within this area. There are outside of the tracts above noted and the tracts still held by the New Mexico and Arizona Land Co., and the Santa Fe Pacific Railroad Co. and the Indian allotments which are scattered throughout the area, a number of homesteads which should be acquired when and if possible, should the country be added to the reservation. All of this country between the railroad on the south and the line of cliffs which parallel the railroad on both sides of the Continental Divide for about 40 miles is excellent grazing land. So, too, is the land above these escarpments and south of the present Navajo lines. All this country adjacent to the Zuni Mountains was for many years considered to be Indian country, and when the railroad built through here a good many white homesteaders came in, and there are a good many homesteads still mingled with the Indian allotments throughout this strip. Numbers of homesteaders in the vicinity of Smith's Lake, Mariano Lake, and other parts of the district have found it practically impossible to continue their operations there and would be glad to dispose of their properties. We haven't exact information as to just how many of these there are nor what it would cost to buy them out.

Item 19—The Eastern Navajo area, 588,000 acres.—It would take much more time and material than are available to us, and a lengthy statement, to anywhere near properly portray the history and present status of the complicated situation as to lands in that part of the Eastern Navajo country which are for the purpose of this report included in items 19 and 18.

What persuaded President Roosevelt on December 30, 1908, and President Taft on January 16, 1911, to take away from the Navajo Indians the country in New Mexico which President Roosevelt had confirmed in them by his orders of November 9, 1907, and January 28, 1908, is not apparent in the record. The first restoration, that of December 30, 1908, was evidently made at the behest of white stockmen who objected to the extension so far east of the reservation. If that district alone had been restored it would not have been quite so bad, but when this was followed a year later by the order of President Taft restoring all the balance of the country in New Mexico confirmed in the Indians by the Roosevelt orders, the Indians and their friends felt it very keenly. These restorations have caused more bitterness, confusion, and ill feeling than any other Executive act relating to Indian matters which we know of, affecting this part of the Indian country.

The area in New Mexico included in the 1907 order as corrected in 1908 where it was found to conflict with the Jicarilla Reservation, was a country lying between the Navajo Reservation as then created on the west and the Jicarilla on the east, which for many years had

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been used almost exclusively for the Indians and was generally looked upon and almost universally considered to be Indian country. Neither on December 30, 1908, nor on January 16, 1911, when all this country in New Mexico, so dearly cherished by the Indians as their own, was taken away from them, was there any move at all to restore to entry the large extent of territory in Arizona included in these same orders of November 9, 1907, and January 28, 1908, although Arizona, with almost exactly the same total area as New Mexico, even then had several times the acreage of Indian reservations as New Mexico had. It is stated that the President was persuaded to do this because he believed that this same country would actually be better controlled by the Indians by scattering allotments throughout the area, numbers of which allotments had been made to the Indians before its restoration to the public domain, and many more of which were made after that restoration. These allotments were made under the general allotment act of February 8, 1887, as amended.

The allotment act had been cited and referred to by President Roosevelt in his orders withdrawing the western Navajo area on November 14, 1901. But the difference between the Western Navajo order of 1901 and this order of November 19, 1907, was that the 1901 order provided for the withdrawal of the country concerned "until such time as the Indians * * * shall have been settled permanently" under the allotment and homestead laws. Whereas, the eastern Navajo orders of 1907 and 1908 and 1911 first added the lands outright to the reservation without any strings attached, then restored them except for a few allotments which had been made therein by the Indians. As soon as they were restored large numbers of Indians and non-Indians rushed in there and a confusion which has ever since become worse and worse commenced. The Indians have continued taking allotments throughout the area ever since, and recently homesteads as well in the hope of controlling the country entirely as they would have controlled it had the orders adding it to the reservation not been revoked; but as soon as it was restored the non-Indians came in too. The thought was, undoubtedly, that most of the Indians in this district, upon its restoration, would be pushed back onto the reservation. But it has not worked out that way at all. Instead of confining them in the area, which would have satisfied them had the 1907 extension been permanent and the provisions of the allotment act not been extended to nonreservation country, it has forced the Indians farther and farther out into the non-Indian country, and farther and farther away from their own exclusive districts, until now some of them are 50 or 60 miles away from the reservation lines.

This has resulted in an almost impossible situation—one which the Indian Office and other departments of the Government have been doing their best to cope with ever since the restoration orders of December 30, 1908, and January 16, 1911. Government files are filled with protests against depriving the Indians of the control of this country and urging that it be made permanently a part of the reservation, also demonstrating beyond the peradventure of a doubt that to attempt to hold and control all of it through Indian allotments would be inadequate and insufficient, and ultimately quite unsatisfactory, however effective such allotting might temporarily be as a stop-gap pending definite and reasonable settlements.

Such men as Father Weber and Gen. Hugh L. Scott interested themselves deeply in this question and put themselves on record in protests to the Government in relation to it. Father Weber, a Catholic priest of unusual attainments, was for years a dominant influence for good amongst the Navajos, and probably knew more about them and their affairs than any white man ever has. He pleaded for the permanent addition of this country to the reservation and was very clear in his opinion that allotting would be an unsatisfactory expedient. No one knew better than he that a 160-acre allotment for an Indian family's livelihood in this desert country was a mere gesture. I understand that Father Weber went to Washington to see President Roosevelt about it, and that the order of 1907 followed this visit of his.

So, too, with General Scott, whose extraordinary knowledge of Navajo and other Indian affairs is universally conceded. He, as the records show, was equally insistent with Father Weber that unless this country could be definitely and permanently set aside for the Navajos that most unfortunate consequences would surely follow. The Government, fully conscious of this state of affairs, determined after 1908 to concentrate as much of this district as possible in Indian control in any case. The deal with the New Mexico & Arizona Co. for 17,842.58 acres in 1917 is a case in point. It is apparent that this transaction was consummated in the belief that soon thereafter these lands would be added to the reservation, but that the plan was blocked by the same influences which prevailed upon the President to issue his restoration order of December 30, 1908. The plan in this case, as stated above, was blocked by the passage of the act prohibiting any further additions to reservations in New Mexico and Arizona except by act of Congress.

In order to help the situation, the act of March 4, 1913, was passed, which act was extended from year to year up to the present year. This was to facilitate the Indians in securing control of lands which they thought could not be arranged for under then existing laws.

Then in 1921 was passed another exchange law to take care of the railroad odd-sections outside the boundaries of the then-existing reservation in the same way that the law passed on April 21, 1904, took care of the consolidations and exchanges within all of the extensions to the reservation. Had the 1907 extension not been annulled, the 1904 law would have permitted the necessary consolidations and exchanges in this eastern Navajo area; but with the nullification of the 1907 extension, it was manifestly necessary to provide the means of securing these lands otherwise.

The 1921 law is as follows:

> The Secretary of the Interior is hereby authorized, in his discretion, under rules and regulations to be prescribed by him, to accept reconveyances to the Government of privately owned and State school lands, and relinquishments of valid homestead entries or other filings, including Indian allotment selections, within any township of the public domain in San Juan, McKinley, and Valencia Counties, New Mexico, and to permit lieu selections by these surrendering their rights so that the holdings of any claimant within any township wherein such reconveyances or relinquishments are made may be consolidated and held in solid areas: *Provided*, That the title or claim of any person who refuses to reconvey to the Government shall not be hereby affected.

It has been stated that this law was a gesture, was inoperative and ineffective because the regulations originally promulgated by the department for carrying out the provisions of the law were so compli-

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cated as to make it almost impossible to operate under it. That is true. It is true of a lot of the Government regulations drafted by various bureaus to carry out laws for specific purposes. Specific objectives in laws are often defeated by unnecessarily prolific regulations.

In 1929 and 1930 measures were taken to amend these regulations so that exchanges could be made under them. Amongst other things, they practically eliminated all lands which were withdrawn for mineral classification, and the result of that was to make the act nearly inoperative, because most of the lands in the proposed area required for the Navajo Indians were withdrawn for coal classification. Moreover, the instructions required that upon publication of selections in connection with such proposed exchanges notices should be posted on the lands as is the practice with selections of small areas. After a great deal of correspondence, and through the direct interest of the Secretary himself, the regulations were modified so as to permit of selections being filed contingent upon their approval by the Geological Survey, and were further amended by waiving the requirements for posting notices on each section, which were impracticable in the exchange of large areas. This answers some of the criticisms that have been made in connection with this exchange law. The reason that nothing was done under it for a long time is that no one would have anything to do with it because of these unnecessarily complicated provisions of the regulations. It is probable that some further amendments might be made to make the law more easily operative. However, under the regulations, as amended, the railroad is now seeking exchanges. The first of these exchanges was initiated nearly two years ago, and recently resulted in the final consolidation in the Government for the Indians of Tps. 18 and 19 N., R. 12 W., and in the railroad parts of Tps. 18 and 19 N., R. 12 W., and Tp. 19 N., R. 11 W.

After these first exchanges were effected, a thoroughgoing survey of the whole district within the 50-mile limit adjacent to the railroad and for 54 miles east of the eastern boundary of the reservation was made by the Government and the railroad. Mr. Radcliffe, assisted by Mr. Embon, of the forestry department, and Mr. Tyler, stockman at Crown Point, acted in cooperation with the representatives of the railroad company. This survey took from July 29 to September 4, 1931. Thereafter, complete maps were made, copies of which are made a part of this report, and tentative exchanges as a result of this survey were agreed upon.

On October 29, 1931, the railroad filed in the land office at Santa Fe its list of selections No. 065068 under section 2 of the act of March 3, 1921, by which list of selections 134,283.27 acres would be relinquished by the railroad to the Government for the benefit of the Indians, and in exchange therefor 124,670.23 acres would be selected for consolidation in the railroad. These applications for exchange are now in Washington for the consideration of the Geological Survey. After they have been passed upon by the Geological Survey it will be necessary in order to effect the consolidations that the Indian homesteads and allotments within the areas proposed to be consolidated for the railroad be surrendered. Whether this can be accomplished as it was finally accomplished in the case of the first exchanges remains to be seen. Criticism has been made to the effect that the Indians should not in any case be asked to surrender any of their allotments

in the area proposed to be consolidated in the railroad. However, the relinquishments proposed, with a few possible exceptions, are actually of allotments not occupied by the Indians at all, and it will be impossible to consolidate solid areas adjacent to the reservation for addition to the reservation unless the Indians are willing to make such relinquishments and are satisfied that it will be to their interest to do so. If the lands can not be consolidated by exchange, then they would have to be bought, and this would require very large sums of money.

Attention is invited to a number of exhibits which include letters, statements, and other documents showing that bewteen 1911, the date of the final restoration of these lands, and the present day, the Government has been trying to find ways for securing for the Indians as large areas of the country then restored to entry as possible.

On January 15, 1915, Cato Sells, then Commissioner of Indian Affairs, in a letter to the agent at Leupp, quite fully set forth the attitude of the Indian Office in regard to allotments to the Indians outside the boundaries of the reservation, which he frankly stated should be used and encouraged for the purpose of securing control, not only of the areas actually allotted, but the country contiguous thereto which rightly, as he thought, belonged to the Indians. His attitude there outlined has since then been the general policy of the Indian Office. For as long as possible the office and their representatives in the field kept encouraging the Indians, directly and indirectly, through allotting agents and otherwise, to take allotments with the idea of controlling the ranges, as pointed out in Commissioner Sells's letter above referred to. However, when, in pursuit of this policy allotting was extended far out into the public domain in New Mexico and Arizona, the Senators from those States interposed objections, and provisions against the use of money appropriated for the pay of allotting agents were introduced into the general appropriation bills with the view of stopping the use of any of that money in these States for allotments on the public domain.

The appropriation bill of 1913 made an appropriation of $200,000 for the survey, classification, appraisement and allotment of lands under the provisions of the act of 1887, with a proviso, however, that no part of the same should be used for the survey, classification, appraisement or allotment of any land in severalty upon the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona.

In 1914, under protest from the Indian Office, this proviso was changed to read:

> *Provided*, That thereafter no part of the said sum shall be used for the survey, resurvey, classification, or allotment of any lands in severalty on the public domain to any Indian in New Mexico or Arizona who was not residing on the public domain prior to June 30, 1914.

The same restrictions have been, we believe, in every appropriation bill since 1914. This law has been interpreted with the utmost liberality in behalf of the Indians since 1914, since which date many thousands of acres of allotments have been made in these two States, and particularly in western New Mexico.

On March 20, 1931, a memorandum was made by the legal division of the Indian Office for the use of Commissioner Rhoads, pointing out the attitude of the office in regard to these provisions in the appropriation bills, and also the attitude of the office as to allotments.

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In January, 1918, there was held at Gallup, a conference of superintendents of the Leupp, Southern and Eastern Navajo jurisdictions, which fully discussed the situation and made some definite and very useful recommendations in regard thereto.

On September 5, 1921, Superintendent Stacher wrote a very informative letter showing that his attitude concerning the necessity of securing these lands had not changed in any respect.

In March, 1923, Mr. Hagerman, within three months after he was appointed commissioner to the Navajo Tribe, took up this matter of the "Crown Point exchanges" in detail. On March 22, 1923, he wrote about it to the late Senator A. A. Jones, then senior Senator from New Mexico, asking the Senator's help in finding a solution of the problem. On March 20 and December 7, 1923, Senator Jones wrote Mr. Hagerman, indicating that he was in favor of consolidations, but at the same time he was opposed to any more Indian reservations; also that he was not in favor of further Indian allotments on the public domain unless the allottees became citizens, subject to taxation. He wanted to know whether the Indians outside the reservation would be moved back onto the reservation.

Between March and October, 1923, much work and investigation was carried on in the field, at Santa Fe, and at Washington, preparatory to the calling of a conference at Santa Fe at which the whole question could be fully discussed and methods if possible found to satisfactorily settle it.

On August 31, 1923, Mr. Hagerman again reported fully to Commissioner Burke, and on September 1 of the same year the commissioner took up certain phases of the situation with the Secretary of the Interior.

All this resulted in the calling of a conference at Santa Fe on October 16, 1923. A report of this conference is included in the exhibits to this report, as also are memoranda made preliminary to the conference. At this meeting were present Commissioner of Indian Affairs Charles H. Burke; Doctor Marschalk, chief of the land division of the Indian Office; Superintendent Stacher, of the Eastern Navajo jurisdiction; Chee Dodge, then chairman of the Navajo Tribal Council; E. J. Engel, vice president of the Atchison, Topeka, & Santa Fe Railway Co.; the late Howell Jones, land commissioner of the railroad company; United States Senator H. O. Bursum; Mr. Lawrence Lee, representing himself and other large landholders in the district; Jose A. Baca, acting Governor of New Mexico; Justiniano Baca, commissioner of public lands; Mr. Hagerman, commissioner to the Navajo Tribe, and others.

The proceedings of this conference are fully reported in the exhibits and should be read to properly appraise the situation as it then was and as it still is. A letter from Doctor Marschalk to the commissioner, dated October 23, 1923, is also included.

The result of this conference seemed exceedingly encouraging for a time. Every one there agreed that a bill providing for the addition to the reservation of practically the same country as had been withdrawn by President Roosevelt and President Taft in 1908 and 1911, and the acquisition of the private holdings therein either through exchange or purchase was not only desirable but imperative for the best interests of all concerned. Such a bill was prepared in Santa Fe and Washington, and was as follows:

A BILL To provide lands for Navajo Indians in New Mexico

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the unappropriated and otherwise undisposed of lands of the public domain within the following described boundaries, located in San Juan and McKinley Counties, New Mexico, excluding the Manzano National Forest and the Chaco Canyon National Monument, are hereby reserved for the use and benefit of Navajo Indians now living within the area or who may remove therein:

Beginning at a point between township twenty-three north along the eastern boundary of the Navajo Indian Reservation in New Mexico, thence east thirty miles to intersection of the first guide meridian, at northeast corner of township twenty-three north, range nine west, thence south forty-two miles to southeast corner of township seventeen north, range nine west, thence west six miles to northeast corner of township sixteen north, range ten west, thence south twelve miles to southeast corner of township fifteen north, range ten west, thence west to southeast corner township fifteen, range twelve, thence south to intersection of Santa Fe Railroad right of way at a point between township thirteen, ranges eleven and twelve, thence following the railway right of way northwesterly along north side to point between township fifteen north and ranges seventeen and eighteen west, thence north to intersection of Navajo Reservation, thence east and north to said point of beginning.

Provided, That the said reservation shall not include any minerals in said land, including oil and gas, and the title to the minerals shall not be changed in any way by this act except as especially provided herein.

SEC. 2. The provisions of the act of April twenty-first, nineteen hundred and four (Thirty-three Statutes at Large, page 211) are hereby made applicable to the reservation lands; *Provided*, That in making any exchange hereunder, any land-grant railroad or its successor in interest may reserve the mineral rights in the lands relinquished, the patents for lieu lands to reserve all minerals including oil and gas to the United States.

SEC. 3. Any lands within the reservation, the valid title to which has passed to the State of New Mexico, may be relinquished by the said State, which is hereby authorized to select unappropriated and unreserved public domain lands within the said State of the same or approximate appraised value outside of the Indian reservation: *Provided*, That the State may reserve the mineral rights in the relinquished lands, in which event the lieu selections shall be taken with full reservation of the mineral rights to the United States.

SEC. 4. There is hereby authorized to be appropriated from the Treasury of the United States not otherwise appropriated the sum of two hundred thousand dollars, or so much thereof as may be required, to be reimbursable to the United States from Navajo tribal funds to enable the Secretary of the Interior in his discretion and at such prices as he may deem reasonable and just, to be determined after a fair and impartial investigation, to purchase the lands, improvements, or other interest owned or to which there is a valid and equitable claim by any person, firm or company.

Before and after this conference at Santa Fe much work was done in securing from the private land owners within the area proposed to be added by this bill options for the purchase of such tracts as could not be handled by exchange, and, as will appear from the correspondence, practically all of these private interests were adjusted on satisfactory bases of payment. Had it been possible to carry through this program at that time, the total cost would have been comparatively small, and the $200,000 asked for in the bill would probably have been sufficient to take care of the situation.

Then, however, followed discussions in the State emanating from certain sources antagonistic to the consensus of opinion as expressed at the October, 1923, Santa Fe conference, which resulted in again killing the plan so laboriously worked out. As will be seen by the correspondence, Mr. Hagerman was more than once reminded from Washington that, unless he could so arrange it that all interests in the State and all of its representatives in New Mexico and in Washington were agreeable to the plan throughout, there would be little use in

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going on with it, and he was enjoined to adjust the situation with the Senators, the governor, and other State and Federal officials. (See letters of November 10, 16, and 19, 1923.) This Mr. Hagerman was unable to do, and the correspondence shows that he felt, as far as Washington was concerned, that the fixing of the matter there was more than could be expected of him.

After another full report dated December 15, 1923, the matter was more or less in abeyance until 1927, as it did not seem during that period that it was possible to overcome the same opposition and the same influence which apparently induced President Roosevelt and President Taft to sign the orders of 1908 and 1911. At any rate the program which seemed so near fruition was again blocked.

At the Navajo Tribal Council each year these much-desired land acquisitions were regularly discussed and the records of the councils show that the Indians' keenest desire was that as much of the oil money as possible be set aside for use in the purchase of more lands. Unfortunately the oil returns were nowhere near as great as in the first flush of expectancy, when the Shiprock field was opened to development, it was hoped they would be. Then Congress was asked to make additional appropriations and since then some such appropriations have been made.

On May 13, 1927, Chee Dodge came to Santa Fe, and with the assistance of Mr. Francis C. Wilson, reduced to writing his ideas on the subject, which ideas received the indorsement of Mr. Hagerman and were reported to Washington on May 20 of that year. On October 18, 1927, Mr. Hagerman made a further report to Washington, reviewing the whole situation as it then was. Special attention is invited to this letter and also to a memorandum dated August 7, 1929. By this memorandum it will be seen that the plan to effect exchanges under the 1921 act was again discussed. This led to a conference in Santa Fe on January 24 and 25, 1930, attended by the superintendents of the eastern, southern, western, and Leupp divisions of the Navajo Reservation; by Deshna Clah Cheschillige, chairman of the Navajo Tribal Council; C. E. Faris, industrial supervisor for the southwest; C. E. Roblin, allotting agent of the Indian Office; W. B. Collinson, land commissioner of the Santa Fe Pacific Railroad Co.; T. W. Cabeen, vice president of the New Mexico & Arizona Land Co.; H. J. Hagerman, and others. The proceedings of this conference were reported in full and appear herein.

They demonstrate that all concerned had then come to the conclusion that however regrettable it might be, it would be almost impossible to secure for the permanent use of the Indians all of the country included in the Roosevelt addition of 1907 and 1908, or in the 1923 proposed bill, and that obviously, the thing to do was to get as much as possible of it through exchanges and purchases, and continued allotments within the area it was hoped and proposed to acquire for the Navajos. This has since been the policy of the department. Available moneys have been used with this end in view. On April 21, 1930, the Santa Fe Railroad Co. filed its first application for exchange (application No. 061598) which exchange was recently completed. On October 29, 1931, the railroad filed its list of selections for the second exchange. The Government has purchased from the New Mexico and Arizona Land Co. its lands in Tps. 15 and 16 N., R. 15 W.; 20 and 21 N., R. 12 W., and from the Atchison, Topeka & Santa Fe Railway Co. their lands in the five townships adjacent to the Fort Wingate Reservation as hereinabove noted.

A letter from Mr. Collinson dated March 24, 1931, again outlines the policy and plans of the railroad company as to the exchanges.

In the latter part of 1930 and the early months of 1931 renewed complications appeared because of continued allotments and homesteads by Indians and non-Indians in the areas east and south of the reservation in New Mexico and Arizona which the office still hoped to secure as permanent additions to the Navajo Reservation. By a decision of the Department of the Interior on June 6, 1931, it was held that qualified Indians, could, under the Indian homestead act of 1884, take advantage of the enlarged homestead act of 1916 and obtain 640-acre homesteads, without the payment of fees and commissions, and receive 25-year trust patents therefor. A good many applications for Indian grazing homesteads were thereupon filed. At the same time a considerable number of non-Indian homesteads were filed in certain parts of the country adjacent to the reservation, filings which it has since transpired were promoted by propagandists through more or less questionable methods which have been attacked in the courts. All this revives in even a greater degree than at any time hitherto the agitation as to the conflicting Indian and non-Indian rights and interests in this whole area, and this resulted in the temporary withdrawal on July 8, 1931, from all forms of entry by Indians and non-Indians alike of a considerable area of country in New Mexico and Arizona until something might be done to settle the situation. This withdrawl was announced by Commissioner Rhoads at the meeting of the tribal council which was being held at Fort Wingate on that date.

The telegram from Secretary Wilbur to Commissioner Rhoads announcing this withdrawal was as follows:

PALO ALTO, CALIF., *July 8, 1931.*

COMMISSIONER RHOADS,
Care Indian School, Wingate, N. Mex.

I have signed temporary withdrawal Arizona and New Mexico lands to-day subject to check by General Land Office. Publicity should be given purpose of withdrawal showing that while total acreage is large actual public lands involved do not amount to more than million acres; that within area are already national monuments and forests large acreage railroad land allotments, school sections, homesteads, and patented lands; and that withdrawal is only temporary pending exchange and legislation.

WILBUR.

The withdrawal itself was reported by the Commissioner of the General Land Office to the register at Santa Fe in the following letter:

REGISTER, *Santa Fe, N. Mex.*

SIR: On July 8, 1931, the Secretary approved the temporary withdrawal of the following-described lands (together with other lands in Arizona) from the public domain from all forms of disposal in order to carry out the provisions of legislation already enacted by Congress, or in the aid of legislation to be recommended at the next session, subject to all prior valid rights and claims of any persons initiated under the public land laws prior to July 8, 1931.

The land is described as follows:

Townships north, ranges west, New Mexico principal meridian, New Mexico.
R. 2, Frac. T. 9, all of T. 10, and Frac. T. 11.
R. 3, Frac. Ts. 9, 10, 11, and all of Ts. 18 and 19.
R. 4, Frac. Ts. 9, 10, 11, and all of Ts. 16 to 21, inclusive.
R. 5, Ts. 2 and 16 to 21, inclusive.

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R. 6, Ts. 2, 3, and 16 to 22, inclusive.
R. 7, Ts. 2, 3, 4, and 17 to 23, inclusive.
R. 8, Ts. 17 to 27, inclusive.
R. 9, Ts. 17 to 28, inclusive.
R. 10, Ts. 13 to 25, inclusive.
R. 11, Ts. 13 to 26, inclusive.
R. 12, Ts. 13 to 28, inclusive.
R. 13, Ts. 14 to 28, inclusive.
R. 14, Ts. N. ½ T. 6 and all Ts. 7, 8, 9, 10, 14, 15, 16.
R. 15, Ts. N. ½ T. 6 and all of Ts. 7, 8, 9, 10, 15, and 16.
R. 16, Ts. 7, 8, 9, 10, 15, and 16.
R. 17, Ts. 13 to 16, inclusive.
R. 18, Ts. 12 to 16, inclusive.
R. 19, Ts. 11 to 16, inclusive.
R. 20, Ts. 11 to 16, inclusive.
R. 21, Frac. Ts. 12 to 16, inclusive.

You will note the temporary withdrawal of the above lands on the records of your office as of July 8, 1931.

Very respectfully,

D. K. PARROTT.
Acting Assistant Commissioner.

The total of the area described in the withdrawl of July 8 is approximately 4,000,000 acres and includes not only the country immediately adjacent to the reservation, but also areas around the Ramah, Cañoncito, and Puertecito districts which are hereinafter reported upon. There has been some comment by State officials and in the newspapers of New Mexico because of the withdrawal from sale and settlement of so large an area as 4,000,000 acres. This, however, is not warranted, because the actual area of vacant surveyed lands within the withdrawal is, according to compilations made by the Commissioner of the General Land Office and forwarded to the Commissioner of Indian Affairs on October 9, last, actually 1,134,-972.36 acres. The remainder of the 4,000,000 acres is land previously reserved or in State or private ownership. The temporary departmental withdrawal of July 8, 1931, involved 17 townships in Arizona, 3 of which are fractional. These 17 townships cover in the aggregate about 390,000 acres. However, a careful check of its records by the General Land Office reveals that actually only 99,140.40 acres of surveyed vacant lands are affected by the withdrawal.

Item 20—The Paiute Strip in southern Utah, containing 498,208 acres.—This strip, lying north of the Utah-Arizona line, west of the one hundred and tenth meridian, and south of the San Juan River in Utah, became a part of the Indian reservation by Executive order dated May 17, 1884, was restored by departmental order dated July 17, 1922.

The statements regarding nonusage of this land by the Indians as contained in the report of Supervisor Leech, as a result of which the land was withdrawn from the reservation, were apparently ungrounded, since information obtained after the report was rendered show that it was never vacated or abandoned by the Indians, but that they have occupied it constantly as far back as we have any record.

In 1927, after completing a survey of the economic conditions of the Indians under the Western Navajo agency, the present superintendent, finding the lands of the jurisdiction insufficient for the needs of the Indians, and that the position of a large number of Indians occupying the Paiute Strip was jeopardized by the restoration, started

investigations and action to have this land again made part of the Western Navajo jurisdiction.

The matter of having the Paiute Strip again covered into the reservation was brought up by the delegates at the Navajo Tribal Council held at Leupp, Ariz., November 12 and 13, 1928, and the superintendent was directed by Assistant Commissioner Meritt to make a thorough investigation and report on this matter, and under date of December 6, 1928, this report was rendered. The summary of the report is that the land was actually occupied by Indians; that it was badly needed by them but of little value to white people; that the acquisition of this land would extend the Western Navajo jurisdiction to natural barriers or boundaries and that it was naturally an integral part of the reservation and should be acquired at the earliest possible date.

When it was learned by certain private parties, whose interests were involved, that action was being taken to have the land restored to the reservation, various protests were made, and some misrepresentations, concerning the need of the Indians and the jurisdiction for restoring it to the reservation. As a result of this, action was delayed until the matter could be further investigated. Senate bill No. 3782 was introduced under date of January 6, 1930, with a view to restoring the Paiute Strip to the Western Navajo Indian Reservation. Hearings on this bill were held March 12, 1930.

Congressman Don B. Colton visited the strip and held a meeting at Monticello, Utah, on September 18 and 19, 1930, which was attended by Superintendent Six, of the Northern Navajo agency; Superintendent Walker, of Western Navajo; Supervisor Chester E. Faris; Chairman Deshne Clah Cheschillige, of the Navajo Tribal Council; Mr. R. W. Johnston, a former missionary to the Navajos; and a large number of citizens from southeastern Utah. This meeting was for the purpose of ascertaining the views of the citizens of Utah and others interested concerning the restoration of the strip to the reservation, and it was found that the opposition came from only a few persons, and that it was not indicative of the consensus of opinion of the majority in that locality. As a result of this meeting favorable reports were made to the Commissioner of Indian Affairs by Supervisor Faris under date of September 23, 1930, and Supt. C. L. Walker under date of September 22, 1930.

Favorable reference to the proposed Paiute strip legislation is made in the forty-eighth annual report of the board of directors of the Indian Rights Association for the year ending December 15, 1930.

On January 22, 1931, H. R. 16464 was introduced by Hon. Don. B. Colton, of Utah, which again proposed that this land be restored to the Western Navajo jurisdiction. There are now a large number of Indians occupying this strip.

H. R. 16464 was, we believe, unfavorably considered in committee because it contained a provision that 37½ per cent of the royalties which might be derived from oil discoveries on this land should go to the State of Utah. Since 1922, when the strip was restored to entry, there has been expended a large sum of money in prospecting for oil but no pay oil has been developed, and it is now generally believed that none will be. However, the State of Utah is unwilling to see this area restored to the reservation unless this proviso is in

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the bill. The matter was fully discussed at the Navajo Tribal Council held at Fort Wingate in 1931 in the presence of Commissioner Rhoads, and the Indians expressed their willingness that the proviso should be in the bill. What they want is control of the land for grazing and they are not much interested in the oil prospects there, especially since they are now convinced that there is no oil.

This whole matter of oil royalties on Executive-order reservations or extensions has been one of considerable discussion in the past two or three years before committees of Congress and otherwise. Inasmuch as the writer of this report has been criticized as to his stand on that matter, there is herewith included a memorandum made at the instance of the Commissioner of Indian Affairs by attachés of the Indian Office and submitted to him on October 23, 1931:

On June 9, 1922, Secretary of the Interior Fall, following an opinion of the Solicitor for the Interior Department, held that the general leasing act of 1920 applied to lands in Executive-order Indian reservations. The Indian Bureau then, and at all times thereafter, protested against this opinion. Secretary Fall retired on March 4, 1923, and was succeeded by Secretary Work. On March 31, 1923, Commissioner of Indian Affairs Burke wrote to Secretary Work, urging and recommending that the opinion of Secretary Fall of June 9, 1922, be reconsidered with a view to rescinding the decision. (For a copy of this letter, see Cong. Rec., 69th Cong., pp. 8, 107.) On November 13, 1923, without consulting the Indian Office Secretary Work adhered to the Decision of Secretary Fall of June 9, 1922, and directed the General Land Office to accept applications for leases in Executive-order reservations. (See order in the files of the Interior Department.) The Commissioner of Indian Affairs (Burke), as soon as this order was promulgated and it came to his notice, personally called upon the Secretary and prevailed upon him to refer the matter to the Attorney General for an opinion. This the Secretary did, apparently at the same time President Coolidge had referred it to the Attorney General at the instance of the Indian Rights Association. The Attorney General, without passing upon the Indian title to lands in Executive-order reservations, did hold that the general leasing law of 1920 did not apply to such lands. Under this opinion, if sustained by the courts, there was no law for the leasing, for oil and gas purposes, of such lands. The Indian Bureau, responding to overwhelming request of Indians occupying Executive-order Indian reservations, was desirous that there be legislation to authorize such leases, and in New Mexico especially, both on the part of the Indians and the State, there was a very pressing demand, as there was a promise of development in the Navajo Reservation, which, if successful, would mean much to the Indians in revenue and much to the State in pipe-line construction and probably railroad construction.

In 1925 Senate bill No. 876 was introduced and passed both the Senate and the House and went into conference. The report of the conference committee was adopted by the Senate. Under the terms of the bill only 62½ per cent of royalties would go to the Indians and 37½ per cent to the States. The Indian Bureau was opposing this measure and was cooperating with Mr. S. M. Brosius, legislative representative of the Indian Rights Association, of Philadelphia, Pa. At the instance of Mr. Brosious, Representative Dallinger, of Massachusetts, made a point of order against the adoption of the conference report on Senate bill No. 876 when it came up for consideration on March 3, 1925, which point of order was sustained and, as Congress adjourned the next day, the bill failed to become a law. (See Cong. Rec., March 3, 1925, p. 5432.) Showing that the Commissioner of Indian Affairs (Burke) was opposed to Senate bill No. 876, see a statement of Representative Hayden (now Senator) before the House Indian Affairs Committee at a hearing on April 23, 1926. Mr. Hayden said to Commissioner Burke, who was before the committee, "You also told me that the President would certainly veto the bill were it passed, if he followed your advice." (See Cong. Rec., 69th Cong., p. 8098.) This clearly proves what the attitude of the commissioner was to the proposition of 37½ per cent of oil royalties going to the States.

In the next session of the Sixty-ninth Congress H. R. 9133 was introduced by Mr. Hayden to authorize oil and gas mining leases upon unallotted lands within Executive-order Indian reservations. At that time the United States District Court for the State of Utah in an opinion had held that the general leasing law of 1920 applied to lands in Executive-order Reservations, sustaining the opinion of Secretary Fall of June 9, 1922, adhered to by Secretary Work, November 23, 1923. The case had been appealed to the Court of Appeals and, without deciding it, that court certified it to the Supreme Court of the United States, where it was then pending. Should the Supreme Court sustain the decision of the district court, the general leasing law would apply to unallotted lands in Indian reservations, which, in effect, would give the States the right to claim a vested right in the royalties to the extent of 37½ per cent, and it would be very doubtful if Congress would legislate to give to the Indians more than 62½ per cent. With this situation it seemed desirable that a compromise be effected, and the record is clear that Commissioner Burke insisted, and was only willing to compromise, upon an arrangement by which the Indians would receive 62½ per cent, the States 37½ per cent, conditioned upon the 37½ per cent being expended for the education of Indian children and the building of roads in the reservation from which the royalties might be derived and roads leading to such reservation. It was this compromise proposition that Governor Hagerman had in mind when he stated that the Navajo Indians would be satisfied with 62½ per cent, or, if necessary, 50 per cent, rather than not have any legislation. When this bill was considered by the House Committee on Indian Affairs, Mr. John Collier, representing the Indian Defense Society, was present, and he was asked by Representative Frear of the Committee this question: "What is your attitude in regard to this bill?" Mr. Collier: "The bill is good." (See p. 51, hearings on H. R. 9133, Feb. 19, 1926, Cong. Rec., 69th Cong., 1st sess., p. 8099.) The bill, H. R. 9133, passed both houses of Congress, but was vetoed by the President, but not because of the provision dealing with the subject of royalties. (See veto message, Sen. Doc. No. 156, 69th Cong., 1st sess.; also p. 1, House hearings on H. R. 15021, 69th Cong., 2d sess.)

The only instance where any oil royalties in which Indians had any interest, where 37½ per cent has been given to a State, is in the case of the Kiowa, Apache, and Comanche Indians in Oklahoma, when Congress recognized the right of the Indians to certain oil royalties that had accrued from the oil leases of lands in the bed of the Red River upon lands claimed by the Indians. Not at the instance of the Interior Department, or the Indian Bureau, the Congress under the leadership of Senator Harreld of Oklahoma, chairman of the Senate Indian Affairs Committee, promoted and secured the enactment of Senate Joint Resolution No. 71, which was approved June 12, 1926, which gave to the State of Oklahoma 37½ per cent of the royalties referred to, and there was paid out of such moneys to the State of Oklahoma $316,049.21. And the State of Oklahoma will receive in addition 37½ per cent of any royalties derived from leases thereafter.

Up to the present there has been no oil development of any lands in Executive-order Indian reservations.

In order that the situation may be clearly pictured, we quote the law which was passed on March 3, 1927:

AN ACT To authorize oil and gas mining leases upon unallotted lands within Executive-order Indian reservations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That unallotted lands within the limits of any reservation or withdrawal created by Executive order for Indian purposes or for the use or occupancy of any Indians or tribe may be leased for oil and gas mining purposes in accordance with the provisions contained in the act of May 29, 1924. (43 Stat., p. 244.)

SEC. 2. That the proceeds from rentals, royalties, or bonuses of oil and gas leases upon lands within Executive-order Indian reservations or withdrawals shall be deposited in the Treasury of the United States to the credit of the tribe of Indians for whose benefit the reservation or withdrawal was created or who are using and occupying the land, and shall draw interest at the rate of 4 per centum per annum and be available for appropriation by Congress for expenses in connection with the supervision of the development and operation of the oil and gas industry and for the use and benefit of such Indians: *Provided*, That said Indians, or their tribal council, shall be consulted in regard to the expenditure of such money, but no per capita payment shall be made except by act of Congress.

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SEC. 3. That taxes may be levied and collected by the State or local authority upon improvements, output of mines, or oil and gas wells or other rights, property, or assets of any lessee upon lands within Executive-order Indian reservations in the same manner as such taxes are otherwise levied and collected, and such taxes may be levied against the share obtained for the Indians as bonuses, rentals, and royalties, and the Secretary of the Interior is hereby authorized and directed to cause such taxes to be paid out of the tribal funds in the Treasury: *Provided*, That such taxes shall not become a lien or charge of any kind against the land or other property of such Indians.

SEC. 4. That hereafter changes in the boundaries of reservations created by Executive order, proclamation, or otherwise for the use and occupation of Indians shall not be made except by act of Congress: *Provided*, That this shall not apply to temporary withdrawals by the Secretary of the Interior.

SEC. 5. That the Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to allow any person who prior to May 27, 1924, filed an application for a permit in accordance with the provisions of the act of February 25, 1920, to prospect for oil and gas upon lands within an Indian reservation or withdrawal created by Executive order who shall show to the satisfaction of the Secretary of the Interior that he, or the party with whom he has contracted, has done prior to January 1, 1926, any or all of the following things, to wit, expended money or labor in geologically surveying the lands covered by such application, has built a road for the benefit of such lands or has drilled or contributed toward the drilling of the geologic structure upon which such lands are located, or who in good faith has either filed a motion for reinstatement or rehearing, or performed any other act which in the judgment of the Secretary of the Interior entitles him to equitable relief, to prospect for a period of two years from the date this act takes effect, or for such further time as the Secretary of the Interior may deem reasonable or necessary for the full exploration of the land described in his application under the terms and conditions therein set out, and a substantial contribution toward the drilling of the geologic structure thereon by such applicant for a permit thereon may be considered as prospecting under the provisions hereof; and upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil and gas have been discovered within the limits of the land embraced in any such application, he shall be entitled to a lease for one-fourth of the land embraced in the application: *Provided*, That the applicant shall be granted a lease for as much as one hundred and sixty acres of said lands if there be that number of acres within the application. The area to be selected by the applicant shall be in compact form and if surveyed to be described by the legal subdivisions of the public land surveyed; if unsurveyed, to be surveyed by the Government at the expense of applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposit made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years, upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of $1 per acre, the rental paid for any one year to be credited against the royalties as they may accrue for that year, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior. The applicant shall also be entitled to a preference right to a lease for the remainder of the land in his application at a royalty of not less than 12½ per centum in amount or value of the production, the royalty to be determined by competitive bidding or fixed by such other methods as the Secretary of the Interior may by regulations prescribe: *Provided further*, That the Secretary of the Interior shall have the right to reject any or all bids.

Approved, March 3, 1927.
(44 Stats. L., 1347.)

Under section 5 of this act a large number of permits were applied for in the vicinity of Boundary Butte, a supposed oil structure situated on both sides of the line between Utah and Arizona near the Four Corners. In fact this section of the law was enacted to take care of the situation there, where large sums of money had been spent in good faith under permits granted by the Secretary of the

Interior. However, no oil has been discovered there and only a few of the permits are still alive.

It is evident that the status of Executive-order additions to the Navajo Reservation should be more clearly defined in respect to possible oil royalties as in other respects. The wording of section 2 of the act of March 3, 1927, is that royalties, rentals, etc., from oil and gas leases "upon lands within Executive-order Indian reservations or withdrawals" shall be deposited "to the credit of the tribe of Indians for whose benefit the reservation or withdrawal was created, or who are using or occupying the land," but it is not at all clear how such royalties would be handled or apportioned if oil happened to be discovered on such a reservation as the Hopi Reservation, created in 1882 by President Arthur. It was set aside "for the Moqui and such other Indians as the Secretary of the Interior may see fit to settle thereon," and it is occupied by both Hopi and Navajo Indians; nor is it clear how such royalties would be handled in case oil were discovered on the Leupp or Western Navajo Reservations, which are simply withdrawals, if the lands on which oil might be discovered were restored to entry after the discovery but before any royalties accrued from production. There is not much chance that any oil will for a good while be developed in any new areas of the Navajo country—

First, because it is not the present policy of the Government to sell any more leases on the treaty area or any other part of the Navajo Reservation or on any other Indian reservation in New Mexico or Arizona.

Second, because under the rather unsatisfactory status of the Indian tenure on these reservations, and because of the amount of agitation which apparently always follows any oil development on Indian lands, responsible developers do not care much about prospecting for oil on Indian country.

Third, because, in the present state of the oil market on account of overproduction, wildcatting in this remote and difficult country is not attractive.

Fourth, because there is probably no oil there anyway.

But we should, if possible, know just where the Indians would stand in case of discoveries, not only on the treaty lands and on land manifestly included in the designations of section 2 of the above act, but in the case of all other areas which are now or may be set aside for the use and occupancy of the Indians.

It would be very unwise to block additions to the Navajo Reservation as herein recommended because the four States in which such additions are situated may desire or even insist that 37½ per cent of the proceeds from oil royalties and rentals shall go to the States. The need of these additional ranges is an immediate and vital need of the Indians, and the possibility of oil is extremely remote.

In the final paragraph of section 2 of the above cited law it is set forth, after providing for the disposal of the rentals and proceeds from oil and gas leases, that "The said Indians or their tribal council shall be consulted in regard to the expenditures of said money, but no per capita payment shall be made except by act of Congress." This was put in the bill at the suggestion of the commissioner to the Navajo Tribe as expressive of his own firm conviction that the Navajo Indians

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should be consulted as to the use of their oil money, and in response to the Navajo's keen desire that as much of the proceeds from oil as possible be used for capital investments, such as land, and not for the running expenses of the reservation and schools. The Navajos are distinctly against the use of tribal funds for purposes which they believe should, under the terms of the treaty of 1868, be provided for by gratuity appropriations by Congress, and averse to the tendency which has always been manifest by Congress to appropriate tribal funds for general reservation purposes. At the same time they have never been averse to using part of such funds for purposes which can fairly be classed as tribal benefits.

Section 4 of the above act definitely excludes the possibility of creating further Executive order reservations except by act of Congress. Theretofore this prohibition applied only to New Mexico and Arizona.

Item 21—51,480 acres.—This is an area of about 51,480 acres immediately north of the area set aside by the Executive order of May 15, 1905, situated in the southeast corner of Utah and adjacent to the Southern Ute Reservation over the line in Colorado. This was included in the Colton bill of 1931, in order to take care of a number of allotted Indians and other roving Indians in the vicinity, and it is desirable that it should be included in the general boundaries of the reservation.

II

It is recommended that, outside the country included within the boundaries of the Navajo Reservation as above designated and described, other areas be set aside for the exclusive use and occupancy of the Navajo Indians; that such other areas so designated and set aside be acquired for the Indians residing thereon by purchase, exchange, and otherwise as rapidly as possible; and that the Indians occupying such areas be subject, as citizens of the United States, to the duties as well as the privileges of citizenship, while remaining wards of the Government of the United States of America.

Such areas so far defined are as follows:

(1) Tract A, Star Lake area,—136,480 acres

T. 18 N., R. 6 W.: Sec. 7, W. ½ SE. ¼, W. ½; sec. 13, E. ½, E. ½ W. ½; sec. 14, NW. ¼, S. ½; sec. 15, S. ½; sec. 16, school; sec. 17, S. ½, S. ½ NW. ¼; all of secs. 18, 19, 20, 21, 22, 23, 24, 25, and 26.

T. 18 N., R. 7 W.: Sec. 9, S. ½, NE. ¼; all of secs. 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, school, 17, and 18.

T. 18 N., R. 8 W.: Secs. 1 to 12, inclusive.

T. 18 N., R. 9 W.: Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36.

T. 19 N., R. 6 W.: Secs. 5, 6, 7, and W. ½ sec. 8.

T. 19 N., R. 7 W.: Secs. 1 to 12, inclusive; NW. ¼ sec. 14; secs. 15 to 22, inclusive; N. ½, SW. ¼ sec. 27; secs. 28 to 33, inclusive.

T. 19 N., R. 8 W.: All of township.

T. 19 N., R. 9 W.: East half of township.

T. 20 N., R. 7 W.: All of secs. 1 to 12, inclusive; secs. 16 to 21, inclusive; secs. 28 to 33, inclusive.

T. 20 N., R. 8 W.: Secs. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 34, 35, 36.

Tract B, T. 17 N., R. 5 W.: Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36.

Tract C, T. 17 N., R. 6 W.: Secs. 8, 9, 10, 11, 14 to 36, inclusive.

Tract D, Sand Springs, T. 17 N., R. 8 W.: Secs. 17 to 20, inclusive; secs. 29 to 32, inclusive.

This country, now containing 230 allotments and a number of Indian homesteads, is within the area added to the Navajo Reservation in 1907 and 1908 and withdrawn therefrom in 1908 and 1911. It is also within the area which it was proposed in 1924 should be added to the reservation. Had the 1907 order not been revoked, all of the country in and around this so-called Star Lake area would now be a part of the reservation. Now, however, it is not possible to secure all of the country thereabouts. But it is possible to secure by exchange with the railroad much of the railroad land, much of the remainder of the land by purchase. The lines as now recommended are predicated on natural boundaries, escarpments, mesas, arroyos, etc., which describe division lines much more efficiently than merely arbitrary lines to separate Indian from non-Indian occupancy. These lines have been carefully worked out in the field preliminary to the proposed exchanges since asked for by the railroad company.

(2) Ramah area containing approximately 129,920 acres, described as follows:

Beginning at the northwest corner of section 4, T. 10 N., R. 16 W., New Mexico principal meridian; thence running east 10 miles to the northeast corner T. 10 N., R. 15 W.; thence south 9 miles to northwest corner sec. 19, T. 9 N., R. 14 W.; thence east 2 miles; thence south 1 mile; thence east 1 mile; thence south 1 mile; thence east 1 mile; thence south 1 mile to the Tp. line between Tps. 8 and 9 N.; thence east to the northeast corner of T. 8 N., R. 14 W.; thence south 12 miles to the southeast corner of T. 7 N., R. 14 W.; thence west 6 miles to the southwest corner of T. 7 N., R. 14 W.; thence north 12 miles to township line between Tps. 8 and 9 north; thence west along said township line to the southwest corner of sec. 32, T. 9 N., R. 16 W.; thence north along the eastern boundary of the Zuni Reservation 2 miles; thence east 1 mile; thence north 10 miles to place of beginning.

Within this country adjacent to the Zuni Reservation there have resided for many years bands of Navajos who are now under the jurisdiction of the Eastern Navajo Agency. The district has for a long time been looked upon as mainly Indian country. In order to secure its use for the Navajo Indians and in pursuit of the policy hereinabove outlined, the Indian Office has already purchased certain of the private lands within the area and is negotiating for others. Those lands already bought comprise 8,960 acres of the Vogt Sheep Co. for $22,400.

Much of this country, it is believed, should be acquired by exchange with the New Mexico & Arizona Land Co. and the Atchison, Topeka & Santa Fe Railway Co., and the remainder by purchase. It is an excellent grazing country, except in parts which have been overgrazed, but with proper care will be an excellent grazing area for such of these Indians as are now residing thereon and such as may determine to remain there. For some years the Indian Office has had a farmer residing in the district near Ramah, who has done as much as possible for these Indians under the uncertain, vague, and unsatisfactory situation as to ownership and control of the land. There are now 124 allotments within this area, containing approximately 19,840 acres.

(3) Puertecito area, situated in Socorro County, containing 56,160 acres and described as follows:

Beginning at the southwest corner of T. 2 N., R. 6 W., New Mexico principal meridian; thence east 4 miles along township line to the southeast corner of section 34; thence north 1 mile; thence east 4 miles to the southeast corner of sec. 29, T. 2 N., R. 5 W.; thence north 4 miles; thence west 1 mile; thence north 1

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mile; thence west 1 mile to corner of Tps. 2 and 3 N., Rs. 5 and 6 W.; thence north 4 miles; thence west 6 miles; thence south 1 mile; thence west 2¾ miles; thence south 1 mile; thence west 1¼ miles; thence south 3 miles; thence east 2 miles; thence south 3 miles; thence east 2 miles; thence south 2 miles to place of beginning.

For many years a group of Navajo Indians have lived here. It appears that at the time of the return of the Navajos from Bosque Redondo, after the signing of the treaty of 1868, these Indians, amongst others, decided that it would be impossible for all the Navajos to make a living on the lands set aside for their use in what is now the Treaty area of the Navajo country, and they settled in this rather remote district where, at that time, there were no white men. They and their descendants have ever since resided there. Efforts have been made periodically to secure their return to the Navajo Reservation, or to the Crown Point country within the district included in the order of President Roosevelt in 1907. At some of the tribal councils when there seemed a prospect of a large tribal income from oil, the delegates discussed the propriety of these Puertecito Indians sharing in the tribal benefits. In fact, they have not done so to any appreciable extent.

Whatever be the past history of these Puertecito Indians, their present status is most unsatisfactory. At times in the past the white residents in the neighborhood have asked that the Indians be eliminated; but that is certainly not now the attitude of most of the non-Indians there at this time. On the contrary, they now say that in fairness to the Indians and for the best interests of all the people of the district it would be much better to definitely segregate for these Indians a specific tract of country.

Within the area designated are 1,600 acres of privately owned land, 24,960 acres of railroad land, and a small portion of the Datil National Forest. Negotiations have been going on for some time with a view of buying the railroad and other private holdings, and it now appears that the railroad would be willing to exchange its lands within this area for other lands outside, if an act similar to the 1921 act now applying only to San Juan, McKinley, and Valencia Counties, could be made applicable to Socorro County, in which this Puertecito tract is situated. It would be much preferable to secure the railroad land by exchange than by purchase because it would cost much less, and because the exchange lands consolidated in the railroad would be subject to taxation. It is therefore recommended that a bill be passed so that these exchanges can be consummated.

(4) The Cañoncito area, containing 59,000 acres and described as follows:

Beginning at the southwest corner of T. 10 N., R. 3 W., New Mexico principal meridian; thence east 12 miles to the southeast corner of T. 10 N., R. 2 W.; thence north 6 miles to the northeast corner of T. 10 N., R. 2 W.; thence west 8 miles to the southwest corner of sec. 35, T. 11 N., R. 3 W.; thence north approximately 6 miles to the intersection of the south boundary of the Canada de los Alamos Grant; thence west 4½ miles along line between Tps. 11 and 12 N. to the intersection with the east boundary of the Cebolleta Grant; thence south along east boundary of Cebolleta Grant to the southeast corner of said grant; thence east along the north boundary of the Paguate purchase to the northeast corner of the Paguate purchase; thence south along the east boundary of the Paguate purchase to the southeast corner of the Paguate purchase; thence west along the south boundary of Paguate purchase to the intersection with range line between ranges 3 and 4 W., thence south along range line to the southwest corner of T. 10 N., R. 3 W., and place of beginning.

This is a district in Valencia and Bernalillo Counties lying west of the Rio Puerco, bounded on the west by the lands of the Laguna

Indians, on the north by the Bernabe Montano and the Canada de los Alamos grants, and on the south by the Antonio Sedillo grant. As in the case of Ramah and Puertecito, there is also here a group of Indians who have been residing here for many years. The country in which they live is generally looked upon as Indian country, but it is highly desirable that the area which they can reasonably use be defined. The owners of the Bernabe Montano grant and the Antonio Sedillo grant are both desirous of selling those grants to the Government for the use of the Indians, but it is believed that the Government would not be justified in negotiating for the purchase of either of these tracts at this time, but that acquisitions in this tract should be confined to the areas described. Most of this we believe can be secured by exchange with the railroad if the provisions of the exchange act are extended to Bernalillo County.

It is therefore recommended that the provisions of the act of 1921 be so extended to Bernalillo County as well as Socorro County.

III

HOPI SEGREGATION

It is recommended that the Secretary of the Interior set aside for the exclusive use of the Hopi Indians—

First. That part of the area included in the Executive order of December 16, 1882, described as follows:

Beginning at the northwest corner of section 29, township 28 north, range 14 east, Gila and Salt River meridian, Arizona; thence in a southeasterly direction to the northwest corner of section 2, township 26 north, range 15 east (including Burro Springs); thence in a southeasterly direction to the point of intersection of the north bank of the Jeddito Wash with the range line between ranges 17 and 18 east, township 25 north; thence up and along the north bank of said wash to its intersection with the range line between ranges 18 and 19 east; thence north along said range line to the southwest corner of township 27 north, range 19 east; thence east 5 miles to the southeast corner of section 35, township 27 north, range 19 east; thence northeasterly along the north bank of the Jeddito Wash to its intersection with the section line between sections 31 and 32, township 27 north, range 20 east; thence north approximately 17 miles to what probably will be when surveyed the northeast corner of section 6, township 29 north, range 20 east; thence west 7 miles to the southwest corner of township 30 north, range 19 east; thence north 2 miles to the northeast corner of section 25, township 30 north, range 18 east; thence west 14 miles to the southwest corner of section 23, township 30 north, range 16 east; thence north 1 mile to the southwest corner of section 14 of said township and range; thence west about 5 miles to the point of intersection of the south bank of the Denebito Wash, with the section line between sections 14 and 23, township 30 north, range 15 east; thence down said wash along the south or left bank thereof to the place of beginning, embracing approximately 500,000 acres.

Second. The following area in the present Western Navajo Reservation:

Beginning at the northwest corner of T. 31 N., R. 11 E., Gila and Salt River meridian; thence west 1 mile; thence south 8 miles; thence east 4 miles; thence north 2 miles; thence east 4 miles; thence north 6 miles; thence west 7 miles to place of beginning containing approximately 35,200 acres, and when surveyed will be secs. 1 and 12, T. 30 N., R. 10 E.; secs. 4, 5, 6, 7, 8, 9, T. 30 N., R. 11 E., and all of T. 31 N., R. 11 E., secs. 6, 7, 18, 19, 31, 36, T. 31 N., R. 12 E.

Reference is made to a report by H. J. Hagerman, special commissioner, to the Commissioner of Indian Affairs dated November 20, 1930, fully discussing the situation which resulted in the recom-

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mendation that the above-described areas be segregated for the use of the Hopi Indians; reference is also made to the minutes of a conference held at Flagstaff, Ariz., on November 6, 1930, at which both Navajo and Hopi representatives were present, and to the various reports of this long-standing controversy referred to in Mr. Hagerman's report of November 20, 1930.

On February 7, 1931, a letter from Charles J. Rhoads, Commissioner of Indian Affairs, approved by the Hon. Ray Lyman Wilbur, Secretary of the Interior, addressed to Mr. Hagerman, accepted tentatively the recommendations made in the report of November 20, 1930. By mistake, in this letter of February 7, 1931, Mr. Hagerman's report is referred to as of May 20, 1930. This letter from the commissioner is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 7, 1931.

Hon. H. J. HAGERMAN,
Special Commissioner to Negotiate with Indians,
Santa Fe, N. Mex.

MY DEAR MR. HAGERMAN: Receipt is acknowledged of your report of May 20, 1930, on the matter of setting aside under fence for the separate use of the Hopi Indians two tracts of land, one adjacent to the Hopi Mesas within the present so-called Hopi Reservation, and one adjacent to the Moencopi Wash in the Western Navajo jurisdiction. Your report has been very carefully considered and discussed and we are of the opinion that there should be set aside and fenced for the exclusive use of the Hopis a reasonable and fair area of land. You specify certain boundaries for the proposed segregations, and we are disposed to accept your recommendations as to these boundaries. The first area around the Hopi Mesas would contain about 440,000 acres and would, as you report, include practically all, if not more than all, the land which has been within the memory of living man used by the Hopi Indians for grazing purposes in this vicinity. The second area would include a reasonable tract of land for the use of the Moencopi Band of Hopis who, while they settled in the Moencopi Wash at a comparatively recent date, have apparently so definitely acquired occupational rights that the office has no disposition to even try to dispossess them, but, on the contrary, desires to define, if possible, a reasonable area for their exclusive use. It has for years been the hope of this department that the Hopi and Navajo Indians would become so friendly and cooperative as to enable them to live in the same country without any jurisdictional or other differences. While they are in fact not definitely inimical but, on the contrary, do intermingle at times on more or less friendly terms, it is also true that the racial and social differences within the two tribes do persist, and apparently will continue to persist, to such degree as to make real amalgamation virtually impossible and to indicate that if at all practical, separate districts should be designated for the use of each group.

You state that it would cost approximately $14,000 to erect the fence and while the lines you now suggest are in general those which you believe should be fenced, that if the matter of segregation is assented to in principle, more accurate investigations and surveys in the field will be necessary. That sum of money is not now available for such fencing and it would not be without direct appropriation by Congress. We will probably not be disposed to ask for such appropriation until the next regular session of Congress. In the meantime, we desire that you, with the help of Mr. Radcliffe, Superintendents Miller and Walker, and such other field men as may be desirable, when you have the time to do so, proceed to more definitely investigate the proposed lines with a view of being able to designate them specifically when the time comes. Also, please give us any further news which may come to you in the course of these field investigations as to the general question and any particular reactions of the Indians of either group during the coming months.

We read with interest the minutes of the conference held at Flagstaff on November 6, 1930, at which members of both the Hopi and Navajo tribes were present and at which this and other matters were discussed. We approve of your having sent mimeographed copies of the proceedings of this council to the various Hopi pueblos. It is a satisfaction to know that representatives of the two tribes have at last met in a friendly council and that in spite of certain disagreements appearing between them at the council it was in general a friendly meeting. We hope that there may be such meetings in the future.

Sincerely yours,

C. J. RHOADS, *Commissioner.*

Approved February 7, 1931.

RAY LYMAN WILBUR.

In response to the instructions contained in the letter of February 7, 1931, to the effect that Messrs Hagerman, Radcliffe, Miller, Walker, and other field men make more definite investigations and surveys of the proposed lines of the two tracts, I beg to say that a change in the proposed lines of the first tract as above recommended is not deemed desirable. Further studies in the field warrant the definite recommendation that these lines as proposed should be adopted and that they are fair and just to both the Hopis and the Navajos.

This does not mean that they might not be changed in the future if conditions warrant.

The boundaries of the second tract are made to conform as far as possible with survey lines and include the Mesa and the springs which it is thought should be set apart for the Moencopi band of Hopis. The lines of the second tract as marked on the maps herewith submitted are approximately the lines within the second area as herein described which should, in our opinion, be fenced.

We are still of the opinion that segregation of the Hopis as recommended, with a separate agent or subgent for them, is not only desirable but imperative.

NEED OF DECISIONS AS TO NAVAJO LAND DEFINITIONS, LAND BOUNDARIES, AND EXTENSIONS

The introduction on December 15, 1931, in the first session of the Seventy-second Congress of H. R. 5840 by Mr. Evans of Montana, but again emphasizes the need of as soon as possible arriving at decisions as to what lands should be set aside definitely for inclusion in the Navajo and other Indian reservations, and of what lands outside of such reservations should be held for Indian benefit. This bill now before Congress (January 1, 1932) grants to public land States all vacant, unappropriated and unsurveyed nonmineral public lands, with certain exceptions, giving the States, however, the option of either accepting such grants or of asking the President to make them into "national ranges," to be administered by the Federal Government.

Section 6 of the bill provides that there be excepted from the grant certain lands tentatively proposed for possible additions to the existing national forests; and, as to the other areas proposed to be reserved from the operation of the grant to the accepting States, that matter was apparently left for the decision in each State of a board of five members, one to be appointed by the President, one by the Secretary of the Interior, one by the Secretary of Agriculture, and two by the governor of the State. It seems to us that it is just as important to specifically exclude from the immediate operation of the law areas now temporarily withdrawn for the benefit of the Indians, such as the Western Navajo, the Leupp, and the Castle Butte areas, and the lands included in the withdrawal of July 8, 1931, as it is the "areas proposed by Forest Service as addition to existing national forests or for establishment of new national forests" defined in section 6 of the bill.

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It is not in any sense clear to us what would be the status of such areas under the law as proposed; and it seems quite possible that in some of the States affected, the two State members, with the assistance of one of the three members appointed from Washington (who will doubtless also be from the State concerned) could, if they were averse to further expansion of Indian reservations, not only block any effort of the department to add necessary lands to Indian reservations as herein proposed, or even to definitely establish the lines of the reservations as already presumably existing. In this respect, the bill as now drafted, while in most respects an admirable measure, certainly deserves the careful scrutiny of the Indian office and of those who are trying to protect the rights of the Indians. There are now 21,844,682 acres of Indian reservations in Arizona and 4,711,057 acres in New Mexico. In Arizona there are 11,371,341 acres in National Forests and in New Mexico 8,491,831. The remaining unappropriated public land in Arizona amounts to 16,911,667 acres, in New Mexico to 16,282,582 acres. There are, as we understand it, at least 3,000,000 acres more in each State included in "Map No. 1," referred to in section 6 of H. R. 5840. Would it not be well, in justice to the Indians and in order to safeguard the plans which are now being made to settle this Navajo land problem, that the Interior Department should provide that a "Map No. 2," including at least the country withdrawn by the Secretary's order of July 8, 1931, the Castle Butte area, and the illy defined withdrawals hereinabove referred to, be prepared and included in the bill as an exception to the proposed grant until the proper disposition of the lands referred to could be adequately studied and decided upon.

The Navajos themselves have repeatedly called attention to the danger that before the Navajo problem can be properly solved the States will have turned over to them the remainder of the public lands, and have again and again begged us to try to see to it that their interests were protected in time. At the last session of the council and at previous sessions, various delegates have emphasized this feature of the situation. They have gone so far as to say they believe the boundaries should be defined, but at the same time they think that after they are reasonably defined, the Indians who still choose to live outside the boundaries on allotments, homesteads, or otherwise, should be subject to the same liabilities as the white men, which we believe is a reasonable position and one which should meet with the sympathy of the Senators from these States who are trying to find reasonable adjustments for this perplexing problem. This is the position which has induced us to recommend under main Title II of this report that the Navajo Indians outside of the reservation as herein proposed should be treated as other citizens.

RANGE CONSERVATION AND AGRICULTURAL DEVELOPMENT

It would be futile to go any further with this long fight to get more land for the Navajo Indians if it were certain, as some say it is, that new ranges would be overgrazed. It would in no way solve the range or economic problem of the Indians to merely give them more land. Unless it can be reasonably certain that the lands they now control—those inside and outside the present reservation lines—and the additional lands we hope to get for them are much better managed by or for the Indians than has been the case with their lands in the past, we may well agree with those Senators and others who state that, until it can be shown that vast improvement in Indian range control is being brought about, they will be against additions, consolidations, allotments, homesteads or any other method, direct or indirect, of gathering together more land for Indian use. From the first meeting of the Navajo Council in 1923 this has been constantly borne in on the Indians themselves. They have been told again and again by the commissioners, the various superintendents, by field men of the bureau, and by the writer of this report that, when the time came for a show-down on this question of land acquisitions, our main difficulty in overcoming opposition to extensions would be to demonstrate that the Indians are alive to the necessity of using their ranges to the utmost economic capacity. We have repeatedly told them we would have to show Congress that they actually are using these lands, through the elimination of useless and excess horses, through the proper distribution of their cattle and sheep, through the rotation of ranges, by cutting down the excess stock; and in fact, through the real conservation and beneficial use of their resources, as they should be used.

The Indians themselves, especially in the last six years, are fully conscious of this situation. They have said—so have many of the critics of the Indian administration said—that all this can not possibly be brought about without specific plans and definite programs issuing out of Washington, without clean-cut and clear policies as to not only the "whys and wherefores," but as to the "hows" of doing it. There has been much justice in such criticisms, and there has been much in them that was unfair to the Indian Office. It is true that until comparatively recently the matter of effective range control and management has not been frankly enough faced by the Bureau of Indian Affairs. It is true that until comparatively recently, when the matter has come up in Washington, the trend there has been to emphasize the lack of funds to bring about such effective control, the lack of money to properly equip the Navajo ranges with adequate stock waterings, with fences, with range rotation, and with rodent control. It is a fact that the general reaction of Washington has often been that more range land would in itself remedy the situation.

And another reaction has been that if we were but honest with ourselves, we would recognize the fact that, take it for all in all, conditions on the Navajo Reservation are no worse as far as overgrazing is concerned—as far as erosion, scarifying, and destruction of roots and subsoil are concerned—than are conditions in general in any non-Indian country in Arizona and New Mexico. It is true they are not, but that is really no defense. Conditions on the reservations should be much better than on the generality of outside ranges, just as they are vastly better on the national forests and on some of the properly managed non-Indian ranches. Conditions should be better on the reservations because the Indians are wards of the Government. We should, if possible, make the Indians preserve their ranges; we should make them see to it that their one great resource should not be destroyed and wasted by unscientific methods. We should not allow tradition, tribal custom, clan prejudice, or anything else to interfere with our insistence that their first duty

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to themselves and our first duty to them is to so care for their ranges that they will be not a vanishing asset, but a continuous resource. Otherwise we will have palpably failed in our duty toward the Indians.

It is true that there are many difficulties in bringing about the conditions contemplated. Besides educating the Indians, not the least of these difficulties is the comparative uncertainty of Indian tenure on many of the lands now within the so-called reservation, and a much greater uncertainty on lands outside the reservation which are actually used by the Indians.

One objective of this report has been to analyze, item by item, the different parcels of land actually within the Navajo country, so as to demonstrate this uncertainty of tenure and its consequent deterrent influence on the Indians and on the Indian Bureau in devising plans and policies for water and range development and of proper range rotation and control. If we all could be assured that the country within the lines above described and with the additional areas recommended for permanent withdrawals were actually in the same clean-cut, exclusive, continuous ownership as the treaty area, then the office would be in a far better shape to plan positive programs of water development, rodent control, and real conservation, and to definitely tell the Indians both what they should and must do. As it is now, we can not dig wells and tanks or build fences outside the reservation lines except on occasional parcels of land actually in Government ownership; we can not plan adequate development programs for the reservation as a whole when much of the country is either conditionally withdrawn or not withdrawn at all. No plans can be adequate which do not contemplate the reservation as a whole and not from the standpoint of its various arbitrary administrative subdivisions.

Hence the first need as we see it is to enact legislation defining the status of the whole reservation as recommended in this report.

In spite of this unsatisfactory situation which has no doubt in the past contributed not a little to the lack of definite policies as to range control and conservation, the department has in recent years proceeded aggressively on the assumption that the country which the Indians are actually entitled to would be ultimately secured for them. Through various branches of the office, extension, forestry, and irrigation, working separately and together, not only have intensive studies and reports of the range situation been completed, with definite recommendations, but, as far as funds would permit, such plans have actually been initiated. Not only have the superintendents accepted these plans and policies, but in many places and in many ways they have begun putting them into effect.

In March, 1931, there was called a conference at Albuquerque, attended by Major Post, chief of the irrigation division of the office, by representatives of all of the above activities, by the superintendents of the various jurisdictions of the reservation, and others, for the express purpose of planning a real survey of the reservation from the standpoint of water development and of range and rodent control. Such survey—a coordination of previous surveys—and a new field examination lasting months has since been completed; and it shows pretty conclusively what should be done in the way of tanks, springs, windmills, wells, and agricultural development if we can be assured

of knowing what lands can be counted on and if a proper plan of range management be adopted.

As to present range conditions and necessary steps for restoring denuded ranges and conserving those that are good, separate field reconnaissances have been made by the field men of the forestry branch of the office showing specifically the situation in the various administrative jurisdictions of the Navajo Reservation.

Other examinations have been made by the extension service of the office.

All these reports and plans and recommendations, which cover almost every possible phase of the situation, are now being studied and coordinated, and as far as possible are being acted upon, both by the men in the field and by those responsible for policies in the Washington office. No one in Congress or elsewhere should refuse to give us the legislation herein asked for because of failures to properly care for what we have until these reports and the many demonstrations of what actually has been done and is being done are studied and fairly appraised.

What is mainly needed now is more money to carry out the plans, and what is equally important, a clearer grant of power to the superintendents to carry out the plans after they are adopted. It may be fairly stated we believe that it is now generally agreed by all of those who have studied this perplexing situation:

First. That before the recent blizzards (in December, 1931) there was at least 40 per cent more stock on the reservation and on the country outside the reservation used by the Indians than under present conditions there should be.

Second. That even if all of the country asked for in this report should be definitely added to the reservation, there would be, in its present condition, from 30 per cent to 40 per cent more stock in the Navajo country as a whole than there should be.

Third. That certain areas of the Navajo country which once were good range have been so badly overgrazed and abused that nothing but extreme measures, long rest, damming the arroyos to prevent further erosion, elimination of prairie dogs, etc., will suffice to bring the range back. The total of such areas in such extremely bad shape is comparatively small.

Fourth. That a much larger acreage is not so badly damaged by overgrazing but that it can be restored under normal conditions by rest and rodent control alone, and that during the process, a certain amount of grazing can, under strict supervision, be carried on in such areas.

Fifth. That there are vast areas of the Navajo country which, under no circumstances, will support any appreciable number of cattle or sheep.

Sixth. That all of the country, including that in the three classes above noted and the remainder of it, which is in fairly good shape, will have to be managed and controlled in a much more efficient way than has, until recently, generally been the case in the past if the range is to be conserved.

Seventh. That there are a good many places on the reservation inadequately equipped with stock waterings, and that if they were properly equipped, plans for conservation, rotation and control could be much more effectively carried out, but that unless such

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water development is accompanied by a reduction of the herds, it would only aggravate the situation.

We do not know at this time (December 26, 1931) just what losses have occurred in the recent unprecedented storms throughout the Navajo country. While the loss has been great, the percentage will probably not be more than 20 per cent nor less than 5 per cent of the total sheep in the reservation. This is certainly bad but it will not very materially affect the situation as a whole. The 1932 lamb crop will also be very badly curtailed.

Since 1924 an intensive campaign for the eradication of scabies on the reservation has been carried on. Prior to that time there had been poor cooperation between the superintendents and officials of the Bureau of Animal Industry charged with that work. Since then it has been an entirely different story. Under the efficient direction of Dr. F. L. Schneider, who has been in charge of the New Mexico branch of the Bureau of Animal Industry for several years, with the help of his assistant, Dr. H. E. Kemper, and his field men, a campaign to wipe out this disease among the sheep and dourine from the horses has been so thoroughly planned and carried on that now the reservation is practically free from these diseases. But this has only been possible because, since 1924, there has been the closest kind of cooperation in the work. Large sums have been spent by the Indian Office for the installation of vats, the purchase of sulphur and nicotine and other dips, and the conduct of the dipping campaign. In the beginning the Indians were very much averse to these annual double dippings for the sheep and the killing of horses affected with dourine. But they now know that without such measures there would be no market at all for their stock. They now know that if such measures had not been adopted the whole reservation would be quarantined.

The annual double dipping of hundreds of thousands of sheep has meant the concentration around the vats of so many sheep that the grass in the country contiguous to these vats and along many of the approaches to them has been badly eaten off. That could not well be helped. If the sheep are thoroughly clean, and most of them actually now are, it will eliminate this difficulty. It is believed that with another one or two year's dipping they will be so clean that only occasional dippings will be necessary if infected sheep from the outside can be kept off the reservation. That will only be possible if the reservation boundaries are definitely defined. As it is now there is constant danger of new infection from the Paiute country, from other points in Utah and Colorado on the North, and from other areas to the south and east of the reservation.

It is realized we must meet the objections advanced by the Senators and others who have no desire to be unfair to the Indians, but are equally concerned with being fair to non-Indians, to the effect that if the irrigation and agricultural resources within the present reservation were properly developed there would be no need for more grazing lands. If the Navajos themselves who, in the past have been looked upon as a merely pastoral, nomadic people, averse to agriculture, had not definitely changed their disposition toward farming and irrigation, we would say that such objections had much merit. So too if the Government were not now doing everything within its power to develop all the irrigation and dry farming resources of the Navajo country.

But, in the first place, the Indians themselves have awakened to a realization that with the maximum amount of additions to their reservation which they can hope for, they must, in order to take care of their increasing needs, use every available agricultural resource open to them. They are now doing remarkably well with the irrigable areas open for their use; and the development of dry farming on carefully chosen tracts, especially in the Leupp, Southern, and Western Navajo jurisdictions in recent years is one of the most astonishing features of recent Navajo progress. The Navajos are showing more energy, initiative, persistence, and patience in this respect even than the Pueblos, who for generations have been an agricultural people.

The Navajos are more receptive and responsive to suggestions, more resilient to constructive criticism, less bound by custom, and precedent as to agrarian ceremonies than the Pueblos. All of this is distinctly to the good. As for the Indian Office, the plans and projects of the irrigation division under Major Post, Mr. Clotts, and Mr. Neuffer will demonstrate that if jurisdictional lines can be defined and reasonable appropriations secured, a big improvement can be made within a reasonable time in production per acre and in the acreage under cultivation.

On account of the generally arid character of the country, as a whole, however, and because of the limited amount of water available, all of this will at best take care of only a small percentage of the Navajos' increasing needs.

One other feature of development which has been stressed by Major Post and others is this: That Indian country in other reservations accessible to the Navajos now either not being beneficially used at all, or if so, now being used by non-Indians, should, in their opinion, be used for the benefit of growing tribes like the Navajos and not by the whites. If there are excess irrigable lands such as those on the Southern Ute Reservation near Ignacio, Colo., on which forage for feed can be raised, Navajo stock should be fattened there for market. This possibility is now being thoroughly investigated.

It is almost impossible to carry out plans for conservation, range control, and water development such as those who have criticized the Indian Office for the inadequate development of present Navajo grazing resources maintain should have been carried out, unless definite, permanent boundaries and the status of the lands within those boundaries are known. As an instance of this, Messrs. Neuffer and Zeh point out in their very comprehensive and admirable report of August 21, 1931, that on the Eastern Navajo jurisdiction there are now 35 stock waterings, including reservoirs, springs, and wells; on the Southern Navajo, 144 such waterings; and on the Leupp, 37. They proposed, after a careful survey, to add to these, 205 on the Eastern, 339 on the Southern, and 180 on the Leupp jurisdictions. But of these proposed additional waterings which are absolutely necessary if an effective range control is to be brought about, 187 are off the present reservation in the Eastern Navajo area, 76 are off the reservation in the Southern, and 130 in the Leupp areas, and nothing can be done about them until we know the status of the Castle Butte, the Eastern Arizona, the Gallup, the Thoreau, and the Eastern Navajo areas, which it is herein recommended be added to the reservation.

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The subject is a big one. The area reported upon is approximately the size of the State of South Carolina—30,000 square miles. It has not been attempted here to accurately estimate what it would cost to acquire all of the additional lands which it is recommended should be secured for the Navajos. The main point, it seems to me, is whether the program is acceptable. If so, then legislation to define the boundaries and the status of these lands should be sought. If enacted, the Indian Office can then go ahead and acquire the lands within the boundaries suggested—as many as possible by exchange, the balance by purchase. In that way the expense will not be great, and it need not be all incurred at once.

It is recommended that legislation be enacted—

First. To definitely define the exterior boundaries of the Navajo Reservation and the status of the lands within such lines as recommended in this report.

Second. To enable exchanges in the State of Arizona for the purpose of securing by exchange as many as possible of the lands held by private interests inside the extended reservation lines.

Third. To add to the reservation the Paiute Strip in Utah with such reservations and other additions as will be acceptable to the State of Utah.

Fourth. To define and limit allotments to Navajo Indians within certain areas so that the above legislation may be enacted, on the ground the additional areas to be received by them under this plan will more than compensate them for the loss of allotment privileges.

Respectfully yours,

H. J. HAGERMAN.

SANTA FE, *January 1, 1932.*

STATISTICAL RÉSUMÉ

Name of area	Acreage outside present reservation	Allotments		Indian homesteads	
		Number	Acreage	Number	Acreage
Tappan Springs	75,000				
Castle Butte	730,000	278	44,480		
Eastern Arizona	165,944	120	19,200		
Babbitt addition	55,534				
Gallup	129,121	44	8,040		
Thoreau	475,567	414	60,680		
Eastern Navajo[1]	588,000	1,010	161,000	67	34,840
Colton bill:					
Piute Strip	498,208				
Allen Canyon Indians	51,480		480		
Puertecito	56,160		3,840		
Ramah	129,920	124	19,840		
Canoncito	89,000	16	2,560	17	2,720
Total	3,013,934	2,006	320,120	84	37,560

[1] Includes Star Lake area.

STATISTICAL RÉSUMÉ—Continued

Name of area	White homesteads		State lands	Railroad lands	Public domain	State
	Number	Acreage				
Tappan Springs			6,400	37,500	31,100	Arizona.
Castle Butte			38,400	365,000	326,600	Do.
Eastern Arizona		10,220	32,000	82,972	21,552	Do.
Babbitt addition			3,800	46,000	5,534	Do.
Gallup		480	32,640	64,560	23,401	New Mexico.
Thoreau		3,200	25,880	237,873	147,934	Do.
Eastern Navajo[1]		24,000	57,600	270,000	40,560	Do.
Colton bill:						
Piute Strip					498,208	Utah.
Allen Canyon Indians					51,480	Do.
Puertecito		1,600	5,120	24,960	21,200	New Mexico.
Ramah		6,040	14,080	64,960	25,000	Do.
Canoncito		480	5,760		47,480	Do.
Total		46,020	221,680	1,193,825	1,239,641	

Area of public domain in—	Acres
Arizona	384,786
New Mexico	305,575
Utah	547,208

[1] Includes Star Lake area.

MEMORANDUM SETTING OUT SALIENT POINTS EMBRACED IN THE ATTACHED PROPOSED BILL TO DEFINITELY DEFINE THE EXTERIOR BOUNDARIES OF THE NAVAJO INDIAN RESERVATION

FEBRUARY 8, 1932.

Under section 1 of the bill the boundaries of the present Navajo Reservation proper are extended on the north, east, and south; also four small specific areas outside of the proposed reservation lines are to be set aside for the Star Lake, Canoncito, Puertecito, and Ramah Bands of Navajos living within these respective small areas. The area involved is in all sense of the word "Indian country" in that it is populated and used largely, if not exclusively, by Navajo Indians.

Under section 1 it is also proposed to definitely define the lines of the Hopi Reservation covering the areas heretofore recommended by Commissioner Hagerman and concurred in by the superintendent.

Provision is also made in section 1 to protect all valid rights of settlers, if any, initiated prior to approval of the bill, if enacted.

Section 2 of the bill is with but slight modification identical with S. 5577, introduced during the last session of Congress and on which the department made a favorable report. This section is to provide for the relinquishment and reconveyance of privately owned lands within certain counties in Arizona falling within the proposed new boundary line in that State so as to overcome the disadvantages now existing of "checkerboard" control of lands by Indians and private landowners within said proposed new lines. Section 2 also will grant authority to the States of Arizona, New Mexico, and Utah to relinquish for the Indians such tracts of school lands within the proposed boundaries as they may see fit and will grant said States the right to make lieu selections from vacant nonmineral public lands in the respective States.

Section 3 of the bill provides in effect that if oil and gas is produced in paying quantities within the Paiute strip in southern Utah,

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37½ per cent of the net royalties accruing therefrom derived from tribal leases shall be paid to the State of Utah on condition that the said royalties will be expended by the State in the tuition of Indian children in white schools, or in the building and maintanance of roads across said Paiute Strip for the benefit of Indians residing therein. On this point it may be said that the Governor of Utah has heretofore indicated his unwillingness to consent to enlarging the Navajo Reservation as proposed in that State unless a provision, such as we have set up under section 3 of this bill, is made a part of any legislation seeking to add lands from the public domain in Utah to the Navajo Reservation.

Section 4 provides for amending the present act of March 3, 1921, under which we are now operating in three counties in New Mexico, adjacent to the existing reservation in effecting exchanges and consolidations with the Santa Fe Railroad Co. The provisions of said act are also made applicable to three additional counties in New Mexico; namely, Socorro, Bernalillo, and Sandoval. Section 4 also provides that any exchanges and consolidations heretofore and hereafter made pursuant to said act as amended, over which the Government has control, shall be held for the exclusive tribal use and benefit of the Navajos.

Section 5 of the bill amends the act of April 21, 1904, authorizing exchanges to be made by private owners of land over which an Indian reservation has been extended by Executive order so as to make said act applicable to the proposed new boundary lines defined in section 1 of this bill. This proposed amendment will make available two exchange acts which the Government and private landowners can utilize in effecting consolidations within the proposed new boundary lines. Section 5 of the bill also provides in effect that no further allotments of land on the public domain shall be made to Indians in the several counties wherein it is proposed to withdraw large areas of public land for addition to the reservation, as proposed in section 1 of the bill. Those counties are Apache, Navajo, and Coconino, Ariz.; McKinley, San Juan, and Valencia, N. Mex.; and San Juan, Utah. In view of the apparent large area proposed to be added to the existing reservation by section 1 of the bill it is deemed fitting and proper that no further allotments be made on the public domain in these counties as the Indians will be getting in the aggregate more than the equivalent which they would receive if allotted and no tribal additions were made as we now propose.

A BILL To define the exterior boundaries of the Navajo Indian Reservation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundaries of the Navajo Indian Reservation be, and the same are hereby, defined as follows:

Beginning at a point where the one hundred and tenth meridian of west longitude intersects the south bank of the San Juan River, San Juan County, Utah; thence following the south bank of said river to its confluence with the Colorado River; thence following the east bank of that stream to its confluence with the Little Colorado River; thence following the north bank of said river to a point opposite the present east boundary of the Grand Canyon National Park; thence south along said east boundary to the southeast corner of section 5, township 30 north, range 6 east, Gila and Salt River meridian, Arizona; thence east to the southeast corner of section 4; thence south to the southwest corner of section 10; thence east to the southeast corner of section 10; thence south to the southwest corner of section 14; thence east to the northwest corner of the northeast quarter in section 23; thence two miles to the southeast corner of the southwest quarter in section 26; thence west one-half mile to the southeast corner of section 27, township 30 north, range 6 east, Gila and Salt River meridian; thence south seven miles to the southwest corner of section 35, township 29 north, range 6 east; thence east one mile; thence south one and one-half miles to the southwest corner of the northwest quarter in section 12, township 28 north, range 6 east; thence east through the center of section 12 to the range line between ranges 6 and 7 east; thence south along said range line, five and one-half miles to the southeast corner of section 1, township 27 north, range 6 east; thence west three miles to the southwest corner of section 3, township 27 north, range 6 east; thence south five miles to the southeast corner of section 33, township 27 north, range 6 east; thence east along township line between townships 26 and 27, six and one-half miles to the northeast corner of the northwest quarter in section 3, township 26 north, range 7 east; thence south two miles to the southeast corner of the southwest quarter in section 10, township 26 north, range 7 east; thence east four and one-half miles to the southeast corner of section 8, township 26 north, range 8 east; thence north four miles to the northwest corner of section 28, township 27 north, range 8 east, Gila and Salt River meridian, Arizona; thence east one mile to the southeast corner of section 21; thence north four miles to the northeast corner of section 4, township 27 north, range 8 east; thence east along township line between townships 27 and 28 north, to its intersection with the Little Colorado River; thence up the middle of that stream to the intersection of the range line between ranges 10 and 11 east, Gila and Salt River meridian; thence south along said range line between ranges 10 and 11 east, to the intersection of said range line with the north right of way of the Atchison, Topeka & Santa Fe Railway; thence easterly along the north right of way line of the Atchison, Topeka & Santa Fe Railway to the intersection of township line between townships 19 and 20 north, Gila and Salt River meridian; thence east along this line to the corner of sections 33 and 34, township 20 north, range 14 east, Gila and Salt River meridian; thence north 6 miles to the fifth standard parallel between townships 20 and 21 north; thence east along said standard parallel to the southwest corner of township 21 north, range 27 east, Gila and Salt River meridian, Arizona; thence north six miles to the northeast corner of township 21 north, range 26 east; thence east six miles to the northeast corner of township 21 north, range 27 east; thence south two miles; thence east twelve miles; thence south four miles; thence east along the township line between townships 20 and 21 north, to the boundary line between the States of New Mexico and Arizona; thence north along said boundary line to its intersection with the north line of section 34, township 12 north, range 21 west, New Mexico principal meridian; thence east to the range line between ranges 20 and 21 west; thence north six miles; thence east five and one-half miles to the northeast corner of section 36, township 13 north, range 20 west, New Mexico principal meridian; thence north five miles; thence east eight miles; thence north four miles; thence west two miles; thence north two miles; thence west six miles; thence north six miles; thence west along the township line between townships 15 and 16 north to the boundary line between Arizona and New Mexico; thence north along said boundary line to a point where it intersects the south boundary line of the land withdrawn by Executive order of January 6, 1880; thence east along said line to its intersection with the range line between ranges 17 and 18 west; thence south along said range line to the southeast corner of township 14 north, range 18 west, New Mexico principal meridian; thence east along the township line between townships 13 and 14 north, to the east boundary line of the Fort Wingate Military Reservation; thence north along said boundary line to its intersection with the north right-of-way line of the Atchison, Topeka and Santa Fe Railway; thence following said north right-of-way line to its intersection with the township line between townships 13 and 14 north; thence east along that township line to the southeast corner of township 14 north, range 12 west; thence north six miles; thence east six miles; thence south twelve miles; thence east three miles; thence north twenty-four miles along a line bisecting townships 13, 14, 15, and 16 north, range 10 west, New Mexico principal meridian; thence west to the southeast corner of township 17 north, range 11 west; thence north six miles; thence west six miles; thence north along the range line between ranges 11 and 12 west, to the township line between townships 28 and 29 north; thence west to the southeast corner of township 29 north, range 14 west; thence north to the San Juan River; thence following the meanders of said river down to where it crosses the east line of the Navajo Reservation as established by the treaty of June 1, 1868; thence north

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along east boundary to its intersection with the Colorado-New Mexico State line and the northeast corner of treaty reservation of June 1, 1868; thence west to the boundary line between Colorado and Utah; thence north along that boundary line to its interesection with the section line between sections 27 and 34 in township 39 south, range 26 east, Salt Lake base and meridian, Utah; thence west along that section line to the southwest corner of section 25, township 39 south, range 25 east; thence north one mile; thence west five miles; thence west along line between sections 24 and 25, township 39 south, range 24 east, Salt Lake meridian, to where it intersects Montezuma Creek or Wash, within township 39 south, range 24 east, San Juan County, Utah; thence down the west rim of said creek or wash to its confluence with the San Juan River; thence following the south bank of that stream to the point of beginning, and the following areas: Beginning at the northeast corner of township 20 north, range 7 west, New Mexico principal meridian; thence west six miles; thence north three miles; thence west three miles; thence south nine miles; thence west six miles; thence south twelve miles; thence east three miles; thence north four miles; thence east six miles; thence south one mile; thence east six miles; thence south one mile; thence east four miles; thence south one mile; thence east two miles; thence north three miles; thence west five miles; thence north one mile; thence west one mile; thence north one mile; thence west six miles; thence north one mile; thence east two miles; thence south one-half mile; thence east one mile; thence north one-half mile; thence east one mile; thence north one mile; thence east one mile; thence north two miles; thence east three miles; thence north two miles; thence west five miles; thence north four miles; thence east three miles; thence north two miles to place of beginning; and beginning at the southwest corner of township 17 north, range 6 west, New Mexico principal meridian; thence east six miles; thence north three miles; thence west one mile; thence north three miles; thence west four miles; thence south three miles; thence west one mile; thence south three miles to place of beginning; and beginning at the southeast corner of township 17 north, range 5 west, New Mexico principal meridian; thence north six miles; thence west three miles; thence south six miles; thence east three miles to place of beginning; and beginning at the southwest corner of township 17 north, range 8 west, New Mexico principal meridian; thence east two miles; thence north four miles; thence west two miles; thence south four miles to place of beginning; and beginning at the northwest corner of section 4, township 10 north, range 16 west, New Mexico principal meridian; thence running east ten miles to the northeast corner township 10 north, range 15 west; thence south nine miles to northwest corner section 19, township 9 north, range 14 west; thence east two miles; thence south one mile; thence east one mile; thence south one mile; thence east one mile; thence south one mile to the township line between townships 8 and 9 north; thence east to the northeast corner of township 8 north, range 14 west; thence south twelve miles to the southeast corner of township 7 north, range 14 west; thence west six miles to the southwest corner of township 7 north, range 14 west; thence north twelve miles to township line between townships 8 and 9 north; thence west along said township line to the southwest corner of section 32, township 9 north, range 16 west; thence north two miles; thence east one mile; thence north ten miles to place of beginning; and beginning at the southwest corner of township 2 north, range 6 west, New Mexico principal meridian; thence east four miles along township line to the southeast corner of section 34; thence north one mile; thence east four miles to the southeast corner of section 29, township 2 north, range 5 west; thence north four miles; thence west one mile; thence north one mile; thence west one mile to the corner of townships 2 and 3 north, ranges 5 and 6 west; thence north four miles; thence west six miles; thence south one mile; thence west two and three-fourths miles; thence south one mile; thence west one and one-fourth miles; thence south three miles; thence east two miles; thence south three miles; thence east two miles; thence south two miles to place of beginning; and beginning at the southwest corner of township 10 north, range 3 west, New Mexico principal meridian; thence east 12 miles to the southeast corner of township 10 north, range 2 west; thence north six miles to the northeast corner of township 10 north, range 2 west; thence west eight miles to the southwest corner of section 35, township 11 north, range 3 west; thence north approximately six miles to the intersection of the south boundary of the Canada de los Alamos grant; thence west four and one-half miles along line between townships 11 and 12 north to the intersection with the east boundary of the Cebolleta grant; thence south along east boundary of the Cebolleta grant to the southeast corner of said grant; thence east along the north boundary of the Paguate purchase to the northeast corner of the Paguate purchase; thence south along the east boundary of the Paguate purchase to the southeast corner of the Paguate purchase; thence west along the south boundary of Paguate purchase to the intersection with range line between ranges 3 and 4 west; thence south along range line to the southwest corner of township 10 north, range 3 west, the place of beginning: *Provided*, That all vacant, unreserved and unappropriated public lands, including all temporary withdrawals of public lands heretofore made for Indian purposes by Executive order or otherwise within the boundaries so defined, are hereby permanently withdrawn from all forms of entry or disposal for the benefit of the Navajo and such other Indians as the Secretary of the Interior may see fit to settle thereon. All valid rights and claims initiated prior to approval hereof under the public-land laws involving any lands within the areas so defined, shall not be affected by this act: *Provided further*, That so much of said aera as falls within the following lines: Beginning at the northwest corner of section 29, township 28 north, range 14 east, Gila and Salt River meridian, Arizona; thence in a southeasterly direction to the northwest corner of section 2, township 26 north, range 15 east (including Burro Springs); thence in a southeasterly direction to the point of intersection of the north bank of the Jeddito Wash with the range line between ranges 17 and 18 east, township 25 north; thence up and along the north bank of said wash to its intersection with the range line between ranges 18 and 19 east; thence north along said range line to the southwest corner of township 27 north, range 19 east; thence east five miles to the southeast corner of section 35, township 27 north, range 19 east; thence northeasterly along the north bank of the Jeddito Wash to its intersection with the section line between sections 31 and 32, township 27 north, range 20 east; thence north approximately seventeen miles to what probably will be when surveyed the northeast corner of section 6, township 29 north, range 20 east; thence west seven miles to the southwest corner of township 30 north, range 19 east; thence north two miles to the northeast corner of section 25, township 30 north, range 18 east; thence west fourteen miles to the southwest corner of section 23, township 30 north, range 16 east; thence north one mile to the southwest corner of section 14 of said township and range; thence west about five miles to the point of intersection of the south bank of the Denebito Wash, with the section line between sections 14 and 23, township 30 north, range 15 east; thence down said wash along the south or left bank thereof to the place of beginning, embracing approximately five hundred thousand acres; and beginning at the northwest corner of township 31 north, range 11 east, Gila and Salt River meridian; thence west one mile; thence south eight miles; thence east four miles; thence north two miles; thence east four miles; thence north six miles; thence west seven miles to place of beginning, containing approximately thirty-five thousand two hundred acres, and which when surveyed will be sections 1 and 12, township 30 north, range 10 east; sections 4, 5, 6, 7, 8, 9, township 30 north, range 11 east, and all of township 31 north, range 11 east, sections 6, 7, 18, 19, 31, 36, towaship 31 north, range 12 east, be, and the same is hereby set aside as the Hopi Indian Reservation and shall be held for the exclusive use and occupancy of the Hopi Tribe.

SEC. 2. The Secretary of the Interior is hereby authorized, in his discretion, under rules and regulations to be prescribed by him, to accept relinquishments and reconveyances to the United States of such privately owned lands, as in his opinion are desirable for and should be reserved for the use and benefit of the Navajo Tribe of Indians, including patented and nonpatented Indian allotments and selections, within the counties of Apache, Navajo, and Coconino, Arizona, and any Indian so relinquishing his or her right shall be entitled to make lieu selections within the areas consolidated for Indian purposes by this act. Upon conveyance to the United States of a good and sufficient title to any such privately owned land, except Indian allotments and selections, the owners thereof, or their assigns, are hereby authorized, under regulations of the Secretary of the Interior, to select from the unappropriated, unreserved, and nonmineral lands of the United States within said counties in the State of Arizona lands approximately equal in value to the lands thus conveyed and where surrendered lands contain springs or living waters, selection of other lands taken in lieu thereof may be of like character or quality, such values to be determined by the Secretary of the Interior, who is hereby authorized to issue patents for the lieu lands so selected. In all selections of lieu lands under section 2 of this act notice to any interested party shall be by publication. Any privately owned lands relinquished to the United States under section 2 of this act shall be held in trust for the Navajo Tribe of Indians; and relinquishments in Navajo County, Arizona, excluding Indian allotments and selections, shall not extend south of the township line between townships 20 and 21 north, Gila and Salt River base and meridian. The States of Arizona, New

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Mexico, and Utah may relinquish in favor of the Navajo Indians such tracts of school lands within the boundaries defined by section 1 of this act as they may see fit, and said State shall have the right to make selections in lieu thereof equal in area to that relinquished, from the vacant, unreserved, nonmineral public lands contiguously or noncontiguously located within the respective States, and in the same manner as is provided for in the enabling acts pertaining to said States.

SEC. 3. Should oil or gas be produced in paying quantities within that part of the area of public lands added to the reservation by section 1 hereof commonly known as the Paiute Strip, located in southern Utah and bounded on the north by the San Juan River, on the east by the one hundred and tenth degree of west longitude, on the south by the Utah-Arizona State line, and on the west by the Colorado River, 37½ per centum of the net royalties accruing therefrom derived from tribal leases shall be paid to the State of Utah: *Provided*, That said 37½ per cent of said royalties shall be expended by the State of Utah in the tuition of Indian children in white schools and/or in the building and/or maintenance of roads across said Paiute Strip, and/or for the benefit of Indians residing therein.

SEC. 4. The provision in the act of March 3, 1921 (41 Stat. 1225–1239), authorizing the acceptance of relinquishments by the Secretary of the Interior, including Indian allotment selections, for the purpose of effecting exchanges and consolidations of privately owned lands, within San Juan, McKinley, and Valencia Counties, New Mexico, be, and the same is hereby amended so as to apply to lands within the areas as defined by section 1 of this act, and also to Socorro, Bernalillo, and Sandoval Counties, New Mexico, and all areas heretofore and hereafter consolidated in the Government under the provisions thereof, as hereby amended, shall be held for the exclusive tribal use and benefit of the Navajo Indians.

SEC. 5. The provision in the act of April 21, 1904 (33 Stat. 189–211), authorizing exchanges to be made by private owners of land over which an Indian reservation has been extended by Executive order is hereby made applicable to the area falling within the boundary lines defined by section 1 of this act, and all areas heretofore and hereafter exchanged in favor of the Government under said provision, as hereby amended, located within the reservation boundary line so defined, shall be held for the exclusive tribal use and benefit of the Navajo Indians. Pending the completion of exchanges and consolidations authorized by this act, no further allotments of public lands to Indians shall be made in the counties of Apache, Navajo, and Coconino, Arizona; McKinley, San Juan, and Valencia, New Mexico; and San Juan, Utah; and thereafter allotments to Indians in said counties shall be confined to lands within Indian reservations or to lands heretofore or hereafter acquired by the United States in said counties for the tribal benefit of Indians.

EXHIBITS

ACCOMPANYING REPORT OF H. J. HAGERMAN, SPECIAL COMMISSIONER TO NEGOTIATE WITH INDIANS, ON THE STATUS OF THE NAVAJO INDIAN RESERVATION, LAND ACQUISITIONS, AND EXTENSIONS, WITH SPECIFIC RECOMMENDATIONS FOR THE OUTSIDE BOUNDARIES OF THE RESERVATION, AND OF CERTAIN ADDITIONAL AREAS TO BE ACQUIRED FOR THE INDIANS OUTSIDE THE RESERVATION

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EXHIBITS

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN FIELD SERVICE,
January 22, 1915.

Mr. THOMAS K. ADREON,
Special Agent in Charge Leupp Indian School.

MY DEAR MR. ADREON: I have your letter of December 14, regarding allotments on the public domain and the inadvisability of incurring additional expense in field investigations connected therewith.

The various suggestions made by you are fully appreciated. Under normal conditions the position you assume in the matter would be undoubtedly correct. For your information, however, possibly a brief review of some of the essential facts connected with this work would suggest to you a different line of thought.

While the Navajo Reservation proper, embracing some 12,000,000 acres in the aggregate, appears large, yet its general character is such and the present membership of the Navajo Tribe so great, that adequate grazing facilities have not been afforded within the reservation to all members of the tribe. For a long time past, therefore, a number of these Indians have drifted away from the reservation in search of pasture for their stock and have used almost exclusively, to a greater or less extent, considerable areas on the public domain adjacent to the reservation. This is borne out by the fact that as early as 1888, it was reported that the number of such Indians outside of the reservation was as high as 9,000.

When white stockmen entered this territory naturally conflicts and disputes arose between the Indian and white stock grazers as to the use of the range afforded by the public domain. At various times in the past the question has become somewhat acute, and logically the most ready method of affording adequate protection to the Indians would be the inclusion of the lands within an Indian reservation, so as to extend the jurisdiction of the office thereover.

The aggregate area in the State of Arizona already withdrawn for Indian purposes has been so large, however, and the uniform and persistent opposition of officials of the State, the Cattle Growers Association, and the local parties interested therein has been so great, that the office has not found itself in a position to urge the withdrawal of additional areas for the exclusive benefit of the Navajo Indians. It is a matter of regret, of course, that it has not been possible to take this step years ago.

Sometime prior to the year 1908 the controversy between white and Indian users of the range on the public domain in the vicinity of the Navajo Reservation became so acute that allotting agents were detailed to this locality for the purpose of assisting the Indians to file applications for allotments on the public domain under the fourth section of the general allotment act as amended. Presumably this action was had on the assumption that these Indians having lived on the public domain for a number of years, necessarily at some point they must have made settlement and established homes. Owing to the scarcity of water for domestic and stock-watering purposes, it was also assumed that the allotment of lands to the Indians, containing practically all of the springs or water holes in this locality, would give them an effectual and undisputed control of the entire range, as unless the owners of white stock could get to the water they would not be in a position to use the adjoining pasture lands. In other words, the control of the water resources would practically control the entire range.

This presumption is strengthened by the fact that the fourth section of the general allotment act of February 8, 1887 (24 Stats. 388), as amended, authorizing allotments on the public domain, does not carry any specific direction as to the character of settlement required or length of time during which residence must be maintained in order to entitle applicants to the lands applied for. While the office and the department have considered that a substantial compliance with

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the law as to settlement would be required, as an evidence of good faith on the part of the applicants, yet regard has also been given to the fact that we are dealing with Indians, and viewing the climatic conditions of the country in which they were located, the same character of settlement or length of time of residence should not be required in their cases as is demanded of white settlers under the homestead laws of the United States.

Again, the homestead law confines applications to heads of families or single persons over the age of 21 years, while under the fourth section of the general allotment act the right to allotment, if it exists in the applicant, carries also the right to allotment in behalf of his or her children. Therefore, if the head of a Navajo family has established reasonably permanent settlement on any specified area and by virtue of such settlement is entitled to allotment under the fourth section, he would likewise be entitled to file applications in behalf of each member of his immediate family, without settlement being required on any tract other than the one occupied by the head of the family.

It has been known to the office for a number of years past that 160 acres of land in this locality is not sufficient to produce a suitable support for the average Indian family, and that allotments in considerably larger areas would be required if the allottees are expected to derive sufficient maintenance from the land allotted. It was felt, however, that the aggregate area which could be controlled by the head of a family and the other immediate members thereof would be sufficiently large to virtually guarantee to these Indians practically the exclusive use of the range in their locality—practically, if the allotments so located covered virtually all of the limited water resources there. In other words, the step of allotting these Indians under the fourth section of the general allotment act was devised for the purpose of combating the aggressive white owners of stock in the free use of the range where the Indians were located.

Coming back to the legal points involved, as to these applications covering lands on which no settlement can be shown by the applicant, or if a minor, or married woman, by the head of the family to which such applicant belongs, necessarily we would not be in a position to suggest an approval of the applications. If settlement has been made, however, by the head of the family on a specific tract, even though that settlement would not measure up to the requirements of the white man's homestead law, yet the office would feel justified in looking more closely into the rights of the Indian before recommending the rejection of his application.

With this idea in view, therefore, the office does not feel in a position, with the information now before it, or without a further report from the field, to concur in all cases in the findings by special agents of the General Land Office the sufficient settlement has not been made by these Indians to entitle their applications to favorable action. If these Indians have a right to allotment on the public domain, we desire to see that right protected, and as a general proposition do not care to accept the statements of persons disinterested from an Indian standpoint to the effect "sufficient settlement has not been made."

Moved by these considerations, therefore, it is suggested that you give the matter further thought, and a closer investigation, with a view of satisfying yourself that no settlement has been made, either by the applicant, or the head of the family to which such applicant belongs, before suggesting a cancellation in toto of all the applications of members of that family. The agency farmer at Leupp, Mr. J. W. Bush, has been in this locality for a number of years and has probably visited various parts thereof to such an extent as to place him in a position at this time to state whether in his opinion any of the Navajo Indians in that locality have made sufficient settlement or residence on any one particular tract of land to justify the individual Indians in seeking to obtain allotments under the fourth section. If he is satisfied such settlement has not been made then a report through you to that effect would be sufficient to move the office to recommend the cancellation of the applications. This, of course, would obviate the necessity of any additional field investigations and the expense incident thereto. While additional unnecessary expense connected with the investigation of these applications certainly is to be avoided, yet it is not desired to deprive these Indians of any rights to which they may be entitled, simply to save a few dollars of necessary expense connected with an investigation thereof.

You will understand, of course, that this matter has been gone into so fully, simply for the sake of placing before you these ideas as they occur to the office. They are of a confidential nature to a large extent, and are here given for your personal information. In connection with these applications it should be also borne in mind that the attacks made against their invalidity are in the main

raised by persons who themselves certainly have no greater right to the use of the lands in this locality because if the information disclosed by the records of the office is correct, the Indians used this territory long before the white man ever reached it, and local conditions are such as to render it practically impossible for white men to comply with the homestead law and thereby obtain title to specific tracts for themselves. In other words, it is not a contest between a white homestead settler and an Indian homestead settler, as much as it is one between a white cattleman and an Indian cattleman.

I appreciate the motives inducing you to express yourself as you have in your letter of December 14, and if the views set forth herein suggest any additional ideas to your mind, please feel at liberty to again bring the matter to my attention.

Cordially,

CATO SELLS, *Commissioner.*

CONFERENCE OF SUPERINTENDENTS OF LEUPP, NAVAJO, ZUNI, AND PUEBLO BONITO SUPERINTENDENCIES

GALLUP, N. MEX.,
February 9, 1918.

Hon. CATO SELLS,
Commissioner of Indian Affairs, Washington, D. C.

DEAR MR. SELLS: January 9, 1918, you wrote to Superintendent R. J. Bauman, Zuni Indian School denying his request that he, Superintendent Paquette of Fort Defiance, Superintendent Janus of Leupp, and Superintendent Stacher of Crownpoint be detailed to accompany a delegation of Navajo Indians to Washington to present certain matters pertaining to the Indians occupancy of public lands to the department.

You deemed it inadvisable for the Navajo Indians to send a delegation to Washington at this time on account of the national situation; the overcrowded condition of the city; and the difficulties of transportation.

You said: "I believe that if the several superintendents concerned in the matter in hand were to confer with each other and the proposed delegates with a view to formulating some general plan for meeting the situation which is confronting the Navajos the matter can be satisfactorily handled through correspondence."

And further: "Please advise the Navajos that if they will take up by correspondence the matters which they wish to bring to my attention, they will have as careful consideration as if they had been presented personally."

In compliance with your instructions Superintendents Paquette, Janus, and Bauman met at Gallup, N. Mex., in conference with Navajo Indian representatives on Saturday, February 2, 1918.

At the last moment Superintendent Stacher was unable to attend on account of the dangerous illness of a member of his family.

The object of the meeting was explained to the representative Indians present.

The Indians expressed their approval of the meeting and its object, and also their entire willingness to comply with the desire of the honorable commissioner.

The meeting was then adjourned to Saturday, February 9, 1918, at the same place to give Superintendent Stacher an opportunity to be present.

The postponed meeting of February 2, 1918, was continued on February 9 1918, all superintendents being present.

The following is submitted:

FOREWORD

There is opposition to the extension of Indian reservations.

Broadly the argument is that in the long years of wardship every question of necessary area for the Indians' use and self-support has been justly and sufficiently considered.

That that part of our country admittedly owned by the Indian in his savage state, or at least used by him in such state, and in the only way in which he was fitted to use it, has been set aside in reservations for such use until such time as he became instructed in more civilized methods of obtaining a livelihood.

Before reduction of such areas it is of course essential that the Indians should be so instructed in every way that he can take his place among our citizens with an equal chance. That he shall have at least a fair education, and such knowledge of citizen-society methods as will enable him to hold his own and not become an ignorant slave to such methods.

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It has been, and is the duty of our Government to care for the Indian until he is so instructed.

As Indians have become able to do so they have been required to take up the responsibilities of full citizenship, their reservations have been divided into individual holdings, and the surplus areas have been disposed of to our citizens.

This accords with an established policy dictated both by justice and humanity.

In the present case it is a very evident duty to ascertain if the Indians concerned have been brought to that point of education and fitness where they can reasonably support themselves among our citizenry if deprived of the means of self-support necessary to their savage condition.

They are in no such condition.

If now compelled to depart from their accustomed industries they would immediately become slaves of a higher civilization they have not been prepared for by us.

They would rapidly be destroyed by conditions they have not been prepared to meet.

No argument that they are so prepared is for a moment tenable.

Eleven thousand Navajo Indian children are of school age.

Four thousand only could possibly be educated in schools provided.

This single item should be convincing. The Navajo Indian is not in any way ready to take his place as a citizen.

With his poor grade of sheep, goats, cattle and ponies he is making a very meager self-support.

He receives from our Government no subsistence or clothing, and pays us for all tools and implements necessary for his use.

He is not a rich Indian and in most cases makes a very precarious existence and lives from hand to mouth upon an income which the average citizen family would consider unendurable poverty.

Under existing conditions it is even impossible for his children to go to school and become prepared to meet the responsibilities of the future.

And in the past 50 years his numbers have more than doubled, and the future will undoubtedly show a further substantial increase.

It has been abundantly shown that the area occupied by the Navajo Indians carries more people and stock than any like area occupied by whites.

And it has been as abundantly shown that this area is largely desert.

Large as the area set aside as reservation appears to be it has never been sufficient for the adequate support of this numerous and growing people.

Many never have lived on the area so reserved.

Many have been forced out of areas outside the reservation which they sorely needed and have gone into there served lands already overpopulated, overstocked, and rapidly being grazed out.

It is now proposed to force back into this inadequate reservation those Indians still occupying small areas of the public domain where they have supported themselves and made their homes, from time immemorial.

Indians who did not live on the reservation for the reason that it is so crowded.

Exhibits A, B, C, and E, are attached and will be briefly referred to.

Exhibit A is blue-print map No. 6904, tube 998 on file in the Indian Office.

Marked upon it in red are the areas in which the railroad lands are recommended for exchange. And one privately owned tract of considerable area is marked in dark blue and the railroad lands here too should be exchanged.

Exhibit B

REPORT OF SUPERINTENDENT JANUS

This covers what is known as the Butte County immediately south of the Moqui Reservation. It comprises townships 21 and 24 north ranges 15 to 21 east, Gila and Salt River meridian.

This was withdrawn from sale and settlement by the department May 4, 1908 (28645-08) to give the Indians living thereon an opportunity to make allotment selections.

Sections 5, 7, and 9, township 24, north, range 15 east, have been exchanged, and the railway lands in township 22 north, range 21 east, have been purchased by the department.

The west half of range 15 is within the Executive Order of November 14, 1901, and the railway lands owned by the New Mexico & Arizona Land Co.

The whole tract having been surveyed sections 16 and 36 are the property of the State of Arizona.

The recommendation made in his report by Superintendent Janus hereto attached and marked "Exhibit B" is as follows:

"This would involve making Indian reservation of the Government lands in this tract; exchanging the railroad lands; giving the State lieu lands for their State school lands; and purchasing from E. J. Marty of Indian Wells, the railroad lands in township 23 north, range 21 east, which he purchased from the Santa Fe Railway Co."

And exchange of the lands purchased by Mr. Marty might be preferable.

In this recommendation of Superintendent Janus we entirely concur and urge that immediate steps be taken to put it into effect.

Exhibit C

REPORT OF SUPERINTENDENT PAQUETTE

For the reasons set forth in Exhibit C attached hereto we recommend and urge that all the lands belonging to the Santa Fe Railway Co. within the Navajo Reservation in Arizona and New Mexico be exchanged.

The description of the lands is as follows:

Township 21 north, ranges 22, 24, 25 east; township 22 north, ranges 22, 24, 26, 27, 28 east; township 23 north, ranges 22, 23, 24, 25, 26, 27, 28 east; township 24 north, ranges 22, 23, 24, and south one-half of 25 east; township 17 west, between the State line and range 13 west, New Mexico principal meridian.

Exhibit D

REPORT OF SUPERINTENDENT STACHER

For reasons already set forth herein we recommend that exchange of all lands owned by the Arizona & New Mexico Land Co.; the Atchison, Topeka & Santa Fe Railway Co., and privately owned lands be made within the following described area, and that all Government sections within said description be reserved for the individual use and benefit of the Navajo Indians.

Beginning at reservation line thence east 6 townships between townships 23 and 24 to intersection of first guide meridian; thence south 10 townships to point between townships 13 and 14; thence west to Atchison, Topeka & Santa Fe Railway, to follow north line of right of way to Fort Wingate Military Reserve; follow said reserve to its northwest corner; thence north to line between townships 15 and 16; thence west to northwest corner township 16, range 19 west, New Mexico principal meridian; thence south to Atchison, Topeka & Santa Fe Railway; thence along right of way to intersection of line between townships 14 and 15; thence west to State line; thence north to Navajo Reservation line between townships 16 and 17.

Exhibit E

REPORT OF SUPERINTENDENT BAUMAN

For the use and occupancy of the bank of Navajo Indians residing on the public domain adjoining the Zuni Indian Reservation, south and southeast of Ramah post office, New Mexico, we recommend that the following described lands be withdrawn from entry and settlement and made a reservation, and that all privately owned lands within said area be exchanged;

Township 8 north, range 15 west; all of township 8 north, range 16 west; except secs. 4 and 5, which have been withdrawn for use of the Zuni Indians, and secs. 6, 7, 8, and 18, which have not been eliminated from the Zuni National Forest Reserve; township 9 north, range 15 west; all of township 9 north, range 16 west, except secs. 5, 6, 7, 8, 17, 18, 19, 20, 21, 29, 30, 31, 32, and 33, which have been withdrawn for use of the Zuni Indians; township 10 north, range 16 west, outside of the Zuni Reservation except secs. 1, 2, 3, 4, 9, and 10, which are occupied by a community of white farmers at Ramah.

We fully realize the seriousness of the recommendations made, and they are made from an intimate knowledge of the necessities of the situation.

In no other way can the interests of these self-supporting people be protected.

They are not dependents begging for alms.

But self-supporting, self-respecting Navajo Indians asking for a chance to live, and using to its fullest productive capacity the area involved.

It is not a question of utilizing range that is not being made to produce to its full capacity, but a question of taking from industrious Indians who are so using

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it what they must have for their present and future existence, and who now know no other occupation by which to live.

It is not a contest between Indian settlers and white settlers but between Indian stock raisers and white stock raisers.

The one fully able to care for their own interests and receiving all the benefits of full citizenship in our country.

The other dependent Indian wards trusting in the wisdom and justice of their guardian Government.

Respectfully submitted.

Superintendent Leupp Indian School, Leupp, Ariz.

Superintendent Navajo Indian School, Fort Defiance, Ariz.

Superintendent Pueblo Bonito Indian School, Crownpoint, N. Mex.

Superintendent Zuni Indian School, Blackrock, N. Mex.

PUEBLO BONITO AGENCY,
Crownpoint, N. Mex., September 7, 1921.

Gen. HUGH L. SCOTT,
Crownpoint, N. Mex.

DEAR GENERAL SCOTT: It seems incredible that any good citizen of this great Republic would ever attempt to create a sentiment against any class of people who have been born in this country and endeavor to bring pressure to drive that people away from homes they have acquired under the laws of the country.

The Navajo Indians to the east and south of the Navajo Reservation are the ones to whom I particularly allude. During my 12 years in charge of these Indians I have every opportunity to become acquainted with the situation in which they are now placed.

In the early eighties the Government wished to assist the old Frisco Railroad Co. in the construction of a transcontinental railroad and which is now known as the Santa Fe system, they were granted all the odd number sections of land by the Government for distance of 40 miles north and south of the right of way and later an additional strip of 10 miles and at that time much of this land was then occupied and used of, by these same Indians and who have resided with their posterity on these same lands and the Government lands to the present day except as they have been forced out by the coming of the stockman, whom have come in and leased up the railroad lands in the past 12 years. When I was placed in charge only one man had railroad lands leased, Duncan McGillivery, a sheep owner.

The Government, so far as known, made no effort to protect these Indians and gave their homes, their range, freely away, not knowing the consequences of the future.

There are more than 3,500 Indians living or allotted upon the public domain; 80 per cent of this number or more have never lived on the Navajo Reservation and of course have no rights there whatever. The Government must take a definite stand in their behalf, for no one can make a living on only 160 acres of desert land, nor on a section of land. Surely the sentiment of all who have the real good and advancement of the Indian at heart will never consent or even permit these public domain Indians to be arbitrarily moved from their homes, a people without a country and without a friend, victims of citizens who have power and influence enough to bring this about to their own selfish interests, regardless of human rights and the guaranty of the Constitution of the United States, which guarantees equal rights and justice to all.

The Indians know nothing of the white man's complex land laws, State lands, homesteads, railroad lands, and Government lands, and must depend upon the Government and its employees to protect them.

A few of the stockmen of this State advocate the driving out of these Indians, put them on the reservation where they say there is ample room. As mentioned hereinbefore they have no rights there. The majority have been allotted upon the public domain, but their range has and is constantly being taken from them; they are being crowded back and much is said about their being trespassers, perhaps they are, in some instances a number of these stockmen are law breakers; they have now under fence much Government land; they are united against the Indians, they use the allotments of the Indians and which in the main is about

equal to what the Indians use of the white man's lease. A few of the stockmen have been fair and have shown a spirit of reciprocation and have divided up the range with the Indians and they have given water when the Indian lakes go dry.

It has been charged by the white stockmen and they have drawn resolutions which were indorsed by the New Mexico Cattle and Horse Growers Association that the Indians never develop water and it is said by others that the Indians are taught to steal, which is a pretty strong statement, and an attempt to pervert the truth. The Navajo can not drill deep wells, but I will set forth some of the things the Indians have done in water development and which these same complaining white men use without any sense of appreciation.

Marino Lake, the largest in the country, located in Tp. 16 N., R. 14 W. has been dry only once in 16 years; the Indians alone constructed the dam which impounds the water; a trader near did furnish some grub to the Indians while done the work, but only a small amount. The cattle of I. K. Westbrook and 600 head of E. L. Hauenstein now water there and is their main watering place.

Casa Lake is located in sec. 30 mainly Tp. 15 N., R. 11 W. The Indians have done all the work on this lake and have made a channel from an arroyo to divert the water into this lake. The cattle of J. H. McCamant, Mr. Herryhill, and Elkins now range in that vicinity and use the water in the lake.

At Seven Lakes the Indians constructed a small dam to impound the water at what is known as Seven Lakes under the direction of a trader living there years ago by name of George Howard. The Indians and Howard used it mutually together but at this time Mr. T. P. Talle has many cattle watering there and no Indians are welcome in that vicinity. This is located on a line between sec. 18 and Tp. 19, 18 N., R. 10 W. Further east in R. 18 R. 9 an Indian by name of Be Ta Ne Yazza constructed a reservoir which filled up when there is rain enough to fill it and the cattle of Mr. Talle and others get water from this lake and without any compensation or thanks from those benefited.

Still further east is an Indian named Sopo who lost both feet. He owns a lake which he built on his allotment. Mr. Talle has cattle in that vicinity but in this case he, through his manager, has arranged to pay him for the water.

Other parties watering their stock there do not pay him anything for the benefit they receive.

It is true that some of the Indians have no water due to bad year, and their shallow reservoirs go dry. There are numerous reservoirs which the Indians have constructed.

It is true that some Indians use the water that the white men develop but in every case the white stockmen have the best of it. They are organized and any stockman or cowboy who wishes it has a star as deputy sheriff and which is used in some cases of the past to intimidate the Indians who rather than have trouble falls back; he has lost stock and range in this manner. Some of the cattlemen, when they round up, drive off cattle belonging to Indians and it is only by special permission that he can go into some of the big illegal pastures to hunt for his missing stock. For some time we have been on the defensive hoping that the time would come when this unfortunate situation would be adjusted and the Indians and whites know what they are to have. In this case the Indians have rights which precede any other.

The remedy in my opinion, first and most desirable is a substantial extension of the Navajo Reservation to the east and along the right of way of the Santa Fe Railroad, with an appropriation large enough to purchase any improvement that any stockman has within the area.

Their most valuable improvements in each case, except perhaps for wells, is for fencing which unlawfully incloses Government land. One hundred and fifty thousand dollars should be ample for this purchase. If the railroad companies would block their lands, giving up what they now hold within what would be the extended reservation, no further money would be involved, they, of course, to make selections of the Government land in any locality in San Juan, McKinley, and Valencia Counties as now permitted under the act now effective. If the railroad companies would not make this exchange an appropriation of approximately $2,000,000 would be necessary to purchase the 1,100,000 acres, over which they now live, 311 acres to each person, and which is now by actual count more than 125,000 sheep and goats, cattle, 2,500 heads, and 10,000 heads of horses. This number is in addition to what the white stockmen run in the same area which indicates that there is not sufficient range for all, and no possible chance for the future of the Indian, as they do not have financial backing that the white men have nor are they wealthy enough to purchase or lease lands except in a small way.

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With the Navajo within definite bounds, and his neighbors as well, this deplorable situation should cease as there is no question but what such conditions retard the progress of all concerned. The stockman came into the country knowing that the Indians were here, but saw a chance to get their range by lease so that numerous Indians have had to leave their holdings, for the restricted area would not possibly support their herds. In some cases the white men hauled off the Indians' hogans and corrals; the Indians are discouraged; they have had much loss of stock and if the Indian is driven to stealing, whose fault is it? It is better to remove any cause that circumstances drive to crime.

The Government is certainly responsible to these 3,500 souls, wretched and miserable as they may be and it is only within the power of this great Government to remedy the situation.

The men who own the largest number of stock and who control thousands of acres of grazing land in controversy do not even live in the counties in which this land is located, and are of the absentee type, they are going to continue to put forth effort to control land which the Indians now have and use, both railroad and Government lands.

Last year the honorable Governor of New Mexico made an effort in concert with other Governors of Western States to get Congress to turn over to the respective States the Government land located in each. Had this been done the end of the Public Domain Navajo would have been speedy, for their range would have promptly been leased to his white neighbor.

On the Zuni Reservation the Government has spent approximately $1,000,000, in the construction of a dam and irrigation system for the 1,800 Indians of the tribe, the result is obvious, more than 7,000 acres are in cultivation and they have protected range with the agricultural pursuit and opportunity they are entirely self-supporting and with a substantial foundation for prosperity and advancement in the future. Much better such constructive help than to permit a tribe to be reduced to poverty and necessitate the issuance of rations. They do not want charity but a chance to continue to be self-reliant and self-supporting.

When the Navajo was taken prisoners in 1862 and removed to Fort Sill and the Boska Redonda they numbered something like 8,000 and at the present time the tribe has increased to 32,000 so that at this rate of increase it will be only a few years until the reservation proper will have to reach its full capacity. The same applies to the public domain Navajo. The Indians of the reservation do not want them back there to encroach on the range that the Navajo already use or try to protect for winter or summer.

The Navajo of the tribe own in their own right over a million sheep and goats, more than 25,000 head of cattle, and many horses. It is claimed that there is 14,000,000 acres on the Navajo Reservation but of this less than 11,000,000 is of value for grazing, for the remainder is barren of grass. With this amount of stock on the reservation and with two years of drought, which is frequent, there would soon be greater loss of stock than what has occurred from the crowding of stock and limited range as now obtains on the domain.

These Indians are primarily stock-growing people and can never be anything else; there is no possibility for the development of irrigation projects as there is no visible water supply that can in any way be developed.

There is no $300 per acre land in McKinley County and, furthermore, never will be. The Indians own purebred bulls though not registered; one year they were assisted in the purchase of 13 at a cost of $100 each for Herefords. Undesirable bulls of this jurisdiction have been eliminated from the range though there may be a few cases where this class of stock is not up to standard. Some of the white men have bulls that should not be on the range, but most of them have a high grade. The same applies to sheep. The larger herds in particular have been bred until we now have a good many equal to what the whites own and run on the range here. There is still much to be done along this line, as the owner of a few head of stock is not as much interested, but with definite range and close supervision that will come in the adjustment of the range difficulty, further progress will be made.

The business due to the Navajo requirements is the greatest asset that McKinley County now has. Gallup is the distributing point for a greater number of Indians than any other town in the United States. At least half of the business houses of the county would have to go out of business if there were no Navajos. The business of the stockman is very little compared with that of the Navajo.

There is less than 18 stockmen involved in the contest for the Indians' range and to the undoing of 3,500 Navajos.

Some few Navajos have paid taxes and while the majority of them do not pay taxes directly their business makes it possible for others who enjoy their trade to do so. McKinley County is out of debt and due to the prosperity of the business men of the county which would not be the case if there was no trade from the Indians.

All the money, production of stock, blankets and his entire resources pass through the resident dealers, while the stockman get out of the range resources such profits as he can and does not care to stay in the country nor does he care one whit for the development of the country. Give these Indians a chance and protect him in his independence, assist him in the development of his stock, educate all of his children and when the time comes to assume the responsibilities of citizenship he will be prepared, but never until that time.

A treaty with the Navajo tribe provides for the expenditure of $100,000 each year for the establishment of schools and their extension until such a time as school facilities have been provided for all the children of school age. About six years ago the provisions of this treaty was put in effect. I do not know the date of the treaty but presume it was soon after their return from Fort Sumner and if such was the case and the Government made provisions for the operation of this treaty promptly there would now be schools in operation for accommodations of all the children of the Navajo Tribe.

Additional schools should be provided with the least possible delay and Congress should provide the back money due for this purpose as stipulated by the treaty with the Navajos and from the date ratified.

The Army post of Fort Wingate is of but little use to the War Department and now used for storage of munition, and from late information a factory to compress the TNT stored there into bricks to be used for blasting, that it may be more easily used; this post should be transferred from the War Department to the Interior for an advance or trade school for the Navajos and other Indians of Arizona and New Mexico, but more particularly Navajos. There is a large spring to furnish an abundant supply of water.

Summing up the situation the first and most satisfactory move in the adjustment of the range problem and the protection of the Indians' rights, is the extension of the reservation and the purchase of any improvement as hereinbefore mentioned, and to purchase the railroad's land outright, but as it seems impossible that anything of this nature will be done, so under the provisions of the act now in force which permits the blocking of railroad, Government, State lands, Indian allotments, etc., I beg to suggest that the township shown on the attached maps colored in red or green be reserved for the Indians' use, and that overtures be made with the Santa Fe Co. and the New Mexico and the Arizona Land Co. asking them to block their lands elsewhere in McKinley, San Juan, and Valencia Counties, in which area the act in force only is applicable. The State land office should be asked to give up the four sections given the State in each township for school purposes, namely, sections 2, 16, 32, and 36 in each township, they to make the selections outside the area indicated. This would make the land to all classes more valuable and more desirable for lease or sale. Water could be developed in a more permanent way for the Indians.

Something of this nature must be done as the situation is getting worse each month and the longer delayed the harder to adjust.

Very respectfully,

S. F. STACHER, *Superintendent.*

CROWNPOINT, N. MEX.,
March 22, 1923.

Senator A. A. JONES,
Washington, D. C.

MY DEAR SENATOR JONES: As you probably have seen, I have appointed a special negotiator with the Navajos, with a view to trying to adjust some of their tribal matters. The appointment is mainly adjustment of the oil situation within the treaty reservation. There are various other tribal matters which will engage my attention. I recently held a meeting in Albuquerque with the six superintendents within the Navajo Reservation and one important subject discussed was the question of the area in McKinley County which was formerly within an executive order extending the reservation, but was restored to the public domain in 1908 and 1911. You, no doubt, know all about that, as I assume that it was done with your sanction and approval at the time. Now in that same area there have been made a great number of Navajo allotments.

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More and more allotments are being made all the time. Because of the fact that scattered through the area, are railroad odd sections, many of which have been leased to stockmen, the situation between the Indians and the stockmen is getting more tense all the time. It certainly seems time to adjust the situation. It has been urged upon me that to return all or part or perhaps something more than the original area by congressional act to the Navajos would be proper, and I would be glad to know what your views are about this matter. I do not think that the amount of revenue derived from the private owners is much, nor do I think from what I hear so far that there would be any objection on the part of the McKinley County people, should it be determined on by Congress as a wise move.

I include herewith memorandum, showing the land and a description of the area, which is mostly in McKinley County, but also includes some land in San Juan and Rio Arriba Counties.

The Navajo Indians are constantly increasing in numbers, and the range within the present boundaries must be increased in carrying capacity, or they must be given more range on the outside of the area. While it is doubtless true that the carrying capacity of the reservation can be increased by water development, such improvement is going to cost the Government large sums of money.

It is also possible through oil discoveries that considerable sums may become available for improvement of the Navajo Tribe as to water and other resources.

The whole matter is one that is sure to engage the attention and one that is sure to be brought up in Congress. If you care to give them to me, I should like to have your ideas. You could address me at Santa Fe on the subject and the letter would be forwarded to me.

I am told that Mr. Tom Tully, Mr. Sidney Pitt, Mr. Theodore Chadwick, and Mr. F. V. Matteson, and Ed Sargent and one or two others are the main men within the area mentioned at this time. Some of them are getting along perfectly all right with the Indians and some are not.

Hoping you are well and with my best personal regards, I am,

Very sincerely yours,

H. J. HAGERMAN,
Special Negotiator with the Navajo Indians.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
April 20, 1923.

Hon. H. J. HAGERMAN,
Santa Fe, N. Mex.

MY DEAR GOVERNOR: On my return to Washington I find your letter of March 22 regarding the Navajo Indians. I agree with you that the situation should be adjusted. When I was in the Interior Department, and since, I have given the matter some thought. With the data at hand I have been unable to reach any conclusion as to what, in my opinion, should be done. I believe that there should be made a detailed survey of the resources of the Navajo Reservation, classifying timber, coal, farm, and grazing lands. As you say, the Navajos are increasing. Moreover, it seems to me that the land should be put to uses other than mere pastoral uses. It seems to me that the railroad lands should by some agreement be consolidated, and the lands which the Indians are to have should also be consolidated. Generally speaking, I am opposed to any more Indian reservations. If the Indians paid taxes it would be different. We need in New Mexico all the taxable property which can be made available for such purposes. Further allotments on the public domain it seems to me should not be made unless the allottees become citizens and be subject to taxation. I am convinced the Government should develop the resources of the reservations, and I hope that the royalties from oil may be of sufficient magnitude to pay the expense which should be reimbursed from the resources of the reservation, unless it should be too great a hardship on the Indians. I have never given this situation any continuous detailed study because I have always felt the lack of information. You are upon the ground, and may I suggest that you give individual thought to the situation and make suggestions to the department? I have every confidence in your judgment, and will appreciate any suggestions which you may make. I fully agree with you that some adjustment and action should be had promptly.

I have heard all sorts or rumors regarding the development of oil in that section of the State, but am not convinced as to the reliability of some of the very extraordinary rumors. It would please me very much if I could get from you your impressions as to the situation.

Now, my dear governor, I want to cooperate with you at all times, and whenever I can be a factor in the development of your plans please call upon me.

With my very kindest personal regards, I am,

Most cordially and sincerely yours,

A. A. JONES.

FERNANDEZ CO. (INC.),
May 28, 1923.

Hon. H. J. HAGERMAN,
Crownpoint, N. Mex.

MY DEAR GOVERNOR: Supplementing my letter to you of May 26, since writing that letter, I have talked to Mr. Talle and I understand these townships or that is the alternate sections thereof, are owned as follows:

Mr. Talle has townships 16 north, 11 west, and 17 north, 9 and 10 west.

The Indians have township 17 north, 11 west, and township 16 north, 10 west; thus, if the Indian Department would exchange township 16 north, 10 west, for township 16 north, 11 west, this would consolidate the Indians, lands in townships 16 and 17 north, 11 west, and bring in Mr. Talle's lands next to the Fernandez Co., thus consolidating the privately owned lands and the Indians, lands in separate districts.

I am informed that the character of the lands in these townships is practically identical, and so far as the grazing is concerned, no one is any better than any other; however, I have not personally been on these lands, and as you are in that vicinity, you can easily determine these facts. One fact that I understand will be of interest to you is that there are many more Indian allotments already made on township 16 north, 11 west, than on township 16 north, 10 west, which, of course, is of great importance to your department.

My only interest in the exchange of these lands between Mr. Talle and the Indian Department is that it would facilitate matters between our respective companies in securing the fencing on the east line of township 16 north, 9 west.

Yours respectfully,

LAURENCE F. LEE.

ALBUQUERQUE, N. MEX.,
January 21, 1923.

FIRST NATIONAL BANK,
Albuquerque, N. Mex.
(Attention Mr. Guy Rogers.)

DEAR SIR: On account of existing conditions on this range it appears impossible for us to make the sheep pay out so we feel it best to sell out. However we realize that the same conditions which make it impossible for us to pay out would make it impossible for others to do so. The principal trouble is the Indian situation out there. So we think it best for you to take the matter up with the Indian Department and perhaps sell it to them. We have been trying for nearly two years to get them to make range exchanges with us so the Indians would not need to trespass upon us. They seem to be trying to force us out of the country and as you financed us in this deal we feel that you should be interested in trying to get some sort of a satisfactory deal made with them.

As Mr. Stacher, the superintendent of the Pueblo Bonito Agency at Crown Point, claims that the Indians have not enough range, we feel that the Indian Department should consider favorably buying our range as the Navajo Indians insist upon using it. For the past six years, since I have been in charge of this outfit it has been necessary for me to spend a large share of my time in attempting to keep the Indians from eating us clear out. They have accomplished it to such an extent that we have been unable to make the outfit pay.

Through our railroad, school leases, and other holdings we have 85 per cent of this range and all of the permanent waters. The Indians have less than 15 per cent of the land allotted to them. The other per cent is Government land which, as tax-paying citizens, we should be entitled to use as much as Government wards who pay no taxes. In spite of the fact that we have more than four times as much range as the Indians, they have run more sheep and goats on the range

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than we have all of the time that we have been out there, besides large numbers of valueless Indian ponies and some cattle. These horses and cattle depend almost entirely upon our waters and it has been impossible to put up a fence around our waters strong enough to keep them out.

The only solution that we can see is either to have the Indian Department buy us out or for us to put enough stock on the range to eat the Indians clear out as they have been trying to do with us. The amount of range leases that we pay should give us plenty of good grass regardless of the kind of season we are having and would if the Indians' sheep did not keep it used up.

The Indians do not make any attempt to camp or run their stock upon their allotments or the Government land, but go right in upon our leased land wherever the feed is the best. It is impossible for us to save any grass for lambing season or to prepare in any way for dry seasons under these circumstances. Our range would be of great advantage to the Indians on account of its adjoining the Navajo Reservation. We do not feel that it is necessary for us to describe the range in detail as the Indian Department is quite familiar with it on account of having sent a commissioner out here last year to go over it with us and on account of Mr. Stacher being on the ground. We are sure that Mr. Stacher feels that this would be a good move for the Indian Department to make. We are, however, inclosing you a blue print showing our holdings.

We will leave this in your hands as we feel that it is impossible for us to continue to struggle along under present conditions. And we believe that you can accomplish more than we can in getting prompt action.

Yours truly,

CHAS. CHADWICK & CO.,
FRED V. MATTESON.

AUGUST 31, 1923.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

MY DEAR MR. COMMISSIONER: There are a number of matters in connection with the situation in the Navajo Reservation which I desire to very respectfully call your attention, in regard to which, I would appreciate an expression from you.

The friction between the stockmen and the allotted Indians along the eastern and southern boundaries of the reservation in New Mexico and along the Leupp jurisdiction in Arizona, has in my opinion reached the point which, if not definitely adjusted within a short time, may result in serious embarrassment to the Indian Office and to the department. The situation will be increasingly difficult to deal with as time goes on.

In December, 1921, the commissioner was petitioned by a large number of residents of Arizona and New Mexico. The petitioners called attention to these conditions and asked that steps be taken to consolidate Indian and non-Indian holdings in the area bordering the reservation and to add sufficient areas of the public domain to the Indian acres to properly support the 7,000 nonreservation Navajos.

Prior to this and on March 3, 1921, an act of Congress was passed (in the Indian appropriation bill) permitting the exchange in consolidation of these lands in McKinley, Valencia, and San Juan Counties in New Mexico, and in 1922 complete regulations were drawn up by the department to make this law operative.

So to a certain extent at least there is machinery available for definite action in the matter.

The Catholic father of St. Michaels and many other friends of the Navajos have for a good while seen the danger of serious trouble unless the matter can be adjusted, and have urged that definite action be taken. It seems to me that now is a very opportune time to try to bring about such consolidations as have been suggested and strongly urge that this measure be taken up by the department.

Some of the Senators and Congressmen from New Mexico and Arizona are very much interested in the situation and from the files in the office it appears they have desired this plan in a general way. I have taken up the matter with A. A. Jones of New Mexico, who was formerly the Assistant Secretary of the Interior, and he is, I am sure, ready to assist us in any way he can.

Since I was appointed commissioner to the Navajo Tribe the Indians and stockmen have urged me to bring the situation to your attention. You have recently asked my opinion about it as it affects the band of Navajos near the Rio Arriba

and adjoining Zuni Reservation. Here the Indians have been cutting fences, and feeling between them and the stockmen is pretty tense. A number of stockmen, bankers, and merchants in both States are very much upset about the matter and they tell me that unless some adjustment can be made there is likely to be serious trouble in the way of shootings and killings.

The Indians themselves of the Toadlena and preliminary councils laid much emphasis on this situation. I have promised them to help out in the matter if I possibly can. It is true that a good deal has already been done in the Indian Office with the aid of various small appropriations, toward the consolidation of certain areas around Crownpoint. Doctor Marschalk, Superintendent Stacher, and others have worked very hard and conscientiously in the matter but the net result, as far as affecting the general situation is concerned, is not great, though this is no fault of theirs.

I think the matter should be taken up with the view of meeting the views expressed in the petition of December 14, 1921, which fairly presents the situation except that the danger is more threatening now than it was then. The parties concerned are the States of New Mexico and Arizona (particularly New Mexico), Santa Fe Railroad, which owns the odd numbered railroad sections, the Indians who have allotments in the general area, and to a less degree the whole Navajo Tribe and stockmen. A conference with the Santa Fe Railroad representative may do a great deal to harmonize the situation.

It would not be much use in holding such a conference unless a definite objective was determined upon beforehand. The object in mind should, in my opinion, be to plan to consolidate a certain area to the east and south of the present boundaries of the reservation by exchange in so far as possible, and purchase if not otherwise possible, so that the said area could be added to the Indian reservation by congressional action. I could, I think, with the assistance of the Land Department of the Indian Office and the State records in Santa Fe, get together the necessary data on which to base such a conference. If Doctor Marschalk, who is thoroughly acquainted with the situation, could be sent to Santa Fe to assist me in such a conference all the other parties, including representatives of the Indians would, I think, be glad to attend the same.

Mr. Howell Jones who is the land commissioner of the Santa Fe would also be glad to cooperate in this movement.

As far as the situation around Leupp is concerned, you will remember that in December, 1912, the Santa Fe Railroad Co. deeded to the United States 327,402.44 acres of land covering the odd-numbered sections in what is now the Leupp jurisdiction of the Navajo Agency and a triangular area, the Western Navajo jurisdiction bounded by the Little Colorado River on the west. The deed was made for the purpose of exchange to the United States under the provisions of the act of April 21, 1904, for an equal area of unappropriated lands outside the reservation. The deed was accepted, approved, and recorded, but before the patents for the new lands were actually issued the department held that the lands in the checkerboard area did not constitute legal base for an exchange under the provisions of the act of 1904, and required the company to offer other land within the new selection not already patented. The company did this and this appeared to close the transaction in about 303,000 acres covered by the second deed. It does not appear that the General Land Office, in these two transactions, considered the status of the lands covered by the first deed. So while the railroad company has relinquished the 327,000 acres to the United States, and such deed of relinquishment was duly recorded, and the railroad company has not asserted any ownership to said lands since the deed was made and recorded, no lands in lieu thereof have ever been selected by the railroad.

The railroad is now anxious that the status of the matter be defined. It manifestly is to the interest of the Indians of the railroad company to surrender the odd-numbered sections in the checkerboarded area and select new lands outside the reservation. I do not see how it is possible that these odd-numbered sections in this vast area can be relinquished or deeded back to the railroad company, and if they are not, then the Government should, it would seem, carry out the contract upon which a deed to the lands was accepted from the railroad company. The only reason that the Government has, as I understand the matter, refrained from consummating the transaction is, that in the order of November 14, 1901, signed by President Roosevelt, extending the reservation over this area by Executive order, it was provided that the said area should be withdrawn from final settlement until such time as the Indians, residing thereon, shall have been settled permanently under the provisions of the homestead laws or the general allotment act approved February 8, 1887.

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If this order is not sufficient create a real Executive order, then it would seem to me that in view of the fact that the Government has spent on the area many hundreds of thousands of dollars in improvements the other act of Congress should be passed definitely confirming the area as an Indian reservation. I am told that it is even doubtful whether the Leupp school and improvements are on Government land or railroad land; that is, on an odd-numbered or even-numbered section.

The situation between the Indians and certain of the stockmen, notably Babbitt Bros., south of this area is very tense, and the whole matter enters into, very vitally, the general situation.

I deem it my duty to call these matters to your attention. I realize, of course, how many problems you have to face. I venture to urge upon your attention the fact that the longer you wait to act upon this question the more difficult it may be to solve.

Sometime ago you wrote me asking for my report on the situation in the Leupp and Hopi superintendencies. I did report fully and you have since advised me that the superintendent now at Keams Canyon was to be transferred, but that the office did not deem it advisable to consolidate the Hopi and Leupp jurisdictions under one superintendent. The transfer of the superintendent at Keams Canyon will doubtless help the situation but I fear very much that until these two areas are united under one superintendent that any course you may adopt will be merely a palliative and no permanent cure. I would again urge upon you the consolidation of these two jurisdictions.

In the same report I made some reference to the fact that the Navajo Indians, generally, are very much discontented about the way in which their children are taken to the outside schools. I said that I felt that they strongly resented not being more fully consulted as to this matter before the allotments to the outside schools were definitely determined upon. Numbers of the most influential and prominent Indians in all parts of the reservation are constantly referring this matter to me, and I respectfully urge that more thorough consideration be given to the feelings of the Indians in this respect or that I be given a full memorandum of the situation by the educational department of the office showing just what its attitude is in regard thereto so that I may be able, when I go back, to the Navajo country, to more fully explain the situation to the Indians themselves.

I am, respectfully, yours,

H. J. HAGERMANN,
Commissioner to the Navajo Tribe.

SEPTEMBER 1, 1923.

The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: This office invites attention to its letter of March 8, 1922, relating to the possible exchange of railroad lands within the limits of that part of the Navajo Indian Reservation set aside by Executive order of November 14, 1901.

The application of the land grant railroad to select lieu lands using as base lands 327,000 acres within the boundaries of the Executive order Indian reservation mentioned, was objected to by the department on the ground that the Executive order withdrawal did not place the lands in the status that would make them subject to exchange under the act of April 21, 1904. (34 Stat. L. 211.) The records in this case will show that the railroad company deeded the 327,000 acres, more or less, to the United States and that the said deed was duly accepted by the department and has been made of record here. In view of the department's holding as to the status of the withdrawal, the railroad company was compelled to substitute other base lands in order to have its lieu selection approved and tendered as such base lands certain sections within the addition to the Navajo Reservation by Executive orders of November 9, 1907, and January 28, 1908. The conveyance by the railroad company's deed still stands in the name of the United States, and it is the belief of this office that the company should be granted permission to make selections in lieu thereof.

The Executive order of 1901 has been in existence for nearly a quarter of a century. No thought has been given to cancellation of the withdrawal. On the contrary, this office is of the opinion that it may be legally construed to be permanent in its nature rather than that of a temporary one. No allotments or homestead applications have been filed by or for the Indians residing within the area, but there are several thousands of Indians living within the boundaries for

whom there has been established a very expensive boarding-school plant costing over $200,000. The lands are unsurveyed and there is a grave possibility of it being ascertained upon an official survey that the school plant is located on an odd section to which we have a doubtful title at present.

This office can not too strongly urge that the department hold that the order of November 14, 1901, is in the nature of a permanent withdrawal for the Navajo Indians, and recommends that this case be taken up at an early date with the view to permitting the railroad company to select lieu lands, using as a base therefor the 327,000 acres conveyed by the company to the United States.

Respectfully,

CHAS. H. BURKE, *Commissioner.*

SANTA FE, N. MEX.,
October 8, 1923.

MR. S. A. HUGHES,
President New Mexico & Arizona Land Co.,
Albuquerque, N. Mex.

MY DEAR MR. HUGHES: As you may have seen in the press there has been made a tentative proposal by the various parties interested looking toward an extension of the Navajo Reservation in the vicinity of Crownpoint. A conference has been called here at Santa Fe on the 16th of this month—that is, next Tuesday—to talk the matter over in a preliminary way. Doctor Marschalk, in charge of the land division of the Indian Office, is to arrive here to-morrow. Mr. S. F. Stacher, superintendent of the Pueblo Bonito Agency, Crownpoint, is already here. Commissioner Burke will probably be here at the end of the week, and after the sale of the Navajo leases on Monday, will give some of his attention to this matter in the hope that while he is here a preliminary arrangement of some kind can be arranged amongst the various interested parties.

The Secretary of the Interior and the Commissioner have asked me to do what I can to bring this matter to a successful conclusion. The area which it is proposed in a tentative way to add to the reservation is as follows:

North boundary between townships 23 and 24 north and would extend from the reservation east 30 miles to the first guide meridian and south 42 miles. In addition to the 35 townships so described, we propose to include townships 16 north, 10, 11, 12, 13, 14, 15, 16, and 17 west; 15 north, 11, 12, 13, 14, 15, and 16 west; 14 north, 12, 13, and 14 west; that is those parts of the latter townships lying north of the railroad.

The possibility of this tentative proposal is, of course, contingent upon the willingness of the Santa Fe Railroad Co. and of the New Mexico and Arizona Land Co. to enter into some kind of an arrangement with the Government whereby their odd sections within this area can be reconveyed to the Government. There seems no possibility of the Government consummating any such deal except on the basis of exchanging these lands belonging to these two companies within the proposed area for a similar acreage outside the area. I have already taken up the matter with the Santa Fe people and expect Mr. Howell Jones, land commissioner of the Santa Fe, to be here for the conference. The Santa Fe people seem to be disposed to the project and I am in hopes that you, as the representative of the New Mexico & Arizona Land Co., will also be so disposed.

We have already talked in a preliminary way with various ranchmen who have interests within this area and they are willing to negotiate with the Government for an exchange of their lands along the lines indicated.

May I ask you upon receipt of this letter to let me know by letter or telephone whether we can expect you to meet us here in connection with this matter. If you could come here within the next few days and confer with Doctor Marschalk, Mr. Stacher, and myself about it, it might be wise in order that we could get as near a definite point of negotiation as possible before Commissioner Burke arrives. I am

Very sincerely yours,

H. J. HAGERMAN,
Commissioner to the Navajo Tribe.

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[Memorandum made October 10, 1923, at Santa Fe, N. Mex., by H. J. Hagerman, commissioner to the Navajo Tribe, in cooperation with S. F. Stacher, superintendent, Crownpoint, N. Mex., in regard to a proposed extension of the Navajo Reservation near the vicinity of Crownpoint]

CROWNPOINT EXCHANGES

As a preliminary and tentative proposition, it is suggested that the proposed extension embrace the following area:

First. A rectangular tract bounded on the north by the north side of townships 23 north, 9, 10, 11, 12, 13 west, and on the east by the east side of townships 17, 18, 19, 20, 21, 22, 23 north, 9 west.

Second. The following townships south of this rectangular area and south of the present Navajo Reservation, to wit:

Townships 16 north, 10, 11, 12, 13, 14, 15, 16, 17 west; 15 north, 10, 11, 12, 13, 14 west, and all those parts of townships 13 north, 12 west; 14 north, 12 west; 14 north, 13 west; 14 north, 14 west; 15 north, 15 west; 15 north, 16 west; and 15 north, 17 west lying north of the north track of the right of way of the Santa Fe Pacific Railroad Co. This total area would contain approximately 1,170,480 acres.

Within this total area, however, is included the area of the Manzano Forest Reserve containing approximately 22,000 acres, that part of the Fort Wingate Military Reserve north of the railroad containing approximately 7,000 acres, and the Chaco Canyon National Monument containing 25,000 acres, with the exception of townships 22 north, 9 west; 23 north, 9 west; 23 north, 10 west; 23 north, 11 west; and parts of townships 22 north, 11 west; 23 north, 12 west; and 23 north, 13 west.

All of the area is within the area granted to the Atchison, Topeka & Santa Fe Railroad Co. within the 50-mile limit area by which the odd-numbered sections were granted to the Atchison, Topeka & Santa Fe Railroad Co., and the New Mexico & Arizona Land Co.

This total area as now constituted is approximately divided as follows:

Odd numbered sections in the Atchison, Topeka & Santa Fe Railroad Co., 319,640 acres; odd numbered sections in the New Mexico & Arizona Land Co., 144,040 acres; common school lands in sections 2, 22, 16 and 36 in the State of New Mexico, 115,840 acres; patented allotted Indian lands, 219,960 acres; lands owned in fee by private parties, 15,520 acres; Government land, 372,000 acres.

The tentative suggestion is that if possible arrangements be entered into, first with the Atchison, Topeka & Santa Fe Railroad Co. and the New Mexico & Arizona Land Co. for the exchange of their odd numbered sections within the proposed area for equal acreage outside the area. Second, that if possible similar arrangements be consummated with the State of New Mexico for the exchange of the school sections within the area for an equal acreage outside of the area. Third, that similar arrangements be made with the owners of the patented land within the area either on the basis of an exchange for similar areas outside or for cash compensation for said patented lands.

As a result of previous negotiations between the Indian Office and private land owners, the United States has secured title, for the Navajo Indians, to township 18 north, 13 west, and townships 16 north, 10 west; 17 north, 11 west; 17 north, 12 west; 17 north, 13 west; and 18 north, 12 west. The odd numbered sections are leased from year to year by the Indian Office from the railroad company, so as to these five townships the control is now absolutely held by the Indian Office. This arrangement, however, is only a temporary arrangement from year to year and has nothing in the way of permanency in connection with it.

In regard to the patented lands within the area, the private land owners who are operating the stock business within the area are comparatively few in number and negotiations have already been entered into with these parties, looking toward their elimination from the area in question. The amount of patented lands owned by these parties is comparatively small but the grazing area they control through leases from the railroad company and the State is large. The following are the main parties to be considered in the premises:

Fortunately it happens that there are but a few stockmen located in the area in question which will make the problem a simpler one than if there were a great number of small ones. One of the most prominent of the men located there is Mr. Tom Talle, of Albuquerque. He, with Mr. R. C. Lilly, president of the Merchants National Bank of St. Paul, have been here to see me. The control of the Rito del Plaino Cattle Co., and their range is over six townships east of Crownpoint, to wit: 19 north, 10 west; 19 north, 9 west; 18 north, 10 west; 18 north, 9 west; 17 north, 10 west; and 17 north, 9 west.

Mr. S. S. Pitts, also of Albuquerque, now in Arizona, controls four townships, to wit: 19 north, 12 west; 19 north, 11 west; 20 north, 11 west; and 18 north, 11 west.

Chadwick & Co. of Albuquerque have range in townships 20 north, 13 west; 20 north, 12 west; and 19 north, 13 west.

I. K. Westbrook, who lives near Crownpoint, more or less controls township 20 north, 13 west.

These four outfits are the main parties to deal with in the country, outside of the Santa Fe Railroad. All of these parties have leased the odd-numbered sections of lands controlled and owned by the railroad within the area mentioned. There are also State school lands, including sections 16, 36, 2, and 32 in most of these townships. Most of these sections have been leased by these stockmen and from the leasing of these sections alone some of them to a certain extent control other areas besides those above mentioned. In this way Chadwick, as I understand, more or less lays claim to the range in twonships 22 north, 12 west; 21 north, 13 west; and 21 north, 12 west.

While it is true that these parties actually own in fee only a small acreage, it is their contention, because of the work they have done developing water on the area, that the share of compensation to be paid them by the Government can not be reached by simple acreage value of the deeded land.

The tentative figure mentioned by Talle for his interest for which he would turn them all over to the Government is $75,000, and the tentative figure proposed in behalf of Pitts and Chadwick is $25,000 each. In our opinion, $75,000, while too much, is a more reasonable price for the Talle interests than $25,000 would for the other two.

Whatever sum be finally agreed upon, it is undoubtedly true that the wells, water holes and other improvements which might be turned over by these three parties would be of very considerable value to the Indians and the reservations and especially if the wells on railroad lands owned by the railroad but used by these stockmen were also turned over to the reservation through the Government's deal with the railroad company.

The question of the mineral right on the railroad and other privately owned lands within the proposed extension was discussed and we were of the opinion that any new legislation passed to cope with the situation should provide that exchanges of lands within the area for lands without the area should at the option of the vendors reserve the mineral rights to the lands within the area, in which case the lands to be substituted outside should reserve to the Government the mineral rights in case the vendors should not reserve the mineral rights. All this could be accomplished by new legislation. This might solve the difficulties of exchanges with the State. Many of the school sections within the area are at present in controversy with the Federal Government on account of the alleged coal bearing character of these sections. A more detailed statement of this situation is in preparation in the New Mexico State land office and in the field division of the Santa Fe land office.

[Memorandum made October 12, 1923, at Santa Fe, N. Mex., by H. J. Hagerman, commissioner to the Navajo Tribe, in cooperation with S. F. Stacher, superintendent, Crownpoint, N. Mex., and W. A. Marschalk, Chief of Land Division, Indian Office, with reference to a proposed extension of the Navajo Reservation to adjoin the present reservation on the east and south boundaries in New Mexico]

CROWNPOINT EXCHANGES

The Santa Fe Pacific Railway Co. and New Mexico & Arizona Land Co. own all the odd-numbered sections for 50 miles north of the Santa Fe Railroad except a few townships that have been sold to private parties. However, only one township has been sold to a private party within the area over which it is proposed to extend the Indian Reservation and that township has been purchased by the Government. Cattle and sheep men have leased about 15 townships of railroad owned lands and some of the school sections. Within this area there are about 2,000 Indians. The Indians hold trust patents to certain tracts in practically all the townships in which the white stockmen hold leases. Some of the white stockmen have fenced up considerable areas which include Indian-owned lands, lands they have leased from the railroad, and the State and Government lands which they used to the exclusion of the Indian.

The Indian is sometimes not allowed to graze his allotments within these fenced areas but is compelled to stay outside them and constant friction is the result. A number of Indians have been beaten up and otherwise mistreated on one pretext or another and in a few cases have been arrested without war-

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rants. This stituation if allowed to continue may result in bloodshed and other very deplorable consequences and it is only through an adjustment by which the Indians can have control of the land that peace can be assured. The stockmen say that they have lost many cattle through theft by the Indians, and it is doubtless true that a good many cattle have been stolen by the Indians. It is also doubtless true that the white stockman has driven off some of the Indian cattle at various round-ups. The Indians actually have a greater interest at stake than the white man in this locality as few, if any, of the white stock growers actually live in this country where their stock is grazing. Thousands of the Indians on the other hand must live in the contested country where they hold trust patents to over 200,000 acres. These Indians who are outside the reservation as defined have had but little protection in the last 15 years. It is only a matter of justice that he be protected in the use of the lands he has actually occupied for a hundred years or more. It is known that he occupied the public domain years before being taken to the Bosque Redondo in 1863 and even before the odd-numbered sections were granted to the old Atlantic & Pacific Co. prior to the construction of the railroad. Probably 90 per cent of the public domain Navajos have never lived on the reservation.

There can be no sidestepping the fact that the Government is charged with the responsibility of bringing about a better situation with respect to the welfare of these Indians and it is very desirable that all interests cooperate in a fair adjustment. Without protection in a constructive way, these Indians all of whom have been self-supporting in the past will gradually be pauperized and instead of being self-supporting and producers they are likely to become dependents upon the Government. Protection of range, improvement of grade of stock, will mean increased business in the local channels of trade. Under present conditions our records show a marked decrease in the number of sheep. This is due to overcrowding and to the Indians being compelled to give up reserve range to the white men. This coupled with bad years has caused this decrease. It is a recognized fact that the Navajo trade is of greater commercial value than any other single asset that exists in the northwestern portion of New Mexico.

It seems apparent that the country can not support the two conflicting interests—the Indians and the cattlemen. While it is true that the cattle raisers have the same legal right to use the unappropriated public lands as the Indians, yet the equity is with the latter for whom most of the lands now in controversy were once withdrawn by Executive order now canceled. The cattlemen and others having the legal right to go into the territory, and having done so and used the lands whether contested by the Indians or not, are justly entitled to fair and equitable treatment in any final action that may be suggested to eliminate all present and prospective trouble.

So it seems certain that the white stock grower and the Indian running livestock can not get along together trying to occupy the same area. The white stockmen now admit this and are now willing to negotiate with the Indian Department, and upon payment of a fair price for their improvements are ready to move out and allow the Indians to again make use of the range unmolested. In order to acquire the improvements which the stockmen have made in the proposed area it will be necessary to secure an appropriation. What the amount necessary will be is still uncertain, but $200,000 would cover it. The Santa Fe Railroad Co. and the New Mexico & Arizona Land Co. officials would probably have to agree to an exchange of lands and the State be permitted to select lieu lands outside the proposed area in order to bring about an adjustment of the situation.

The Indians would at once be greatly benefited by these exchanges for they would therefore acquire numerous fenced pastures in which to inclose their stock. The outside boundaries of the extended reservation should be fenced, and this would very considerably lessen their losses. There are numerous pumping wells in the midst of good grazing areas, and there are numerous windmills, gas engines, and pumps included with some of these wells. There are also three good artesian wells which would be acquired, and there are numerous sheds, barns, and houses now occupied by the white stock growers. But above all, the proposed arrangement would in all probability nearly, if not completely, eliminate possible outbreaks between the Indians and the white men, and this is of course one of the most important factors in the situation to be considered. The 2,000 or more Indians in the proposed area now own around 40,000 sheep and goats and more than 1,000 cattle. While a great deal has been said about the excess number of Navajo ponies, it is stated that the Navajos in this jurisdiction have no surplus of ponies.

As a preliminary and tentative proposition for relief, it is suggested that the proposed extension embrace the following area:

Beginning at a point between township 23 north and township 24 north, along the eastern boundary of the Navajo Indian Reservation in New Mexico, thence east 30 miles to intersection of the first guide meridian at northeast corner of township 23 north, range 9 west, thence south 42 miles to southeast corner of township 17 north, range 9 west, thence west 6 miles to northeast corner of township 16 north, range 10 west, thence south 12 miles to southeast corner of township 15, north range 10 west, thence west to southeast corner township 15 range 12; thence south to intersection of Santa Fe railroad right of way at a point between township 13, ranges 11 and 12; thence following the railway right of way northwesterly along north side to point between township 15 north and ranges 17 and 18 west; thence north to intersection of Navajo Reservation, thence east and north to said point of beginning.

Within this total area, however, is included the area of the Manzano Forest Reserve of approximately 22,000 acres; that part of the Fort Wingate Military Reserve north of the railroad containing approximately 7,000 acres; the Chaco Canyon National Monument containing 25,000 acres, and allotted Indian lands approximating 220,000 acres, a total of 274,000 acres.

All of the lands are within the 50-mile limit grant of the odd sections to the Atlantic & Pacific Railroad; title to which has passed, as successors in interest, to the Atchison, Topeka & Santa Fe Railroad Co. and the New Mexico & Arizona Land Co.

This total area as now constituted is approximately divided as follows:

Area of odd sections belonging to the Atchison, Topeka & Santa Fe Railroad Co., 319,640 acres; to the New Mexico & Arizona Land Co., 144,040 acres; State common-school lands, sections 2, 32, 16, and 36, 115,840 acres; patented allotted Indian lands, 220,000 acres; lands owned in fee by private parties, 15,520 acres; Government land, even-numbered sections, 372,000 acres. Total area, 1,187,000 acres.

The tentative suggestion is that if possible arrangements be entered into, first, with the Atchison, Topeka & Santa Fe Railroad Co. and the New Mexico & Arizona Land Co. for the exchange of their odd-numbered sections within the proposed area for equal acreage outside the area. Second, that if possible similar arrangements be consummated with the State of New Mexico for the exchange of the school sections and other lands claimed by the State, within the area for an equal acreage outside thereof. Third, that similar arrangements be made with the owners of the patented land within the area, either on the basis of an exchange for similar areas outside or for cash compensation for said patented lands.

As a result of previous negotiations between the Indian Office and private landowners, the United States has secured title, for the Navajo Indians, to township 18 north, 13 west. The odd sections in township 16 north, 10 west; 17 north, 11 west; 17 north, 12 west; 17 north, 13 west; and 18 north, 12 west, are leased from year to year by the Indian Office from the railroad company, so that as to these five townships the control is now absolutely held by the Indian Office. This arrangement, however, is only a temporary one from year to year.

The private landowners operating the stock business within the area are comparatively few in number and negotiations have already been entered into with these parties looking toward their elimination from the area in question. The amount of patented lands owned by these parties is comparatively small but the grazing area they control through leases from the railroad company and the State is large. The following are the main persons to be considered in the premises:

One of the stockmen located there is Mr. Tom Talle, of Albuquerque. He, with Mr. R. C. Lilly, president of the Merchants National Bank of St. Paul, have been here to see us. They control the Rito del Plano Cattle Co., and their range is over six townships east of Crownpoint, to wit—19 north, 10 west; 19 north, 9 west; 18 north, 10 west; 18 north, 9 west; 17 north, 10 west; and 17 north, 9 west.

Mr. S. Pitts, also of Albuquerque, controls four townships, to wit—19 north, 12 west; 19 north, 11 west; 20 north, 11 west; and 18 north, 11 west.

Chadwick & Co. of Albuquerque has range in townships 20 north, 13 west; 20 north, 12 west; and 19 north, 13 west.

The railroad lands in township 20 north, range 10 west, is leased by Smith Bros., of Crownpoint.

The railroad lands in San Juan County are leased by Ed Sargent of Chama, N. Mex.

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These six outfits are the main ones to deal with in the country, outside of the Santa Fe Railroad and the New Mexico & Arizona Land Co. holdings and all of these persons have leased the odd-numbered sections of lands controlled and owned by the railroads within the area mentioned. There are also State school lands, including sections 16, 36, 2, and 32 in most of these townships. Most of these sections have been leased by these stockmen and from leasing these sections alone some of them to a certain extent control other areas besides those above mentioned. In this way Chadwick, as it is understood, more or less lays claim to the range in townships 22 north, 12 west; 21 north, 13 west; and 21 north, 12 west.

While it is true that these parties actually own in fee only a small acreage, it is their contention, because of the work they have done developing water in the area, that the share of compensation to be paid them by the Government can not be reached by simple acreage value of the deeded land.

Whatever sum be finally agreed upon as proper compensation for the improvements, it is undoubtedly true that the wells, water holes, and other improvements which might be turned over by these three parties would be of very considerable value to the Indians and the reservation, and especially if the wells on railroad lands owned by the railroad but used by these stockmen were also turned over to the reservation through the Government's deal with the railroad company.

The question of the mineral rights in the railroad and other privately owned lands was discussed, among ourselves, and also incidently with the State land officers, and we tentatively agree that any legislation needed to provide for the exchanges suggested herein should permit the vendors, at their option, to retain the mineral rights in any tracts relinquished, in which event they would not take the mineral rights in the lieu lands; but that if the vendors relinquished all right, title, and interest in the land, they should take the lieu selection with full mineral rights. This would solve the difficulties of exchanges with the State, as many of the school sections within the area are at present in controversy with the Federal Government by reason of the alleged coal-bearing character of the sections.

The proposed addition to the Navajo Reservation can be made only by authority of Congress. The object of the present meeting between representatives of the railroad interests, the cattle interests, and the Government and State representatives is to arrive at some form of tentative agreement for mutual concessions which may be made the basis of justification to the Congress for legislation which will enable the carrying out to the fullest extent possible any informal understanding between all interests. To this end an agreement by the railroad companies to select lieu lands should be obtained, the other private interests should submit offers of relinquishments upon being paid certain definite sums, and the State should show a willingness to cooperate by relinquishing and selecting lands outside.

The Crownpoint Exchanges

(By H. J. Hagerman, Commissioner to the Navajo Tribe)

At a meeting called by the commissioner to the Navajo Tribe at Santa Fe on October 16, with the sanction of the Secretary of the Interior and personally attended by the Commissioner of Indian Affairs and the Chief of the Land Division of the Indian Office, there were present, besides representatives of the Federal Government, representatives of the Santa Fe Railroad and of nearly all other land holders and stockmen interested. There were also present representatives of the Indians. There were present at that meeting representatives of the State of New Mexico in the persons of the acting governor, the commissioner of the State land office, and another officer of that department of the State administration. The attorney general of the State had been previously consulted in the matter. One of the United States Senators from New Mexico attended the afternoon session of the conference and with the rest of us went very fully into the matters under consideration. The other United States Senator could not be reached, but as long ago as April last I communicated with him, and he responded very cordially and agreed that some adjustment and action should be promptly had.

At this conference the proposals and plans of the Indian Office were thoroughly discussed, and, after various concessions and amendments, the tentative program proposed met with the general approval of all who were present at the meeting.

This proposal is that about 1,000,000 acres of land in this section be added to the Navajo Reservation by congressional action. This proposed area embraces approximately: (*a*) 319,640 acres of land owned in odd-numbered checker-boarded sections by the Santa Fe Pacific Railroad Co. This is part of the original Atlantic and Pacific grant made when the railroad was first built. The grant of the odd-numbered sections extended 50 miles either side of the right of way; (*b*) 144,040 acres of land owned by the New Mexico & Arizona Land Co., also a part of the original Atlantic and Pacific grant; (*c*) About 115,840 acres of State common-school lands granted by the enabling act of June 21, 1898, and the statehood act of June 20, 1910; (*d*) 220,000 acres of patented Indian lands; (*e*) 372,000 acres of Government land; (*f*) 15,520 acres of land owned in fee by private parties other than the railroad and land company above mentioned.

Within this area, however, is included the Manzano forest reserve of approximately 22,000 acres. Also 7,000 acres of the Fort Wingate Military Reservation and 25,000 acres in the Chacon National Monument.

A very large proportion of this area and a large contiguous area was at one time within the limits of the Executive-order extension of the Navajo Reservation, but in 1911 after about 220,000 acres of 160-acre allotments within the area had been made to individual Navajos the area was withdrawn and the remaining public lands therein thrown open to entry. Now since then only about 15,500 acres—less than 25 sections—of the land so thrown open have been acquired by homesteaders or other fee title holders.

That is the startling fact; that is a very significant fact which all should take cognizance of before arriving at any final conclusion about the matter or making any protest against these proposals.

The reason for this is that this area is and has long actually been Indian land. The reason is because of these many allotments scattered all over this area it is and will doubtless always remain Indian land.

It is true, as has been stated, that if this area is again withdrawn it will take away something from the taxable property of the State. But it is also true that, if the plans proposed can be carried out, a greater assessable valuation will be added to the State's taxable assets than if the present status is maintained.

There are a number of white stockmen within the area which it is proposed to add to the reservation. They are excellent men; good, sound, earnest men. They own some wells, water holes, and improvements and have leased odd-numbered sections from year to year from the railroad and some school sections from the State. But throughout all this area are scattered Indian allotments. Bordering the area on one side is the reservation. Over much of the area the Indians range indiscriminately. These white stockmen can not do business in this country. Some of them have tried to do so for many years and in the long run have failed. They say have failed, they admit they have failed and they want relief. They want a chance to make good where they won't be handicapped as they are here.

It is idle to speculate now as to where the fault lies; as to whether it was a mistake to restore this area; as to whether it was an error to make these Indian allotments; as to whether the Indians or the stockmen or both have been the aggressors in the eternal range conflicts which have so long harassed this country. The fact is that the situation is well-nigh an impossible one and that it is so admitted to be by all who are in touch with it. The fact is that it is a situation which must now be adjusted if endless bitterness and eventually serious conflicts are to be averted.

Such are the facts.

Briefly what is proposed is this: That the railroad and other privately owned lands within this area be exchanged for similar areas outside in New Mexico and that those stockmen who have improvements there be paid by the Government for such improvements at a reasonable rate; then, when the title to the land or the surface thereof is back in the Government that it be set aside as an additional grazing area for the Navajo Indians.

Now as to the effect this would have on the State's assessed value. As near as we can figure the assessed value of the lands within the area is about $800,000 and of the livestock around $150,000. One million dollars would cover it all. The railroad lands being checkerboarded are assessed at lower figures than would be solid similiar tracts elsewhere. The taxable livestock is rapidly diminishing, and next year will be much less than the figure quoted.

If lieu lands in solid body can be entered elsewhere their assessment should be materially higher. Moreover, thay can be used continuously and profitably for grazing purposes by tax-paying owners or renters, which is not the case here.

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It is true that these exchanges would to some extent benefit the railroad; it is also true, in my opinion, that they would to an ever greater extent benefit the State.

A part of the plan, as I have it in mind, is that the extended reservation area be fenced as rapidly as possible, and that such Indians allottees as still remain outside the extended area be urged and encouraged to move back within it. There are a good many allottees outside the area, but it will be a great deal easier to deal with them in a reasonable way if this extension is made than if it is not. Those who can not amalgamate harmoniously with the outside world should be encouraged to return to the extended reservation.

Another part of the plan, as I understand it, is that if the State desires to retain either all the rights or only the mineral rights on any of the school sections clear listed to the State, or which eventually shall be so clear listed, it shall have the option to do so, and that in the meantime the Indian Office or the Indians themselves shall pay the State a reasonable grazing fee for such sections. It is also contemplated that the State for the lands it elects to release shall have a priority right of lieu selection.

This in brief is the proposal and I hope that this statement may help to make the matter clear in the public mind. It is no new proposal. As far back as 1914 Father Weber, a lifelong friend of the Navajos, urged a similar course. In 1921, General Scott insisted that some such solution was demanded. At various times there have been conferences of and petitions from the people in and around Gallup urging that this be done. These people generally realize that the Navajo Indian is their principal asset and far from discouraging the consummation of this proposal are, I believe, almost unanimously in favor of it.

I have recently discussed this matter very frankly with Governor Hinkle. It was very unfortunate for all of us that he was not in the State at the time of our conference of October 16. Naturally his first interest is for the State and it is his duty to see to it that the State's rights and privileges are fully protected at all times. My own feelings in that respect are no less definite than his and I should be the last person to advocate, personally or in any other capacity, any cause which might result in harm to the people of New Mexico. A proposition of such magnitude and so significant as this can not be finally adjusted without much consideration and considerable discussion, but it is essential that all interests affected be fully in accord before definite action is determined upon. It is also true that any such problem is sure to be linked up with collateral issues of more or less importance and that its proper solution may depend upon finding an answer to some questions not immediately connected with the main issue. I am sure that the governor will be more than ready now that he knows the circumstances of this very complicated situation to cooperate in any way he can in finding its proper solution, a solution which under all the circumstances will be for the best interest of all concerned and, it is hoped, will settle many vexatious problems.

SANTA FE, N. MEX., *October 20, 1923.*

COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

SIR: The conference in regard to the Crownpoint exchanges was held as planned in Santa Fe on October 16, the day after the Navajo oil lease sale. It was in many respects very successful. Dr. W. A. Marschalk, chief of the land division of the Indian Office, and S. F. Stacher, superintendent of the Pueblo Bonito Agency, arrived in Santa Fe some days before this conference and they both conferred fully with me in regard to the plan of the conference Doctor Marschalk being very fully acquainted with all of the office details, and also having been once or twice on the ground in connection with former negotiations about the exchange of lands, was exceedingly helpful in the matter, and had it not been for him we could not have accomplished anywhere near as much as we did at the conference. Superintendent Stacher having for years made a study of this situation and being very fully acquainted with the terrain and very keen about the whole business was able to clarify many matters which otherwise would have been left more or less vague and in doubt. We also received a good deal of assistance from R. F. Asplund, director of the Tax Payers Association of New Mexico, who, at my request, carefully examined the records as to the ownership and the status of the lands within the propose extension. Doctor Marschalk, Mr. Stacher, and I also had two conferences with the officials of the State land office and the acting governor of the State in regard to the State lands.

Prior to the meeting a memorandum was prepared by me in cooperation with Doctor Marschalk and Mr. Stacher as a basis for the discussion at the conference. A copy of the memorandum is herewith inclosed.

The meeting was called to order at 10 o'clock in the morning October 16. There were present during the morning and afternoon sessions Hon. Charles H. Burke, Commissioner of Indian Affairs; H. J. Hagerman, Commissioner to the Navajo Tribe; Dr. W. A. Marschalk, chief of the land division of the Indian Office; Mr. S. F. Stacher, superintendent of the Pueblo Bonito Agency; Peter Paquette, superintendent of the Navajo Agency; R. J. Bauman, superintendent of the Zuni Reservation; Chee Dodge, chairman of the Navajo Tribal Council; E. J. Engle, vice president of the Atchison, Topeka & Santa Fe Railroad Co.; Howell Jones, land commissioner of the Atchison, Topeka & Santa Fe Railroad Co.; Lawrence Lee, of Albuquerque, representing Chadwick, Pitts, and other landowners; Jose A. Baca, Acting Governor of New Mexico; Justiniano Baca, State commissioner of public lands; Dennis Chaves, representative of the State land office; and others.

The discussion was very general. I opened the meeting by reading the memorandum above referred to and this was used as the basis of discussion. After reading this memorandum Mr. Engle and Mr. Jones were asked what would be the attitude of the railroad company in regard to the proposed extension. Mr. Jones immediately brought up the matter of the 327,000 acres which the railroad company had deeded to the United States 11 years ago and for which lieu selections had never been made by the railroad company. He said that it was upon the representation that the Indians would improve their stock and improve the range and develop water that they deeded this land to the Government. It was the understanding, he said, that if the Indians could have this area in the vicinity of Leupp and Western Navajo consolidated by the deeding to the Government by the railroad, the odd-numbered sections the Indians would be supplied with superior bucks, bulls, and other stock. The railroad had complied with their part of the arrangement, he said, and as far as he knew not very much had been done to carry out these representations as to development and they therefore did not feel like entering into any other arrangements until the understanding of 11 years ago was carried out. If the Government was not going to aid the Indians to compete with the white man, an extra burden would be thrown on the railroad through taxation.

Doctor Marschalk stated that as far as the 327,000 acres are concerned that area is under the jurisdiction of Superintendent Janus at the Leupp Agency; that the land was deeded by the railroad to the United States and because of the wording of the Executive order establishing that part of the Navajo Reservation it was claimed that this land was not in the same status as other Indian lands. The status of these lands at present, Doctor Marschalk said, is that the railroad has deeded it to the United States. The United States accepted title thereto as conveyed and the deed has been properly recorded; the railroad company having deeded the land to the Government expected to secure other lands in lieu thereof. The Santa Fe has conveyed title to the United States and as yet the railroad company has not received anything in return. He further states that the question of permitting the exchange to be carried out is now pending before the Department.

Commissioner Burke then stated that there had been a marked improvement as to the range conditions. He knew there had been a great deal of development of water on the Navajo Reservation and his understanding was also that there had been a considerable improvement in the grade of stock by following just what Mr. Jones suggested. He understood that it was held by the department the contract or understanding in regard to the 327,000 acres could not be carried out. He, himself, he stated, did not agree with this interpretation of the law and only recently the matter had been resubmitted to the department by the Indian Office in the hope of getting a reversal of the former decision. He had in mind that if the present Secretary finds he can not reverse the former decision then it is a matter that requires congressional action; in other words the lands can not be reconveyed to the railroad company without congressional action. So far as the present Indian Bureau is concerned, he said, it is very solicitious and anxious to have the contract carried out in good faith when it shall have decided actually what the contract is. As to the proposition now under discussion it is one where there are many different interests involved and unless all these different interests are willing to make some concessions and come to an agreement nothing can be accomplished. Governor Hagerman, he said, when in Washington seemed confident that such a conference as the present one would be productive

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of results and in his very sincere desire to see something along these lines carried out he had come to Santa Fe, and that the Indian Office is doing and will continue to do everything it can to help solve the problem and bring about a definite solution of the matter.

Mr. Engle then remarked that the railroad was more interested in the development of the country than in the script they might receive as a result of the exchange and intimated that unless it could be shown that the proposed extension and exchanges would actually result in improving the economical and business conditions in the area and the surrounding country that it would not seem good policy from the railroad's standpoint to carry out the plan.

Thereupon there followed a very general discussion as to what the effect of the extension would be. Mr. Talle for himself, and Mr. Lee, representing the other stockmen, went into the matter very fully, giving a history of their experiences there and reiterated the statements heretofore made to me that after having tried for a number of years to carry on a successful stock business in this area they had practically given it up as a bad job; that they could not make money under the difficulties they had to content with there because of the constant conflict with the allotted and other Indians in the area. They are, they said, ready to enter into any kind of a reasonable arrangement which will result in their moving out of this country in case they can receive a reasonable compensation from the Government for their improvements. The question of the value of these improvements was discussed in a general way. It was apparent that the improvements in the way of waters, wells, and fences which the Government would acquire by the proposed exchange would be of very great value to the Indians if the country was entirely turned over to them.

In response to Mr. Engle's and Mr. Jones's inquiries as to whether the Government had been diligent in improving Indian economic conditions in this and other Indian areas, the matter of the improvement of Indian sheep and wool was fully discussed. In this discussion it developed from what Superintendents Stacher and Paquette, and Chee Dodge said that a very distinct improvement had been going on constantly in the quality of the sheep owned by the Indians in the larger herds; that during the last 10 years many of the herds so owned throughout the reservation were getting a much better percentage of lambs and a much better grade of wool than formerly was the case; that the wool was being better sorted and more advantageously marketed. There are quite a number of Indians owning considerable numbers of sheep but the majority of the sheep on the reservation and in the Crownpoint area are held in small herds. Many of these small herds are still rather rough and inferior stock, but the discussion definitely developed that numbers of the Indians rely to a very considerable degree upon blanket weaving and the sale of their blankets for their livelihood, and that the coarser grades of wool grown on what is known as the old type of sheep is on the whole better for making the yarn used in the Navajo blankets than is the finer wool from higher bred stock. While this coarse wool does not bring the prices that the higher grade wool does on the market, it is of greater value when woven into blankets and therefore the growing of the coarse wool should not be entirely discouraged. So the wool problem amongst the Navajos has two distinct phases, each of which should be and has been carefully considered by the Government and its agents from an economic and business point of view.

As to Mr. Engle's suggestion that the Government had not done what it should have done in regard to the development of stock water, I went into that matter pretty fully, describing what the Government actually had done in the way of expenditure of money for stock-water development in the past 10 years and stated that I believed there was no similar area in the United States in which such extensive and careful studies of the possibilities of water development had been made and where there were so many difficulties to be met with in carrying out plans for improvements along these lines. Commissioner Burke and also the superintendents went pretty fully into this and the discussion resulted in demonstrating the fact that there was a great lack of public knowledge as to what the Government had done in this way. It is true that in some parts of the reservation the efforts and expenditures of the Government have not been nearly as fruitful of result as desired. This is due in some cases to the difficulty in securing adequate and effective administration within the reservation and also to the fact that it is very difficult to get the Indians to take care of both irrigation and stock-water projects after they are installed. It also developed in this discussion that there are a number of wells within the area of the proposed extension on railroad lands which are being used by stockmen which would be acquired by the Government through

an exchange with the railroad company. Some of these wells, I believe, are wells sunk by oil companies for oil which developed only water and these were subsequently abandoned by the oil companies.

In the course of the morning session Commissioner Burke remarked that the Indian Office all along is being handicapped and assailed by those who object to anything that means advance and progress for the Indian. The office constantly has that element to contend with. If some of these critics would cooperate with the Government and help make the Indian self-supporting so as to contribute toward the economic gain of the State they could, he thought, he much more useful. He said that the Indian is going to stay here. He was here before anybody else and will remain. The Indians and especially the Navajos are rapidly progressing in every way. In many cases where 15 years ago you could not get an Indian to consent to have a physician in case of sickness, they are now crying for hospitals and nurses and many of the Indian women are going into hospitals in maternity cases. They are also gladly receiving suggestions and eager for help in regard to the improvement of their stock as well as in the matter of arts and crafts. They are rapidly recognizing that those who have the best articles to offer get for them better prices.

At the close of the morning discussion Acting Governor Baca stated very specifically that speaking of the State administration it is very much interested in the progress and development of the State and would be in favor of any tentative agreement which would further the progress and development of the State. He stated that he and the representative of the State land office had come to the meeting with a view of pressing the whole situation and that they were very much inclined to do everything they could to help bring about the proposed arrangement providing the interests of the State of New Mexico were properly protected and it appeared that the proposed exchanges would result in benefit to the State and it could be shown to the taxpayers that the plan was to the advantage of the State and its citizens.

At the opening of the afternoon session I asked Mr. Engle and Mr. Jones whether they had come to any conclusion as to their attitude about the matter, and Mr. Jones stated specifically: "If you get the Secretary of the Interior to request us to give up the 327,000 acres in Arizona and to take lieu lands in New Mexico therefor, we will join hands to help you in every way to establish your reservation and help you with legislation."

This was a definite acquiescense on the part of the railroad to the plan proposed, contingent, however, upon a satisfactory outcome of the 327,000-acre matter in the Leupp extension. Mr. Engle definitely acquiesced and indorsed this statement of Mr. Jones.

Senator H. O. Bursum attended the afternoon session and the memorandum was taken up explaining to him what had happened at the morning session so as to get from him an expression of his position about the matter in view of the fact that no national legislation would be practicable without the approval of the Senators from New Mexico. I had previously had a personal conference with the Senator about the business and found that he was very ready to cooperate in case all of the interested parties could come to a tentative agreement. After we had gone into the matter quite fully with him in the afternoon he repeated that if the New Mexicans within the proposed area and contiguous to it and the people of McKinley and San Juan Counties were satisfied, as we believed they were, he would get behind any legislation proposed in Congress which we would all agree upon. He asked what was the attitude of some of the stockmen, such as Ed Sargent, living in Rio Arriba County, who had some railroad lands in the northern part of the proposed area, and who drove their stock from Rio Arriba County into the area in winter. Mr. Stacher and I told him that we believed Mr. Sargent, who was the principal stockman of this class concerned and who does range some of his stock in the northern section of the area in winter, would be reasonable in every way and could be successfully dealt with. This is undoubtedly true as Mr. Sargent is a very successful and reasonable man and probably has gotten on better with the Indians than any other of the stockmen. I stated that I had had a talk with him at Chama some time ago about the matter and I had no doubt that he would offer no objections in case the other parties acquiesced.

Senator Bursum also stated that if there is any possibility for irrigation reclamation on any of the proposed area, even in the distant future, that any addition to the reservation should be made so as to reserve the power to the Government to bring about such reclamation when it might prove feasible. A discussion of this matter developed the fact that in all probability there is no part of the proposed extension available for any reclamation project except perhaps a small

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area in the northern part of the tract which might possibly in the dim future be reached with a reclamation project out of the San Juan River involving an expenditure of millions and millions of dollars. So it was agreed that any legislation proposed should make this reservation in regard to possible reclamation projects and with this understanding the Senator was perfectly satisfied. Senator Bursum then went on to say that he was fully alive to the dangers and delicacy of the situation over there and heartily in favor of finding a definite and prompt solution of the matter along the lines that had been proposed.

Mr. Chaves for the State land office then again brought up the State's position. There are about 200 school sections within the proposed area. These sections are 2, 32, 16, 36 in each township. Of these about 100 sections are confirmed to the State and have no controversy in regard to coal or other mineral rights with the Federal Government. Of the 100 sections there are about 50 which are still in controversy with the Federal authorities as to mineral rights. For the other 50 sections, as I understood, lieu selections have already been made outside by the State. Mr. Chaves for the State land office again stated at noon that the State land authorities had definitely agreed that they were very favorable to the proposal providing the State's interests were properly cared for in the proposed Federal legislation and that mineral rights wherever they appeared to be of any value on State land could be preserved and that the tentative proposal made in my opening statement on that action was in his opinion sufficient to take care of that phase of the matter. He was also, however, solicitous that if arrangements for exchanges were consummated and a large acreage of railroad lands were to be exchanged for outside Government lands that some arrangement or understanding should be had whereby the State in exchanging their lands should not be at a disadvantage in securing desirable lieu selections.

This matter was discussed at some length and it appeared that the railroad company in case of exchanges would undoubtedly be inclined to block up areas where they owned the odd-numbered sections and that in any case the State with the facilities it has could not be at a disadvantage with anyone in priority of selection. However, it was agreed with the land office authorities that they should submit to me their ideas on this subject with a view of incorporating them with the proposed Federal legislation, and with this understanding they seemed to be perfectly content with the plan proposed. Some discussion was also had as to the effect of the proposed exchanges on the taxable property of the State. Mr. Asplund of the Taxpayers' Association has investigated it with some care and we believe that on account of the lieu selections outside, the blocking up of the railroad lands all of which will result in much more public domain coming into private ownership and the adjustments of many quarrels with stockmen, the aggregate of taxable property would be greater after the exchange than it is now in the general area affected.

With this Commissioner Burke made a résumé of the situation using our memorandum as a basis for what had been done and what we hope to do and stated that the Indian Office would do everything it could to help consummate the program.

The only important party interested in the matter who was not represented at this conference was the New Mexico & Arizona Land Co., which owns a number of townships within the proposed area. This company is represented by Col. S. A. Hughes, at Albuquerque, from whom I had a letter stating that his people were negotiating for all their holdings in New Mexico and were not in a position at this time to negotiate with the Government for exchanges. It would be possible to make a very material and advantageous addition to the reservation without including any of the Arizona and New Mexico lands except one township in the north, but it would be much better if all of the townships mentioned in the memorandum could be included. I stated that I was of the opinion that if all other parties agreed probably these people would be more willing to negotiate for exchanges for their lands and that I would take up the matter in detail with Colonel Hughes, and would as soon as possible with the actual owners of these properties, who I understand are bankers in New York, and certain parties in St. Louis. There are some lines of approach to these parties which have not yet been used and in accordance with the desire of the commissioner I will try to round up this phase of the matter as soon as possible.

On the whole this appears to be the first time, after many years of discussion and a great deal of negotiation and work by the Indian Office, when all parties interested in this very difficult problem have been able to come to a substantial preliminary understanding. That they are able to do so now is undoubtedly due to the fact that all parties realize that without an understanding nothing but confusion and perhaps disaster can result.

It was understood upon the adjournment of the conference that I should go ahead on the lines initiated in gathering data and details, particularly as to the amount of compensation necessary, and as fast as these data were available report them to the Indian Office.

I told Doctor Marschalk that as far as preparing any proposed legislation was concerned, outside of such suggestions that I might have to make, that part of the matter would be taken care of in Washington.

I will go ahead along the lines indicated in the hope that we can get to a point of proposing the necessary legislation to the coming Congress.

In both the morning and afternoon sessions the condition of the group of Navajos at Ramah was fully discussed by Mr. Bauman and Mr. Vogt, who resides near Ramah. While it does not bear directly upon the proposal of the Navajo extension perhaps these Indians around Ramah could be moved into the extension. If there were room for them to do so it might be a wise solution to this perplexing problem, but Mr. Bauman and Mr. Stacher both believe that the Ramah group of Navajos are not friendly with the Navajos in the Crownpoint country. This, however, might be overcome. In the default of this it was suggested that perhaps the Arizona & New Mexico Land Co. would consent to land exchanges and the solidified area of land in the vicinity of that now occupied by the Ramah Indians or immediately adjacent to the Zuni Reservation could be blocked with the Arizona & New Mexico holdings in that region and turned over as an addition to the Zuni Reservation for the use of the Ramah Navajos. I agreed with Mr. Bauman to go out there as soon as possible and go over the ground with him, Chee Dodge, and Mr. Stacher with a view of getting more definite idea of this situation.

I should be very glad indeed if the Indian Office on considering this report of mine would as soon as possible communicate to me any further suggestions or ideas it may have in regard to my further action in the field on the matter. I feel that a very distinct progress has been made and that I need every possible suggestion from Washington that I can have.

Respectfully yours,

H. J. HAGERMAN,
Commissioner to the Navajo Tribe.

OCTOBER 23, 1923.

The COMMISSIONER OF INDIAN AFFAIRS.

MY DEAR MR. COMMISSIONER: Under office instructions of October 5, I left for Santa Fe on October 7. From October 20 until I left for Washington on the 17th I was in constant touch with the commissioner to the Navajo Indians and Superintendent Stacher of the Pueblo Bonito jurisdiction, cooperating with them in gathering data and working out a plan for consideration at the proposed meeting to be had with officers of the Santa Fe Railroad Co., State officers, stock growers, and others, with the view to arriving at some tentative agreement to obtain more land for Navajo Indians on the public domain in New Mexico. A justification with suggestions for a proposed line of action was prepared prior to the meeting, a copy thereof being attached.

A meeting was held in the old Federal building on October 16, attended by the Commissioner of Indians Affairs; H. J. Hagerman, commissioner to the Navajo Indians; Senator Bursum; Lieutenant Governor Baca; Mr. Ingalla, vice president of the Santa Fe Railroad; Mr. Jones, land commissioner to the railroad; a representative of the stock growers' association; a Mr. Tom Talle; and many others. Commissioner Hagerman read the statement already mentioned concerning the needs and conditions of the Navajos, and thereafter during the morning and afternoon sessions there was a full and general discussion of the entire matter. A map was presented at the meeting by Mr. Hagerman, copy attached, on which there was outlined the proposed addition to the Navajo Reservation. The area included several townships within which the odd sections are owned by the New Mexico & Arizona Land Co., which company is represented by Mr. Hughes, its president, Albuquerque, N. Mex. Unfortunately, Mr. Hughes failed to be present at the meeting, and it was learned informally that his company was not in the mood for any agreement that would involve exchanges of lands; that it was in the market to sell its lands.

The entire morning and afternoon sessions of the meeting were harmonious to a surprising degree. It was apparently realized by all that the territory involved can not support the Navajos who had had for many years the free and unrestricted use of the lands, gaining thereby a somewhat precarious livelihood, and

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also the stockgrowers who had gone into the country, since 1911, when the Indian Executive order withdrawal then covering that part of the country was revoked. The stock raisers who have conducted their business within the range formerly used exclusively by the Indians actually own in fee but small tracts of land or none at all. They have, however, leased State lands and railroad sections and have assumed actual control of large areas, in one case as much as six townships. In most instances the controlled areas are illegally fenced, the rights of the Indians to occupy or use their allotments often being entirely disregarded. Most of the Indians had always lived on the public domain and had been accustomed in the past to the unrestricted range for their sheep and cattle over the country. They gained a living by the only practical method with which they were familiar. The encroachments of the cattlemen has worked a great hardship and the conditions are now that the pasturage and water available will not suffice for all the Indians and also the white-cattle interests.

The representatives of the cattlemen and Mr. Talle, a cattleman who controls several townships, admitted that there had been considerable trouble over the conflicting interests of the Indians and cattlemen, and that several times very serious difficulties with danger of bloodshed had narrowly been averted. It was generally known by all present that the business affairs of the cattlemen had not been successful—and the view was generally expressed by them and on their behalf that the Navajo Indians were entitled to help. Their attitude was that if the Government would procure an appropriation to pay the cattlemen reasonable amounts for their improvements and for quitting the field, there would be no objection on their part to the proposed withdrawal for the Indians. The Santa Fe Pacific Land Co., represented primarily by Mr. Howell Jones, informally agreed that if the United States would permit the company to select lieu lands for the 327,000 acres deeded to the Government some years ago consisting of odd sections in Arizona within what is known as the Leupp Indian jurisdiction, which deed was duly accepted by the Government and recorded, the company would raise no objection to the proposed withdrawal in New Mexico, and that it would view with favor exchanges of its holdings within the proposed addition so that the Indian lands would be held in a solid body. It may be here recalled to you that on September 1, 1923, you took up with the department the question of permitting the company to select lands for those already deeded to the United States, and strongly recommended to the department that the request of the company be granted. Mr. Jones was advised at the meeting to that effect.

The entire proposition of providing more lands for the Navajos was gone over at the meeting with Senator Bursum and explanations of the reasons and necessities were made to him by representatives of the Government and the cattle interests and others. My understanding of his attitude is that as seemingly all persons at interest agreed to the withdrawl on certain conditions, he personally could see no objection to the proposed line of action with the exception that he mentioned some possible objection that Rio Arriba County could have as the addition might possibly cut off some present income to the county by reason of eliminating the cattle raisers' interests in that locality.

It can not be too strongly brought to your attention the thought generally expressed at the meeting that the country will not support the two conflicting interests, those of the Indians and the cattlemen, and that sooner or later serious trouble is sure to result. Your instructions were that the report submitted should be accompanied with the draft of legislation to carry out any line of action agreed upon at the meeting and to submit therewith a full justification for the legislation. This letter and the attached copy of the statement presented at the meeting are the justifications. The draft of legislation will be prepared later. Mr. Hagerman advised me informally that he would confer again with the State officers and submit a paragraph for the proposed bill affecting relinquishments and lieu selections by the State.

My understanding is that Commissioner Hagerman will endeavor to obtain options from the stock raisers to sell to the Government their improvements and other interests for certain specified amounts, the options to be good until July 1, 1924, and that he will also take up through certain channels the question of bringing about a different attitude toward exchanges by the President of the New Mexico & Arizona Land Co. The commissioner to the Navajo Indians is entitled to much credit in being able to gather around tables for conference and friendly exchange of views, gentlemen of various conflicting interests. His wide acquaintance in the State and thorough knowledge of conditions, his never-failing courtesy, his pleasant smile and patient attitude had much to do with what may be said to be a successful start toward a much better condition among

the Navajos of the Crown Point jurisdiction. The Navajo trade with Gallup and other near-by places is well recognized as being of great commercial value, bringing in perhaps more money to the towns from these Indians than from any other source in northwestern New Mexico. Most of the lands it is now proposed to withdraw for the Indians once constituted a part of their reservation, unfortunately for them being restored to the public domain in 1911; and it would now be only a matter of fair dealing to return to them the area within which they doubtless may be able to become better self-supporting, and of a greater asset to that part of the State than ever before. Failure to give relief now will without a shadow of doubt result in armed conflicts between opposing interests to the everlasting shame of the State and Nation.

Respectfully,

W. A. MARSCHALK,
Chief, Land Division.

[Newspaper clipping]

EXTENSION OF NAVAJO RESERVE WILL RESULT IN INCREASE IN TAXABLE ASSETS, HAGERMAN

SATURDAY, NOVEMBER 17, 1923.

Former Governor Herbert J. Hagerman, Commissioner to the Navajo Indians, believes extension of the Navajo Reservation will aid the State financially.

Governor Hagerman makes the point that the area involved is and has long been Indian land, and predicts it will doubtless remain Indian land. He says that although a large area was withdrawn from the reservation, less than 25 sections of the land thrown open have been taken up by homesteaders. He sees a greater assessed valuation added to the State's taxable assets by the present plan of exchange.

Governor Hagerman extends a friendly hand to Governor Hinkle in the dispute and says of the governor's interest in preserving the State's rights:

"My own feelings in that respect are no less definite than his and I should be the last person to advocate personally or in any other capacity any cause which might result in harm to the people of New Mexico."

Governor Hagerman's statement is as follows:

[By H. J. Hagerman, Commissioner to the Navajo Tribe]

At a meeting called by the Commissioner to the Navajo Tribe at Santa Fe on October 16, with the sanction of the Secretary of the Interior, and personally attended by the Commissioner of Indian Affairs and the chief of the land divisions of the Indian Office, there were present, besides representatives of the Federal Government, representatives of the Santa Fe Railroad and of nearly all other land holders and stockmen interested. There were also present representatives of the Indians. There were present at that meeting representatives of the State of New Mexico in the persons of the acting governor, the commissioner of the State land office, and another officer of that department of the State administration. The attorney general of the State had been previously consulted in the matter. One of the United States Senators from New Mexico attended the afternoon session of the conference and with the rest of us went very fully into the matters under consideration. The other United States Senator could not be reached, but as long ago as April last I communicated with him and he responded very cordially and agreed that some adjustment and action should be promptly had.

At this conference the proposals and plans of the Indian Office were thoroughly discussed and, after various concessions and amendments, the tentative program proposed met with the general approval of all who were present at the meeting.

THE PROPOSAL

This proposal is that about 1,000,000 acres of land in this section be added to the Navajo Reservation by congressional action. This proposed area embraces approximately: (*a*) 319,640 acres of land owned in odd-numbered checkerboard sections by the Santa Fe Pacific Railroad Co. This is part of the original Atlantic and Pacific grant made when the railroad was first built. The grant of the odd-numbered sections extended 50 miles either side of the right of way; (*b*) 144,040 acres of land owned by the New Mexico & Arizona Land Co., also a part of the original Atlantic and Pacific grant; (*c*) about 115,840 acres of State common

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school lands granted by the enabling act of June 21, 1898, and the statehood act of June 20, 1910; (*d*) 220,000 acres of patented Indian lands; (*e*) 372,000 acres of Government land; and (*f*) 15,520 acres of land owned in fee by private parties other than the railroad and land company above mentioned.

Within this area, however, is included the Mansano Forest Reserve of approximately 22,000 acres, also 7,000 acres of the Fort Wingate Military Reservation and 25,000 acres in the Chaco National Monument.

LITTLE LAND TAKEN UP

A very large proportion of this area and a large contiguous area was at one time within the limits of the Executive order extension of the Navajo Reservation, but in 1911 after about 220,000 acres of 160-acre allotments within the area had been made to individual Navajos the area was withdrawn and the remaining public lands therein thrown open to entry. Now since then only about 15,500 acres—less than 25 sections—of the land so thrown open have been acquired by homesteaders or other fee title holders.

That is the startling fact; that is a very significant fact which all should take cognizance of before arriving at any final conclusion about the matter or making any protest against these proposals.

The reason for this is that this area is and has long actually been Indian land. The reason is because of these many allotments scattered all over this area it is and will doubtless always remain Indian land.

It is true, as has been stated, that if this area is again withdrawn it will take away something from the taxable property of the State. But it is also true, that if the plans proposed can be carried out a greater assessable valuation will be added to the State's taxable assets than if the present status is maintained.

SOME WHITE STOCKMEN

There are a number of white stockmen within the area which it is proposed to add to the reservation. They are excellent men—good, sound, earnest men. They own some wells, water holes, and improvements and have leased odd-numbered sections from year to year from the railroad and some school sections from the State. But throughout all this area are scattered Indian allotments. Bordering the area on one side is the reservation. Over much of the area the Indians range indiscriminately. These white stockmen can not do business in this country. Some of them have tried to do so for many years and in the long run have failed. They have failed, they admit they have failed, and they want relief. They want a chance to make good where they won't be handicapped as they are here.

It is idle to speculate now as to where the fault lies; as to whether it was a mistake to restore this area; as to whether it was an error to make these Indian allotments; as to whether the Indians or the stockmen or both have been the aggressors in the eternal range conflicts which have so long harassed this country. The fact is that the situation is well nigh an impossible one and that it is so admitted to be by all who are in touch with it. The fact is that it is a situation which must now be adjusted if endless bitterness and eventually serious conflicts are to be averted. Such are the facts.

WHAT IT AMOUNTS TO

Briefly what is proposed is this: That the railroad and other privately owned lands within this area be exchanged for similar areas outside in New Mexico and that those stockmen who have improvements there be paid by the Government for such improvements at a reasonable rate; then, when the title to the land or the surface thereof is back in the Government that it be set aside as an additional grazing area for the Navajo Indians.

Now as to the effect this would have on the State's assessed value. As near as we can figure the assessed value of the lands within the area is about $800,000 and of the livestock around $150,000; $1,000,000 would cover it all. The railroad lands being checkerboarded are assessed at lower figures than would be solid similar tracts elsewhere. The taxable livestock is rapidly diminishing and next year will be much less than the figure quoted.

If lieu lands in solid body can be entered elsewhere their assessment should be materially higher. Moreover they can be used continuously and profitably for grazing purposes by tax-paying owners or renters which is not the case here. It is true that these exchanges would to some extent benefit the railroad, it is also true—in my opinion—that they would to an even greater extent benefit the State.

TO FENCE IT

A part of the plan as I have it in mind is that the extended reservation area be fenced as rapidly as possible and that such Indian allottees as still remain outside the extended area be urged and encouraged to move back within it. There are a good many allottees outside the area but it will be a great deal easier to deal with them in a reasonable way if this extension is made than if it is not. Those who can not amalgamate harmoniously with the outside world should be encouraged to return to the extended reservation. Another part of the plan, as I understand it is that if the State desires to retain either all the rights or only the mineral rights on any of the school sections clear listed to the State, or which eventually shall be so clear listed, it shall have the option to do so and that in the meantime the Indian Office or the Indians themselves shall pay the State a reasonable grazing fee for such sections. It is also contemplated that the State for the lands it elects to release shall have a priority right of lieu selection.

This in brief is the proposal and I hope this statement may help to make the matter clear in the public mind. It is no new proposal. As far back as 1914 Father Weber, a lifelong friend of the Navajos, urged a similar course. In 1921 General Scott insisted that some such solution was demanded. At various times there have been conferences of and petitions from the people in and around Gallup urging that this be done. These people generally realize that the Navajo Indian is their principal asset and far from discouraging the consummation of this proposal are, I believe, almost unanimously in favor of it.

HINKLE'S POSITION

I have recently discussed this matter very fully with Governor Hinkle. It was very unfortunate for all of us that he was not in the State at the time of our conference of October 16. Naturally his first interest is for the State and it is his duty to see to it that the State's rights and privileges are fully protected at all times. My own feelings in that respect are no less definite than his and I should be the last person to advocate, personally or in any other capacity, any cause which might result in harm to the people of New Mexico. A proposition of such magnitude and so significant as this can not be finally adjusted without much consideration and considerable discussion, but it is essential that all interests affected be fully in accord before definite action is determined upon. It is also true that any such problem is sure to be linked up with collateral issues of more or less importance and that its proper solution may depend upon finding an answer to some questions not immediately connected with the main issue. I am sure that the governor will be more than ready now that he knows the circumstances of this very complicated situation to cooperate in any way he can in finding its proper solution, a solution which under all the circumstances will be for the best interest of all concerned and, is is hoped will settle many vexatious problems.

HINKLE PROTEST AT LOSS OF SCHOOL SECTIONS "MISLEADING"

LOCAL LAND OFFICE TAKES ISSUE WITH GOVERNOR OF RECENT STATEMENT

That Governor Hinkle's recent protest at the alleged action of the Government in seeking to recover school sections granted to the State and found to be mineral lands is incorrect and misleading, especially where the governor seeks to impute "vicious" motives to the Government in, as intimated, changing its mind about the land when oil was discovered, is declared in a communication received by the New Mexican to-day from Register A. M. Bergere of the United States land office here. The reply to the governor follows:

ANSWER TO GOVERNOR HINKLE'S STATEMENT REGARDING STATE SCHOOL LAND

In the Santa Fe New Mexican and other papers in this State of date of November 5, 1923, there appeared an article purporting to be a statement issued by Governor Hinkle, complaining of action by the land department of the Government and the local United States land office in particular, concerning certain sections of alleged school land in the northwest part of the State. The article calls upon the people of New Mexico to "rise up and protest" in order to secure justice for the State.

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Ordinarily this office would pay little attention to such newspaper criticism but this article coming from the source to which it is credited and containing as it does statements that are incorrect and misleading and not in accordance with the facts, we deem it proper to make answer in order to keep the record straight.

The article begins with the statement that the register and receiver of the local land office have actually cancelled 112 sections of school lands. Unfortunately, there are many people in the State not familiar with land-office practice, who might take that statement as an actual fact, but those familiar with the practice know full well that the register and receiver have no power or authority to cancel any entry or selection, except upon its voluntary relinquishment by the claimant, or upon orders from the General Land Office, neither of which has taken place with regard to the selections referred to.

It must be remembered that the land department is charged with the duty of administering the laws relating to the disposal of public lands that have been enacted by Congress.

By the acts of June 21, 1898, sections 16 and 36 in every township of the Territory of New Mexico, where said sections or any part thereof were not mineral, or had not been otherwise disposed of, were granted to the Territory, and by the enabling act of June 20, 1910, an additional grant, under the same restrictions or conditions, of sections 2 and 32 in each township was made to the State. Each of the granting acts made specific provisions that when sections 16, 36, 2, or 32 or any part thereof was lost to the State by reason of being mineral in character or because of prior sale or disposal, the State should have the right to select an equal area of indemnity land. During the latter part of President Wilson's administration, the then Secretary of the Interior, on February 15, 1921, rendered a decision in the case of the United States *v.* The State of New Mexico, in which, in interpreting the act of June 20, 1910, he held:

"The grant to New Mexico of additional school lands, sections 2 and 32, by section 6 of the act of June 20, 1910, took effect on January 6, 1912, the date on which the State was admitted into the Union, and to except lands therefrom, on account of their known value for coal, the determination of their character must be made as of the latter date."

With that interpretation the administration of the granting acts can only hold the rights of the State attached as follows:

If on June 21, 1898, sections 16 and 36 were surveyed, title to the land therein vested in the State on that date unless at that time they were known to be mineral in character, and where said sections 16 and 26 were unsurveyed on June 21, 1898, title would vest in the State on the date of the approval and acceptance of the plat of survey by the General Land Office, unless at that date they were known to be mineral in character. As to sections 2 and 32, if surveyed at that time, title passed to the State on January 6, 1912, the date of its admission into the Union, unless at that date they were known to be mineral in character, and if unsurveyed on January 6, 1912, the rights of the State would attach as of the survey by the General Land Office unless they were known to be mineral in character, and if unsurveyed January 6, 1912, the rights of the State would attach as of the date of acceptance of the plat of survey by the General Land Office unless they were known to be mineral in character at that time, in any controversy as to whether any given tract was known to be mineral in character on the date on which the State's right would otherwise have attached the burden of proof is upon the Government.

GOVERNMENT CONTESTS

The Government instituted adverse proceedings against the State's claim to something like 200 sections or parts of sections in the northwest part of the State upon the ground that the land embraced in those particular sections or parts of sections were coal in character, and were known to be such at or prior to the date on which the rights of the State could, under the law, have attached. In each case the State made answer denying the charge, and asked for a hearing to determine the matter, which was granted and hearing was duly had. At the hearing the Government submitted a large volume of testimony including the testimony of expert mineral examiners who had made a thorough and extensive examination of the field and of the individual sections. For some reason the State did not offer a single witness or submit or produce a word of direct evidence tending to disprove the charges made by the Government or to sustain its contention that the land in said sections was not of known mineral character.

LAND OFFICE IMPARTIAL

The record made at this hearing was voluminous and has required a great amount of our time for a study and examination, but we have rendered decisions covering more than half of the cases involved, and contrary to what the newspaper article mentioned would lead the people to believe, our decision was not favorable to the Government in all of the cases involved, but was favorable to the State as to a number of sections where we felt that the evidence produced by the Government did not clearly sustain the charge as to those particular sections being known to be mineral in character on the dates the rights of the State attached in those cases.

Another misstatement in the published article is: "The State has had possession of sections 16 and 36 for a period of 25 years and of 2 and 32 for almost 12 years."

As is very well known, a large number of townships have been surveyed in the last few years, and as we have already pointed out, as to these townships the right of the State could not and did not attach prior to the approval and acceptance of the plat of survey and it may be added right here, that as to the cases so far decided by this office, our decision and recommendation was favorable to the State in each and every instance where the rights of the State would have attached as of June 21, 1898.

Said article would also create the impression that the State had no knowledge that the Government would claim these sections to be known coal land until from 1920 to 1923. Answering this, it is only necessary to say that a large part of these lands were included in coal land withdrawals and classified as coal lands during the period from 1904 to 1908, and that, it will be observed, was several years before the State's claim could attach to any section 2 or 32.

The governor's article in paragraph five of his statement implies that the only evidence presented by the Government was testimony based on examination made in 1916, and he also intimates that there is a vicious reason for present activities in this regard on behalf of the Government namely the recent activities in regard to oil in this region. With all due respect to the governor, it is emphatically stated that he is grossly misinformed.

The facts are, and the records show, that examination of the coal field and school sections involved were made during all of the season from 1906 to 1916, and reports made thereon to the then officials of the Interior Department of the Government, and approved by them. The records also show that in each case involved, where decision was against the State, evidence was introduced of coal land withdrawals, and in many cases coal classification of the section involved, together with numerous reports by the Geological Survey, showing this whole general field to be coal in character; all of such withdrawals, classifications, and reports bearing date prior to the dates the rights of the State would attach in each instance. This latter hearing on the known character of the land.

Thus, it is seen that the Government has contended these lands were coal in character for nearly 15 years. Will the governor claim there was any thought of oil in said territory at that time?

At any time after lands were classified as "coal lands" the State had a right to select other land in lieu of any section so classified acre for acre. Had the State elected to avail itself of the privilege of making such lieu selection, it could have secured just as good land, acre for acre, and furthermore would receive direct benefits from the coal in the land in controversy since all coal deposits can now only be disposed of under the act of February 25, 1920, under which only 10 per cent of all moneys received as royalty, rental, or bonus under coal leases will go to the United States, the balance of 90 per cent coming back to the State as follows: 52½ per cent through the reclamation fund and 37½ per cent to be paid by the Secretary of the Treasury direct to the State at the end of each fiscal year. (Sec. 35, act February 25, 1920.)

In all public land States the same questions are being adjudicated on the same grounds as to law and procedure.

Finally the decisions in these cases by this office are only in the nature of recommendations and are subject to review upon appeal by both the Commissioner of the General Land Office and the Secretary of the Interior. In the cases so far decided, the State has already filed its appeal to the Commissioner of the General Land Office and the cases are now before that office for consideration upon said appeal.

A. M. BERGERE,
Register, United States Land Office, Santa Fe, N. Mex.

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Chavez Replies to a Statement of A. M. Bergere

ATTORNEY FOR STATE LAND OFFICE DENIES CERTAIN CHARGES MADE BY FEDERAL OFFICIAL AT SANTA FE

Santa Fe, November 14.—The recent statement by Register A. M. Bergere of the Santa Fe Federal land office, in reply to a manifesto by Governor Hinkle attacking the Government's alleged attempted raid on State and school lands, has provoked a counter-reply by David Chavez, jr., attorney for the State land office. He declares Bergere's statement misleading; denies the charge that the State entered no defense in land contests between State and Government, and insists that the Government did not begin contests to recover mineral sections until after the State's right to the lands was established. Mr. Chavez's statement follows:

"The State land office does not intend to fight these coal contest cases between the Government and the State in the newspapers. However, as the local office has placed this office in a position where a few statements may clarify the situation it will do so.

HEARINGS WERE HELD

The State land office knows that the local register and receiver does not have the power to cancel any sections of land which are in controversy between the Government and the State. However, the hearings in these cases were held mostly before the local register and receiver, as his office is considered the lowest court in the Department of Interior and from whose decision an appeal may be taken to the Commissioner of the General Land Office. In the first group of cases decided by the local register and receiver on July 18, 1923, the register and receiver held that the Government had maintained the charges that the lands were known to be coal in character on the date the State's rights were attacked, and the register and receiver recommended that the State's claim to these sections be denied. In this group of cases out of the total of 58 sections the register and receiver held one section in favor of the State.

This office also understands that the local land office has not canceled 113 sections, but out of the 124 cases which have been heard by the register and receiver it has been held that in 115 cases, the Government has proved the charges that the lands were coal in character, prior to the date the State rights were attacked, and has held nine sections favorable to the State.

LANDS GRANTED TO STATE

As stated by the register and receiver these lands were granted to the State of New Mexico by the acts of June 21, 1898, and by the enabling act of June 20, 1910, the granting acts made specific provisions that when these sections or any part thereof were lost to the State, because of being mineral in character, or because of prior sale or disposal, the State would then have the right to select other lands in lieu thereof. The department has also held that if on June 21, 1898, sections 16 and 36 were surveyed, title to the lands therein vested in the State on that date, unless at that time they were known to be mineral in character, an dwhere said sections 16 and 36 were unsurveyed on June 21, 1898, title would vest in the State on the date of the approval of the plat of survey, unless at that time they were unsurveyed on June 21, 1898, acter. If sections 2 and 32 were surveyed prior to June 20, 1910, title passed to the State on January 6, 1912, the date of its admission into the Union, unless at that date they were known to be mineral in character. If sections 2 and 32 were unsurveyed on January 6, 1912, the rights of the State would vest as of the date of acceptance of the plat of survey, unless they were known to be mineral in character.

STATE DENIED CHARGES

Some years ago the Government instituted charges against these sections, claiming that the same were coal in character and were known to be such prior to the date the State's rights attached. The State answered these charges and denied the same. It is true that the Government submitted a large volume of testimony including the testimony of expert mineral examiners. But, in the first 58 cases decided by the local land office and which have been appealed to the commissioner of the General Land Office the State's rights attached on 43 of these cases in 1912, 10 cases in 1915, 3 cases in 1917, 1 case in 1916, and 1 in 1898. The Government introduced evidence of two expert mineral examiners who testified that they had made an examination on these cases in 1916, and both admitted that they had no knowledge of the lands and could not testify as to the coal character thereof as of January 6, 1912. One lay witness in these particular cases testified that he had drilled several water wells on several of these sections. The State at the hearing of these cases objected to the testimony of the two mineral examiners for the reason that the knowledge obtained by them as to the character of these lands was not obtained until 1916, or many years after the right of the State had attached. The State contends that the Government must prove that these lands were known to have been coal in character prior to the date that title vested in the State, and certainly this can not be proved by examination made many years after the right of the State had attached. The Supreme Court of the United States and the Department of Interior has held time and time again that in order to keep these titles from vesting in the State the Government must prove that they were known to be mineral in character prior to the date the title vested in the State.

AS TO "NO DEFENSE"

As to the statement made by the local register and receiver that the State entered no defense as to the Government's testimony, it may be stated that the State did not see fit to introduce evidence against the testimony of the Government, because the burden of proof is on the Government. They must prove that the lands were known to be coal in character prior to the date the State rights attached, or fail in their case. The State cross-examined these witnesses to ascertain from them whether or not they knew that the lands were coal in character prior to the date that title vested in the State. If this fact was not known on that date why should the State call any witnesses? The State denies the charges, and it desires that the Government prove their charges by competent legal evidence and not by any self-made evidence and theories adopted by any group of individuals.

The legal department of the State land office conducted these cases in the manner they thought best, although they may not have been conducted according to the wishes of the register and receiver. Suffice it to state, however, that both of the attorneys in the State land office for the last five years were formerly employed in the General Land Office, and although humble, they are trained in the law and know land office procedure and practice enough to know gow to conduct their own cases; and in a manner which is advantageous to the State.

GOVERNOR MISTAKEN

The Governor of New Mexico may have been mistaken literally in his statements, as he is not as familiar with land practice as our local register and receiver, but it is believed that the local land office was in error in the statement that the Government had contested the sections in controversy as mineral land for some 15 years. The register and receiver well knows that these charges were not made until very recently, that is to say in the majority of cases from dates between 1916 to 1922. These cases were not contested by the Government 15 years ago, unless the register and receiver, who is well versed in land practice, contends that upon lands being withdrawn from entry, or classified as coal at the minimum price, that the same is all that is necessary for the Government to do to contest these sections. If the local land office means this by the statement that the Government contested these sections 15 years ago, because these lands were withdrawn, with all due respects to the local land office they also are misinformed.

STATEMENT "MISLEADING"

The statement that the Government contested these cases prior to the date the State's rights attached is also misleading. The records of the local land office will show that in the majority of the cases involved, charges were not filed until many years after the State rights attached. It is true that in some cases the lands were not surveyed until 1910, 1917, and 1918, but these cases are very few in comparison with the total number of sections contested.

As to the statement that the local land office has held favorable to the State when it appeared that Government evidence was inadequate, it may be stated that this may be true. However, as above stated, out of the first 58 cases submitted to the register and receiver for decision, 1 case was held favorable to the State and 57 in favor of the Government, regardless of the fact that title to the majority of these tracts vested in the State on January 6, 1912, and regard-

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less of the fact that the two expert mineral examiners did not examine this section until 1916.

It is unfortunate that the local land office should place this office in a position where a reply is made necessary, because the attitude of the State land office is not one of antagonism toward the land department of the Federal Government. The State realizes that these questions are to be settled according to law. The State is amply protected because it may appeal these cases to the Commissioner of the General Land Office and from him appeal to the Secretary of the Interior, but as the Federal Government has seen fit to institute charges against the State, as has been done in these cases, the State desired that the Government prove these charges by competent legal evidence. The State maintains that in the majority of the cases involved in this controversy the Government has not proved the charges. Without going very extensively into the evidence it may be stated that the lands have not been proved to be coal. And in the cases which according to the opinion of the mineral examiners they did not prove them to be coal the same were not known to be coal at the time the State's rights attached. The State land office believes that New Mexico has, as a matter of law and justice, good title to a majority of the cases involved; and being of this opinion, the State has decided to combat the theory of the Government even if these cases have to be taken to the highest courts for jurisdiction.

A BILL To provide lands for Navajo Indians in New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the unappropriated and otherwise undisposed-of lands of the public domain within the following-described boundaries, located in San Juan and McKinley Counties, N. Mex., excluding the Manzano National Forest and the Chaco Canyon National Monument, are hereby reserved for the use and benefit of Navajo Indians now living within the area or who may remove therein:

Beginning at a point between township 23 north along the eastern boundary of the Navajo Indian Reservation in New Mexico; thence east 30 miles to intersection of the first guide meridian at northeast corner of township 23 north, range 9 west; thence south 42 miles to southeast corner of township 17 north, range 9 west; thence west 6 miles to northeast corner of township 16 north, range 10 west; thence south 12 miles to southeast corner of township 15 north, range 10 west; thence west to southeast corner, township 15, range 12; thence south to intersection of Santa Fe Railroad right of way at point between township 13, ranges 11 and 12; thence following the railway right of way northwesterly along north side to point between township 15 north and ranges 17 and 18 west; thence north to intersection of Navajo reservation; thence east and north to said point of beginning.

Provided, That the said reservation shall not include any minerals in said land, including oil and gas, and the title to the minerals shall not be changed in any way by this act except as especially provided herein.

SEC. 2. The provisions of this act of April 21, 1904 (33 Stats. L., p. 211) are hereby made applicable to the reservation lands: *Provided,* That in making any exchange hereunder, any land-grant railroad or its successor in interest may reserve the mineral rights in the lands relinquished, the patents for lieu lands to reserve all minerals including oil and gas to the United States.

SEC. 3. Any lands within the reservation, the valid title to which has passed to the State of New Mexico, may be relinquished by the said State which is hereby authorized to select unappropriated and unreserved public domain lands within the said State of the same or approximate appraised value outside of the Indian reservation: *Provided,* That the State may reserve the mineral rights in the relinquished lands, in which event the lieu selections shall be taken with full reservation of the mineral rights to the United States.

SEC. 4. There is hereby authorized to be appropriated from the Treasury of the United States not otherwise appropriated the sum of $200,000, or so much thereof as may be required, to be reimbursable to the United States from Navajo tribal funds to enable the Secretary of the Interior in his discretion and at such price as he may deem reasonable and just, to be determined after a fair and impartial investigation, to purchase the lands, improvements, or other interests owned or to which there is a valid and equitable claim by any person, firm, or company.

DEPARTMENT OF THE INTERIOR,
OFFICE COMMISSIONER OF INDIAN AFFAIRS,
Washington, November 10, 1923.

MR. H. J. HAGERMAN,
Commissioner to Navajo Tribe, Santa Fe, N. Mex.

MY DEAR GOVERNOR: I am wondering if you have explained to Senator Jones the matter of the proposed exchange of lands and the enlargement of the Navajo Reservation in accordance with what is contemplated. You will recall that I stated originally that it would be very necessary to have the cooperation of the State officials and the two Senators and the Member of the House of Representatives, as well as the railway company and the cattlemen. Senator Jones's secretary called this morning, stating that he had a letter from the Senator wanting information and claiming that Governor Hinkle had written him on the subject and that the State was going to appeal or protest or something else, which would indicate that even the governor has not been consulted. I wish you would at the earliest opportunity call upon the governor and get in touch with Senator Jones and assure them that, so far as this department is concerned, it is not contemplated attempting any program that does not have the full approval of all concerned.

We understood at the conference, and are very willing that that condition shall be incorporated in any legislation that may be proposed or indicated, that the State shall retain any mineral there may be in the lands within the present reservation that are to be exchanged and that the mineral, if any, in the lands taken in lieu thereof shall be reserved to the United States.

I hope you will also get in touch with the Aztec Commercial Club. It will be entirely useless to undertake what is so much desired for the Indians unless we can have the hearty support of New Mexico and its delegation in Congress.

Yours sincerely,

CHAS. H. BURKE, *Commissioner.*

SANTA FE, N. MEX.,
November 16, 1923.

HON. CHARLES H. BURKE,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR MR. COMMISSIONER: I have received your two letters of November 10 in regard to the Crownpoint exchanges and note very carefully what you say in regard to the necessity of having the cooperation of the State authorities in New Mexico. I was always very fully alive to that after your first good advice to me on that subject and did my best to get all the State's representatives into the conference here on October 16. It was unfortunate that Governor Hinkle was not in the State at that time and that Senator Jones could not be reached. However, as you remember, Senator Bursum, Acting Governor Baca, and the commissioner of the State land office were present and attentive listeners to all proceedings. They seemed to be in entire accord with the program; in fact Commissioner Baca has since so stated in a public statement.

Governor Hinkle has been away a good deal and I have not been able to see him until yesterday when I had a long conference with him on the subject. He recently made a public statement mainly in regard to the Government's position and procedure in respect to its contests as to the mineral character of the school sections granted to the State by the Ferguson Act of 1898 and the enabling act. In this statement, however, he took occasion to oppose the proposed Navajo extension on very general grounds and without being fully acquainted with the facts in the case. I am sorry he did this without first talking it over with me, and I think he is now sorry that he did so, but the main object of his statement was to protest against the Government's position in regard to the contests of the school sections. The Navajo extension was merely incidental.

No paper has, as far as I know, indorsed his position in the extension matter except the New Mexico State Tribune, a democratic paper of Albuquerque run by Mr. McGee. McGee has obviously done so for political purposes.

After consulting with Mr. Seth, a democratic lawyer here, who is the attorney for the taxpayers' association (of which association I am president) and a rather close legal advisor of the governor, I addressed a letter to the governor outlining the whole business, and yesterday, in the presence of Mr. Seth, had my interview with him using this letter as a basis of discussion.

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The governor did not actually recede from the position he had taken but our conference, which was very friendly, resulted in his getting an entirely different conception of the whole business from that he had before, and in his indicating to me that he would have nothing more to say about it in the papers, I told him that for the general information of the public I would publish a statement practically as contained in my letter to him and also mention the fact that we had been in friendly conference about it and he agreed that it would be a good thing to do. That statement I am sending to the press to-day. I inclose a copy of the same herewith. I prepared it very carefully and think it is essential that it be put out promptly so that the public may be put right on the matter.

Governor Hinkle is very much more concerned about the school-section matter generally than he is about the Navajo extension. As a result of his first statement about that, there has followed a newspaper discussion of the situation by Mr. Bergere, register of the local land office, and a Mr. Chaves, clerk in the State land office. Mr. Bergere's statement is very clear. I hardly think Mr. Chaves's statement will not have any weight. This discussion has not tended to harmonize the situation as far as the governor is concerned and is, no doubt, more or less unfortunate as far as getting his approval of the extension program.

I think that might be materially helped if the State's contests on the mineral character of these school sections which, I understand, are to come up before the department in Washington on December 3 could be promptly considered and decided. I understand that all or many of these contests are now in such shape that they can be definitely disposed of if something is done in the department to expedite the matter. In view of the whole situation and of this controversy here between the State and Federal authorities I hope that something along the lines indicated can be done in Washington. The governor has recently had this matter up before the conference of governors at West Baden and seems to be very keen about it and seems to be making an issue of it. There is no doubt in my own mind that these contests over the school sections in this State have been so prolonged and confusing as to strain the patience of all parties concerned. Where the fault is, if there is any fault, I do not know. There is probably some coal under some of the sections in the proposed extension and the country contiguous to it, but in my opinion it can not be profitable worked in a hundred years.

Whether it logically should or not this condition will complicate the extension program. If something could be done to remedy it that would be fortunate for the Indian Office in its proposals for the extension.

I am inclosing various newspaper clippings as to this situation which will more fully explain what I have been saying.

I shall write fully to Senator Jones about the matter. I understand that he has now returned to Washington. With your permission I would suggest that he confer with you about it and perhaps he may be able with you to see the Secretary. I wrote him a letter about it last April in regard to the matter and he replied very cordially. I inclose carbon copies of this correspondence. I do not think, in spite of the fact that the governor has written him on the matter, that it is going to be very difficult to get the Senator's cooperation.

I think it would be very unfortunate to cease our efforts to consummate this matter because of this apparent opposition on the part of Governor Hinkle. He will, I feel sure, see that to oppose the plan would be very unwise for his administration from any point of view. I shall do all I can from this end to secure the cooperation of the State administration and our delegation in Congress and no doubt similar efforts will be made in Washington.

As to the withdrawal from entry by the President of the proposed area, my telegram in that regard was prompted by a letter from Mr. Stacher in which he said he feared some people would make entries out there for the purpose of holding up the Government when they found out that this extension was contemplated. If this is true a delay in the withdrawal until a bill is actually introduced would no doubt to some extent defeat the purpose we are seeking in the withdrawal. It may be wise if the addition is made to somewhat curtail the area south toward the railroad, but Mr. Stacher was very anxious that area be included because it contains so many allotments. I shall immediately communicate with him about the matter, asking him to designate a new southern boundary of the proposed extension so as to meet with your wishes in that respect. I think it might to advantage be carried a few miles north of the railroad.

I will examine the draft of the proposed bill with care and write you later about it.

Respectfully yours,

H. J. HAGERMAN,
Commissioner to the Navajo Tribe.

NOVEMBER 19, 1923.

Hon. H. J. HAGERMAN,
Commissioner to the Navajo Tribe.

MY DEAR MR. HAGERMAN: Your letter of November 10, 1923, regarding Crownpoint exchanges, is received.

We can not hope to accomplish anything for the Navajos unless there is sincere cooperation all along the line. If Governor Hinkle actively opposes the required legislation, whatever the reason, his influence would probably be sufficient to defeat it. It is therefore believed that you should make an earnest effort to put the whole question before the governor personally in the strongest possible light, explaining exactly why we are attempting to get more land for the Indians of his State, and making it clear to him that the proposed legislation carries an appropriation to be used in buying out certain privately owned interests in the area.

Sincerely yours,

CHARLES H. BURKE,
Commissioner.

PUEBLO BONITO AGENCY,
Crownpoint, N. Mex., December 12, 1923.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEAR MR. COMMISSIONER: You will find hereto attached a map showing the area which we wish to add to the Navajo Reservation in New Mexico, and I have indicated thereon on each township the number of allotments for which patents have been issued but does not include a number of applications which are still pending before the land office. I believe that some one has suggested to you that this area which we propose to include be reduced materially particularly the area shown on the map south of the red line, which extends from the southeast corner of the reservation due east to intersection of the first guide meridian between ranges 8 and 9. I can see no reason and know of no objections by anyone for any protest, or any plausible reason for leaving this part out, as this is our most densely populated Indian country within this jurisdiction. In the 35 townships north of the red line indicated on the map, there are 745 allotments now in good standing; south of this line there are 801 in about 16 townships. Under no circumstances should any agreement be made with any group or faction which will give up our claim to the land south of the red line, as this is the very heart of the Indian country. In the area south of the red line the Indians have the best improvements. They have constructed the largest dams within this area which impound more water in three lakes than anywhere in the Indian country on the public domain in New Mexico. Within this area only can the Indians raise potatoes to any degree of success. This area has a large amount of firewood, mine timbers, and several million feet of natural timber, which should be sawed into lumber and made beneficial use of. There should be no effort spared or anything left undone to have this whole area included in the extension to the Navajo Reservation, as there can be no plausible reason advanced by anyone why this land should not be included in the extension as the Indians have far greater interests than any persons or group of persons concerned. The white stockmen are all in favor of the extension as outlined.

We know the advantage that would be gained for the Indians, and no attention should be paid to anyone who is simply protesting and doesn't know why, with a view of creating political thunder for campaign purposes.

If there is anything further that I can do or any information I can secure by way of statements and affidavits from any one to back up our contention for the entire reservation as outlines, I shall try to get them and furnish your office promptly, for I am sure that we can meet any argument that any one can advance against the proposed extension.

Very respectfully,

_____,
Superintendent.

SFS-JW.
C. c. to Hon. H. J. Hagerman.

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Township	Range	Allotments	Township	Range	Allotments
No. 14 north	No. 12 west	53	No. 18 north	No. 12 west	10
No. 14 north	No. 13 west	17	No. 18 north	No. 13 west	41
No. 14 north	No. 14 west	8	No. 19 north	No. 9 west	19
No. 15 north	No. 10 west	33	No. 19 north	No. 10 west	2
No. 15 north	No. 11 west	60	No. 19 north	No. 11 west	
No. 15 north	No. 12 west	99	No. 19 north	No. 12 west	24
No. 15 north	No. 13 west	72	No. 19 north	No. 13 west	33
No. 15 north	No. 14 west	76	No. 20 north	No. 9 west	1
No. 15 north	No. 15 west	3	No. 20 north	No. 10 west	4
No. 15 north	No. 16 west	1	No. 20 north	No. 11 west	3
No. 15 north	No. 17 west		No. 20 north	No. 12 west	11
No. 16 north	No. 10 west	10	No. 20 north	No. 13 west	2
No. 16 north	No. 11 west	58	No. 21 north	No. 9 west	
No. 16 north	No. 12 west	36	No. 21 north	No. 10 west	10
No. 16 north	No. 13 west	59	No. 21 north	No. 11 west	7
No. 16 north	No. 14 west	57	No. 21 north	No. 12 west	25
No. 16 north	No. 15 west	41	No. 21 north	No. 13 west	14
No. 16 north	No. 16 west	31	No. 22 north	No. 9 west	25
No. 16 north	No. 17 west	87	No. 22 north	No. 10 west	31
No. 17 north	No. 9 west	18	No. 22 north	No. 11 west	41
No. 17 north	No. 10 west	8	No. 22 north	No. 12 west	32
No. 17 north	No. 11 west	28	No. 22 north	No. 13 west	52
No. 17 north	No. 12 west	14	No. 23 north	No. 9 west	65
No. 17 north	No. 13 west	67	No. 23 north	No. 10 west	18
No. 18 north	No. 9 west	30	No. 23 north	No. 11 west	10
No. 18 north	No. 10 west	28	No. 23 north	No. 12 west	15
No. 18 north	No. 11 west	18	No. 23 north	No. 13 west	39

SANTA FE, N. MEX.,
December 15, 1923.

HON. CHARLES H. BURKE,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR MR. COMMISSIONER: I have been making a further careful study of the Crownpoint extension with a view of definitely answering the various inquiries and comments which have been made by you in recent letters to me. There are doubtless some difficulties connected with the proposal but in my opinion none of them is such as to seriously interfere with the consummation of the plan through legislation at this session of Congress along the lines tentatively agreed upon at our conference here on October 16, if the department is still determined that from its point of view the proposal is a good one and should be now pushed to a completion.

A majority of the holders of fee and other interests within the area of the proposed extension are in the hands of three banks, to wit: Merchants National Bank of St. Paul which controls the T. P. Talle interests (The Rito del Plano Cattle Co.), the First National Bank of Albuquerque controlling the Chadwick and Pitts interests, and the Gallup State Bank of Gallup, of which Mr. Gregory Page is president, which has mortgages on various other small interests, a definite list of which I will have in a few days. This, of course, refers to the interests outside of the holdings of the Santa Fe Pacific Railroad and of the New Mexico & Arizona Land Co. which is the subsidiary of the St. Louis-San Francisco Railroad.

It has been my endeavor since last writing you about the matter to discover whether there actually is any opposition to this proposal and if so to eliminate any such opposition in so far as possible. I find after careful investigation on the ground and in Albuquerque and Gallup that there actually is no opposition to the proposal, but on the contrary with one or two minor exceptions everyone is very heartily in favor of it. There is one woman now in the employ of the agency at Crownpoint named Mrs. Jerry Farris, who for some reason is opposed to the extension and who wrote a letter to Senator Bursum which called forth from him a statement published in a Gallup newspaper. I am inclosing clipping from the said newspaper with this statement from the Senator. I talked with Mrs. Farris of Crownpoint and Mr. Stacher advises me he will see her husband and I am confident that after these interviews there will no longer be any opposition from these people. They have a homestead near the Seven Lakes and I believe still have hopes that oil will be developed there and that through such development they could make money as traders. Inasmuch, however, as there will be no obstacles toward the development of oil, if it is there, the extension of the reservation would not interfere with their activities as traders.

Outside of this preliminary objection of Mrs. Farris I have, as stated above, found no opposition anywhere to the proposed extension, except that the representatives in New Mexico of the New Mexico & Arizona Land Co. are not yet willing to assent to the plan of exchanging their lands within the area for lieu lands outside. I will refer more particularly to this phase of the matter later.

Bearing particularly in mind your various suggestions as to the inadvisability of putting the southern boundary of the extension as far south as originally proposed, I have fully discussed that matter on the ground with Mr. Stacher, Mr. Staples, of Thoreau, a trader there who is very fully in touch with the situation, and with Messrs. Page, Cotton, and others in Gallup. Through Mr. Talle the matter was also taken up fully with Mr. A. T. Hannett, of Gallup, a prominent Democratic leader there. Mr. Hannett is now perfectly satisfied with the proposal in case the line can be thrown a little farther north than the railroad right of way. The other men mentioned are still very anxious that all of the area originally proposed be included. However, after carefully appraising the whole situation, I recommend that the line be drawn as indicated by the shaded line on the inclosed map and marked "Boundary proposed extension No. 2." The proposed extension No. 2, so mapped, will include the same area as No. 1, north of the township lines between townships 16 and 17 north, but south of that line would include only the following area:

Townships 16–10, 16–11, 16–12, 16–13, 16–14, 16–15, 16–16, 15–10, 15–11, 15–12, all of 15–13 north of the boundary line of the National Forest. Sections 1–12, inclusive, in township 15–14; sections 1–12 and those portions of sections 17 and 18 north of the Fort Wingate boundary in township 15–15, and all that part of township 15–16 north of the Fort Wingate Reservation.

By drawing the line this way the area containing a very large number of Indian allotments can be included in the extension. At the same time the national forest will be cut out of the actual extension, but the extension will adjoin the forest so that the Indians can use the forest for grazing as they do now if arrangements with the Forest Service are continued for that purpose. This plan will also connect up the extension with the Fort Wingate Military Reservation, so that if, as is hoped, the Wingate Reservation is turned over to the Indian Office for an industrial school the reservation will be immediately contiguous to it. This plan will also eliminate a considerable area north of the railroad which, while it contains a number of Indian allotments, also includes a number of homesteaders who might be difficult to deal with. I inclose a copy of a letter just received from Senator Jones in reply to one I recently wrote him about this matter, which, as you see, is quite cordial and sympathetic. Apparently the main feature of the matter which concerns him most is the fact that there will be a large number of allottees outside the proposed area in any case, and that is a feature of the situation I am unable to make any more suggestions about than I have already made and which the office is undoubtedly carefully considering. However, the inclusion in the proposed extension of the tiers of townships in 15 and 16 north will go a long ways toward adjusting this matter, and I will point that out in a further letter to Senator Jones.

While at Crownpoint I made a long day's trip over a considerable area of the district with Mr. Stacher with a view particularly of seeing as much as possible the areas controlled by the Talle, Pitts, and Chadwick interests. Instead of going into the details of this trip in this letter, I am including herewith a memorandum in regard thereto made on the ground at the time. I will say briefly, however, that I reached the conclusion as a result of this examination that the tracts actually owned by these particular interests and the actual improvements thereon in the way of buildings, fences, and wells are not very considerable. On my return to Crownpoint I discussed the details of these interests very fully with Mr. Stacher, and he has since written me a letter dated December 12, a copy of which is herewith inclosed. On the same day he wrote a letter to the commissioner giving his views in regard to the matter and further detailed information concerning the various private holdings in the district.

I have had various conferences with representatives of the First National Bank of Albuquerque since October 16 with a view of securing from them a definite statement as to what they would turn into the Government the Chadwick and Pitts interests. I inclose herewith a letter from Mr. Lawrence F. Lee, the bank's attorney in Albuquerque, in which he offers to turn over the Chadwick interests for $35,000 and the Pitts interests for a like amount, and a carbon copy of my reply to this letter in which I state that I believe this figure is unreasonable. Reference to my previous correspondence will show that the first tentative figures mentioned for these interests were $25,000 each instead of $35,000 each

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that they now ask for. I also inclose a copy of a letter from R. C. Lilly, secretary-treasurer of the Rito del Plano Cattle Co., dated October 8, 1923, offering the Talle interests to the Government for $75,000, and containing a schedule of their interests which aggregates the sum of $96,248.21. As stated above I had, while in Gallup, a long conference with Mr. Page in regard to the interests he controls, and he definitely promised me to send in a schedule of these interests with definite offers as to the figures for which they would sell to the Government.

These banks are undoubtedly impressed with the fact that the present situation offers to them the best opportunity they ever have had and probably ever will have of realizing on the indebtedness of these various landholders within this district. I have endeavored to impress upon them this fact and also that if they were unreasonable in their proposals that it would very likely upset the whole plan. I have also tried to show them that while these stockmen will naturally attempt to obtain payments from the Government which will permit them to get as much as possible over the sums due by them to the banks that rather than jeopardize the success of the whole plan it would be well for the banks to compromise their claims and accept from the stockmen less than the face of their indebtedness in order to carry the project through. While it is undoubtedly true that the compensation which should be paid these stockmen should not actually be measured by the strict cash value of the land and improvements held by them, I have insisted that the banks and the stockmen themselves can not presume upon the situation to demand unreasonable considerations. They are undoubtedly prepared, I think, to come down considerably from their original appraisals.

My impression still is, as it has been all along, that the only practicable method of procedure is that already proposed and embodied in the draft of the bill which you have heretofore sent to me, viz, that a lump sum of $200,000 be, if possible, appropriated in the bill and that if it passes then the various interests be asked to get together in a sort of creditors' committee with a view of apportioning all or part of this appropriation along the most feasible lines. I am still under the impression that $200,000 is sufficient to appropriate and will be enough to reasonably take care of the interests which must be bought out in order to consolidate the proposed area.

I have not as yet been able to reach any understanding with Colonel Hughes, who is the representative of the New Mexico & Arizona Co., as to the exchange of the odd numbered sections controlled by that company within the proposed extension. If the extension is made as proposed in our last plan it will include most of the odd numbered sections in townships 15–12, 15–13, 16–12, 16–13, 16–14, 16–15, and some of them in townships 17–12, 20–12, 21–12, 15–14, 15–15 which are still owned by the New Mexico & Arizona Co. Colonel Hughes advises me that in recent conferences held by him with his directors, including J. M. Kearns, president of the St. Louis & San Francisco Railroad, with headquarters at St. Louis, and J. & W. L. Seligman, bankers of New York, that the conclusion was reached that they would not at present wish to consider the exchanging of these holdings of theirs for lieu lands outside and that their reason for this opposition is the possibility of oil development in this area. He states that his company is negotiating with various California and other parties for leases and that in fact the discovery of oil on the Hogback has produced a great deal of excitement in New York and given rise to new hopes by his directors and stockholders and that this land which they held at a loss for many years may be sold at a high price at this time. My own impression is that the chances for oil in this area are very remote. I have told Colonel Hughes repeatedly the Government does not propose to retain the mineral rights in case the owners desired to reserve them. These suggestions have also been made in conversation with Colonel Hughes that if any of their areas are included in the extension they might be willing to agree with the Government to lease the grazing rights to the Indians at a reasonable figure until such a time as they might be willing to make exchanges for outside lieu lands on the lines proposed to and tentatively accepted by the Santa Fe people.

As to the State of New Mexico I am unable to offer further suggestions than those I have already made. I have not heard from the department as to whether it had any negotiations in Washington with the attorney general of the State and the representative of the State land office when they were recently there in connection with the school section mineral contests. My strong impression is that there will be no further opposition on the part of the State to the inclusion of the school sections in the plan of exchanges providing the mineral rights can be retained. Moreover, I think if the law is passed permitting the exchanges

that the State will elect finally to exchange a number of these sections for outside ones not reserving the mineral rights.

I am sending you under separate cover a tracing which I have had prepared from memoranda and maps furnished me by Mr. Stacher. I respectfully request that the tracing and about 10 blue prints of this map be returned to me after such blue prints have been made for the use of the office as the office may desire.

Respectfully yours,

H. J. HAGERMAN,
Commissioner to the Navajo Tribe.

CONFERENCE IN REGARD TO NAVAJO LAND EXCHANGES AND PURCHASES HELD IN THE OFFICE OF H. J. HAGERMAN, SPECIAL COMMISSIONER TO NEGOTIATE WITH INDIANS, AT SANTA FE, N. MEX., ON JANUARY 24 AND 25, 1930

There were present: H. J. Hagerman, special commissioner; S. F. Stacher, superintendent Eastern Navajo Agency, Crownpoint, N. Mex.; John G. Hunter, superintendent Southern Navajo Agency, Fort Defiance, Ariz.; John E. Balmer, superintendent Leupp Agency, Leupp, Ariz.; C. L. Walker, superintendent Western Navajo Agency, Tuba City, Ariz.; Deshne Clahcheschillige, president Navajo Tribal Council, Shiprock, N. Mex.; C. E. Faris, industrial supervisor, Albuquerque, N. Mex.; W. B. Collinson, land commissioner of the Santa Fe Railroad Co., Topeka, Kans.; C. E. Roblin, allotting agent, Crownpoint, N. Mex.; T. W. Cabeen, vice president Arizona & New Mexico Land Co., Albuquerque, N. Mex.; and W. R. Johnston, Eagle Rock, Calif.

Mr. HAGERMAN. This is a meeting called under instructions of the Commissioner of Indian Affairs—a preliminary meeting—with a view of trying to outline, not the policy connected with the purchase of these lands for the Navajo Indians, but a specific program of what we all think can possibly be secured for them. The main difficulty as I see it is to so arrange the matter that we will have a reasonable chance of consummating it in Washington, and of quelling, as it were, the opposition that has arisen here in the State to it. Of course for many years, since 1923, we have all been trying to solve this matter of additional lands for the Navajo Indians, and as you all know, at that time, in the fall of 1923, when Mr. Howell Jones was still living, we had a meeting here in Santa Fe which promised success, and by which a very large contiguous area to the east of the reservation would have been added as an Executive-order reservation; not so large an area as had been hitherto under Executive order added, but certainly a much larger one than we can now hope to get, and since then the matter has gone on in one way or another with more or less success, an occasional purchase here and there which helped the situation out, until the discovery of oil in the Shiprock district, which put a new aspect on it. The Navajos at their tribal councils have all agreed that the best use a considerable part of the money could be put to would be to purchase those lands contiguous to the reservation to the west, east, and south which they need.

The only controversy at the councils have been what share of the money should be so used, and that has been a rather friendly discussion. I think, while the desires of the council are not binding on the Government, the Government is very much inclined to follow the wishes of the council in this respect. Unfortunately, the amount of money available is not anywhere near as great as we anticipated it might be, and in view of the policy of the present administration in not extending the oil explorations in the Shiprock district, it is not likely that the income will increase very much, although it can be said in that respect that the present three leases promise to be steady producers for a number of years, and when they get into the deep sands there, will probably increase considerably. There is a vast amount of oil available in the deep sands in the Rattlesnake and probably under those other structures there, but from the present state of the oil market it doesn't pay to dig into it, being over a mile and a half deep—so I don't think that in the next five years the income from oil there will be more than about, I should say, an average of $12,000 a month. I think that can be counted on, that would be $144,000 a year. We might put it up to $150,000 a year. Now what the policy of the Government is going to be about this I don't know. Whether they are going to encourage any recommendations from us to ask for block appropriations to be reimbursable out of the tribal funds so as to be able to buy all of this land you want I don't know, but I hardly think they will. I think we ought to approach this subject here to-day from the standpoint of

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trying to find out just what lands are wanted by the various superintendents, looking at the problem as a whole rather than a segregated problem, and then, through the representatives of the railroad companies, who are here, try to find out from them what part of those lands so wanted can be secured either by exchange or purchase, and then, from the lists and schedules so outlined, try to make a tenative plan of what would be best to buy with the money now available, which, as I understand it at the present time is about $400,000. However that may be, I think the best thing we can do now is to start in with Mr. Stacher. It seems to me the best procedure would be if possible to get from you, Mr. Stacher, what you would like to secure through exchanges if you could get it.

Mr. COLLINSON. A large area in which exchanges are proposed now on the records of the General Land Office is withdrawn for coal classification. Our information indicates that there is not commercial coal in this district, and action by the General Land Office to remove this restriction would place the lands in condition for such exchanges as are proposed. The information we have indicates that through a considerable portion of this district there is a vein of coal from 600 to 900 feet deep and not to exceed 6 inches in width.

Mr. STACHER. The lands referred to by Mr. Collinson are not the lands on which the outcrops of coal are known west of the headquarters which are against the mesa.

NOTE.—Mr. Hagerman will immediately find out when he gets to Washington whether a report on this has actually been made and if not, he will endeavor to get this restriction removed in any case, so that exchanges can be effected under the law.

Mr. HAGERMAN. In townships 18 and 19 north, 12 west, in which Mr. Stacher proposes to exchange the railroad sections for lieu lands in 18, 19, 20 north, 11 west.

After discussion Mr. Stacher stated that he had agreed with Mr. Collinson as to the exchange proposed; that is, the exchange for lands in 18, 19 north, 12 west for lands in 18, 19, 20 north, 11 west, in spite of the fact that in the latter strip of townships there are 16 Indian allotments. It was remarked in the discussion that whatever arrangements could be made here or elsewhere in connection with this whole matter, a certain amount of give and take will have to be agreed upon in order to reach any agreement. It will be absolutely impossible, as it now appears, to get all of the lands in the country east of Crownpoint blocked up for the Indians upon which some allotments now lie. This exchange is now before the department with letters from Mr. Stacher. Refer to letter of December 5 from the commissioner to Mr. Stacher (L-A 51079-29); also a letter from the commissioner to the Commissioner of the General Land Office dated January 11 (L-A 51079-29) asking whether, from the standpoint of the General Land Office the exchange could be made. It seems that this matter should be consummated as quickly as possible in order to test out the workability of the exchange order, especially since the amount to be bought can not be very accurately figured until we know how much land can be acquired through exchanges.

On the basis that a workable scheme of exchanges will be rapidly arranged, Mr. Stacher, Mr. Collinson, and Mr. Cabeen were asked what other exchanges might possibly be effected in this region. It was stated by Mr. Stacher and Mr. Collinson that it would be difficult to designate at this time exactly what areas might be exchanged, but that in a general way they both believe that consolidations could be effected by exchanges of all of the townships immediately adjacent to the reservation on the east and within the 50-mile line. This would include townships 17, 19, 21, 22, 23 north, 13 west. Therefore these townships should be excluded from the discussion at this time as to direct purchases.

(Mr. Cabeen, vice president of the New Mexico & Arizona Land Co., stated that his company has not viewed with favor the exchange of lands under the provisions of the act under discussion here.)

Mr. HAGERMAN. The matter of the Puertecito and Canoncito areas have been discussed, but inasmuch as the Puertecito tract is to be purchased by a special appropriation of $35,000, it doesn't involve any expenditure of the tribal funds.

Prior to the discussion of the general purchases adjacent to the reservation, the matter of the Canoncito area was taken up, and it is the opinion of the meeting that this should be provided for in the same manner as has been provided for the Puertecito purchase. Mr. Stacher will make specific recommendation of the exact areas which it is desirable to get.

Mr. HAGERMAN. I have here before me a rough map presented by Mr. Stacher showing the townships east of the reservation which he would like, if possible, to get for the Indians, and at the same time I have a list prepared by Mr. Collinson of the townships in New Mexico which he, in behalf of the Santa Fe, says he is now willing to negotiate for. The acreage of the lands Mr. Collinson is willing to sell at this time is 63,568 acres. Most of that is in the country adjacent to the southern Navajo jurisdiction, and none of the land so listed is within the area that Mr. Stacher would like to get. Mr. Stacher's list includes 34 townships of the Santa Fe lands, not including about 13 townships held by the New Mexico & Arizona Land Co. However, from the 34 should be deducted the 6½ townships which we hope will be cared for by exchanges. That leaves about 27 townships that he would like to get from the Santa Fe.

Mr. COLLINSON. My position at the present time—I would prefer to see what we can do with exchanges before we consider any purchases in the eastern Navajo country.

Mr. HAGERMAN. Would you go any further than that and say that if the exchanges could be satisfactorily arranged for, you would consider the sale of any lands in that vicinity, outside of those that may be arranged for by exchange?

Mr. COLLINSON. I have not studied that situation, but further additional purchases might be considered. I would be very glad to consider it but I can not make any definite statement.

Mr. HAGERMAN. Mr. Stacher's list, including those which we hope to arrange for through exchanges, embraces approximately the following townships, which, as will be seen, are scattered over a vast territory running about 60 miles, in some cases, east of the reservation. As heretofore stated, there are allotments scattered through this whole territory. However, if the railroad company is unwilling, on account of its commitments to non-Indians in this territory, or for any other reason, to discuss exchanges in that area, there is no other way to get the land. To the direct question to Mr. Collinson as to whether the railroad company is willing to discuss it, he stated that he would rather not discuss it until after the matter of exchanges had been definitely decided upon, as to whether the railroad would, if exchanges were satisfactorily settled, sell any of these lands. It is, as I understand it, a subject which Mr. Collinson will have to look into before committing himself further.

The discussion demonstrated that the future of the Crownpoint area depends largely on the success of the exchange policy, but this probably can be extended so widely as to perhaps make purchases in that general vicinity, outside of the New Mexico & Arizona Land Co. purchases, unnecessary. Mr. Collinson and Mr. Stacher, with Mr. Roblin, will do everything they can in the immediate future to more clearly designate what lands might possibly be secured by exchange.

Mr. Stacher stated that they would like to get from the New Mexico & Arizona Land Co. the railroad lands held by that company in the following townships: 12, 13, 14, 15 west, 16 north; 12, 13, 14, 15 west, 15 north, and those parts of 12, 13, 14 west, 14 north, lying north of the Santa Fe Railroad; 12 west, 20 north, and part of 12 west, 21 north, containing 123,678 acres. As stated before, the New Mexico & Arizona Land Co. is not favorable or interested in exchanges, and the only way of getting this would be by outright purchase. It is stated that about 10 per cent of this land has some timber on it. There is commercial timber on parts of four townships, that is, through the odd sections in the Mansano National Forest.

Mr. Stacher stated that they are more valuable on account of the timber that is located on several townships that could be made available for the Indians through the installation of a small portable sawmill; and that two-thirds of this country is covered with pinon trees, and some years they would pick and market nuts to perhaps the value of $100,000.

Mr. HAGERMAN. Tell us why this land is necessary for the Indians.

Mr. STACHER. Because of the large Indian population in that area, and in several townships practically all the Government land is allotted to the Navajo Indians. The entire area is now under lease by the Indian Department for the benefit of the Indians.

(Mr. Cabeen stated that they would not have to sell the whole tract, but would consider negotiations for any part of it.)

Mr. HAGERMAN. With this in view, I will ask Mr. Stacher to indicate, if he can, which part should be considered if it is impossible at this time to buy all of it.

It seems to be agreed that if any of the tracts should be first left out it is 20 and 21-12. Mr. Cabeen states they would prefer omitting these as against any of the balance.

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Before going into the Arizona proposition I would like to discuss the areas in western McKinley County which are included in the list presented by Mr. Collinson as lands which the railroad would be willing to sell to the Government for the Indians. These areas are in townships:

	Acres
Township 14 north, range 18 west	8, 971. 52
Township 14 north, range 19 west	9, 748. 74
Township 14 north, range 20 west	10, 016. 27
Township 14 north, range 21 west	3, 907. 79
Township 15 north, range 20 west	10, 232. 46
Township 15 north, range 21 west	3, 891. 26
Township 16 north, range 20 west	11, 519. 72
Township 16 north, range 21 west	4, 225. 54
Township 17 north, range 20 west	847. 86
Township 17 north, range 21 west	206. 97
Total	63, 568. 13

which are situated west, and on one case south, of the township in which the town of Gallup lies.

In addition to the townships which Mr. Collinson says the railroad is now willing to sell, Superintendent Hunter has in mind as desirable the tier of three townships south with 18, 19, 20 west, 13 north, and 19, 20 west, 11 and 12 north. However, in regard to these additional areas which Mr. Hunter thinks are very desirable, if possible to obtain, Mr. Collinson says the railroad does not now want to negotiate, that they would prefer to confine their present sales and negotiations to those above mentioned. The reason for the railroad's not desiring to negotiate for these additional areas is that there is a good deal of timber cutting going on in them at this time.

In regard to this general area, taking it up township by township, it is agreed that the present endeavors will be confined to the following townships: 16 north, range 19 west. Here Mr. Hunter and Mr. Collinson think an exchange can be effected whereby the Indian land can be consolidated in the north half of it adjacent to the reservation and the railroad land in the south half. Mr. Hunter thinks this would be all right. There are 64 allotments now in this township. In township 20 west, 16 north there are 63 allotments. The railroad proposes to sell the railroad land there. In fractional township 21 west, 16 north there are 20 allotments. It is immediately adjacent to the reservation. Taking up townships 20 and 21 west, 15 north there seems to be very few allotments in these two. There are only 16 allotments in the township and a half, but Hunter and Stacher both state that there are a lot of Indians there entitled to allotments and that it is desirable to secure this land if possible.

Then, take the tier of 3½ townships south of this, that is, 18, 19, 20, and 21 west, 14 north, there are 142 allotments in these 3½ townships, which makes it a very thickly settled Indian country. Whatever else is done, this area should certainly be purchased if possible.

While the three tiers of townships south of those mentioned are apparently not now available for the reasons above stated, Mr. Hunter thinks they should be arranged for as rapidly as possible.

The township in which the town of Gallup is situated would, in case of the blocking up of even the area mentioned herein, practically be surrounded by Indian land, inasmuch as the area to the east of Gallup and adjoining Wingate has already been obtained by the Government for the Indians. I asked the meeting what they thought the reaction would be from the people of Gallup. I am not so apprehensive of that as to what might be made of it by the people who are opposing the acquisition of any more land for the Indians.

(Mr. COLLINSON stated as follows: The lands involved are all at the present time leased to the Indian Department and are used exclusively by them.)

Mr. FARIS. As to the attitude of Gallup, the few that I have talked to seem to give out the impression that that is the unique situation which Gallup desires, that it be the largest town within the Indian country in the Southwest.

Mr. COLLINSON. Mr. Cotton urged me to do what I could to work out this matter, making the statement that the Navajos could wrest a living from that country when no white man could make a success.

DESHNE CLAHCHESCHILLIGE. I think Mr. Cotton's statement is correct.

Going over the line into Arizona, Mr. Hunter states that they would like to get railroad lands in townships 21, 22, 23 north, ranges 29, 30, 31 east. Also townships 21 north, range 28 east; 20 north, 28 east; and 19–28, 19–29, and 19–30.

Of these the railroad at the present time is willing to negotiate for 23 north, range 29 east; 23 north, 30 east; fractional townships 23 north; 31 east, 22 north, 29 east; 22 north, 30 east; 22 north, 31 east. The rest of the area desired by Mr. Hunter at this time the railroad would rather not negotiate for, for the reason that it is already leased to bona fide stockmen from whom the railroad doesn't care to try to take it away, and because the railroad thinks as far as they are concerned it would be better policy at this time to confine the proposed purchases to lands more nearly adjacent to the reservation.

Taking up the four whole townships and the two fractional townships in the Arizona area which the railroad is now willing to negotiate for, there are not many allotments at this time in 23 north, range 30 west, or 23 north, range 31 west. It is rather rough land and immediately adjacent to the reservation, and it is in fact used almost entirely by Indians, so it would be advisable to secure this, as well as township 23 north, 29 west. The two townships south, however, that is 22 north, 29, 30, and 31, contain 105 allotments. It is true that township 21 north, range 29 west, contains 26 allotments and that there are 22 allotments in 21–28. But for the reasons mentioned above the railroad is not willing at this time to enter into negotiations about it.

Before going into the Leupp and Western Navajo situations, Mr. Stacher brought up the Ramah situation. The Ramah Indians number about 335. The lands which it is desired to secure for their use are situated in townships 10 north, 15 and 16 west; 9 north, 14, 15, 16 west. In townships 10 north, 15 and 16 west, 14 sections have been secured from the Vogt Sheep Co. by purchase during the last year out of the general $1,200,000 appropriation reimbursable for $2.25 an acre, a total of 8,960 acres. This takes care of all that part of 10 north, 16 west, adjacent to the Zuni Reservation and to the two tiers of sections in the west part of 10 north, 15 west, and 9 north, 14 west, belonging to the McKinley Land & Lumber Co. which it is desired if possible to purchase. The amount which it is desired to purchase from the McKinley Land & Lumber Co. is 10,877.6 acres at $2.25 an acre. Messrs. Stacher, Roblin, and Faris all think that with the purchase of this acreage, combined with the acreage already bought from the Vogt Sheep Co., and the allotments in the general vicinity, the area would be well controlled for these Indians.

In view of the fact that the Government has committed itself to the policy of purchasing by separate appropriation outside of the tribal fund of the Puertocito area, and of the great necessity of using all of the tribal money for purchases immediately contiguous to the reservation, it would be well if possible to secure gratuity appropriations for the purchase of this land.

In connection with the land already purchased from the Vogt Sheep Co., and which it is hoped can be purchased from the McKinley Land & Lumber Co., Assistant Commissioner Scattergood has, in a letter dated September 20, 1929, to Mr. Stacher, called attention to the regulations of September 19, 1922, Circular 850, which provides in effect that any lands relinquished to the United States under such regulations will be definitely and permanently withheld from entry until otherwise ordered. This is significant in connection with the whole matter of exchanges, and the question arises whether these regulations referred to by Mr. Scattergood would not be sufficient to take care of the exchanges in the Crownpoint area; that is, to the extent of insuring them against other than Indian use.

Memorandum: Inasmuch as some doubt has been expressed as to whether under a change of administration some of the lands purchased really for the Indians might not be open to entry, the matter should be made certain in Washington that the present regulations are sufficient to guarantee the permanent use by the Indians of all of these lands which we may get, either by exchange or purchase.

Mr. Cabeen of the New Mexico & Arizona Land Co. states that his company will be willing to exchange their lands in townships 8 north, 14 and 15 west, and 7 north, 14 west, under the exchange law. He further states that he will do this, however, on the understanding that the regulations be adjusted agreeable to Mr. Collinson. This would tend to round up and consolidate the Ramah area.

It seems certain from what Mr. Roblin and others say that the present provisions of the law are sufficient to insure the lands in the Indians which are purchased, especially out of tribal funds. Perhaps they are not sufficient to insure such permanency for lands purchased out of gratuity appropriations, and if not, the law or rules of the department should be so adjusted. However, they do think that further provisions ought to be provided to make the exchange lands more definitely assured to the Indians.

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NOTE.—Take this up in Washington. In the case of exchange lands the reconveyance goes to the United States and not to the tribe, and also perhaps in the cases of purchased lands from other than tribal funds. Whereas, with the lands purchased from tribal funds, the title apparently is in the tribe, or, rather, to the United States in trust for the Navajo Tribe.

Before going into the Arizona situation note was made of the lands in the vicinity of Wingate and around Crownpoint which actually have been secured by the United States for the Indians in recent years. This includes all of townships 16 north, 16 and 17 west; 15 north, 16 and 17 west; 14 north, 17 west; and the fractional strip in townships 17 north, 14, 15, 16, 17 west, immediately adjoining the reservation.

In addition, there has been obtained at another time 18 north 13 west. Incidentally it may be said that the Fort Wingate Reservation upon which the school is actually situated is, except the area immediately around the school, still in control of the War Department, and this has been a subject of controversy for some years and should be settled definitely.

Mr. HUNTER. In the area off the reservation and in McKinley County, N. Mex., we have an Indian population of over 2,000. Land troubles are continually arising throughout this country and the situation is becoming more acute each day. Practically the same situation prevails in Arizona where we have 1,600 Indians living off the reservation.

Mr. HAGERMAN. I would ask you Mr. Hunter, and you, Mr. Stacher, whether or not you would be prepared to advise as to the actually correct value of all of these lands in your respective jurisdiction which it is proposed to purchase. I am just mentioning this to you in order to have in mind the necessity of having complete data when the time comes so as not to delay the negotiations. Mr. Hunter mentions the fact that in sec. 18, T. 22 N., R. 29 E., which is within one of the townships which it is proposed to negotiate with the Santa Fe now, is 640 acres owned by D. M. Barnes. He has a house of six rooms, a store, three warehouses, a garage, a 6-wire fence all round it, a good well with windmill and tank and cement troughs. It is right in the midst of the Indian country where water is needed, and it can be purchased for $6,000. It would be a suitable location for field station health center. This should be considered in connection with the whole project. (See p. 19a following.)

Mr. WALKER, superintendent Western Navajo. In reply to a question as to the exact present status of the purchase from the Babbitt Bros., states that the office has approved of the ultimate purchase of all the land west of the Little Colorado River contained in townships 28–8, 28–9, 28–10, 29–8, 29–9. That this area all has been purchased or arranged for with the exception of township 28 range 9 and the east half of 28–8. In regard to the remainder of the tracts approved by the office, either deeds have passed and consideration has been paid, or at least are in process of completion. Mr. Walker states that in regard to the township and a half—that is, 28–9 and the east half of 28–8—that the department has approved of the purchase and tentatively agreed on the price to be paid, which is $3 for the alternate sections. Mr. Walker formerly wanted to buy the north half of 27–9 and that part of 27–10 west of the river, but has given up that.

NOTE.—While in Washington take up the status of the remaining township and a half.

Mr. Hunter states that in sec. 10, T. 21 N., R. 27 E., in Arizona, there is an area of 480 acres belonging to a Mr. Mullins which he desires to purchase. The improvements on the land are one large building of stone and cement which has a store room 16 by 50 feet, and quarters consisting of 3 rooms, a warehouse 14 by 20 feet, and there is also a strong well, gas pumping plant and windmill, and a 10,000 gallon tank. This is a watering place which a great many of the Indians living in this section need. The entire acreage is very good grazing land. Mr. Mullins offers to sell this for $7,000. This land is needed for the use of the Indians living in that section. There are a number of families who range their sheep in this country and watering places are few. The acquisition of this land will be of great benefit to the Navajos.

Mr. Walker states that all of the necessary details have been arranged for the consummation of this purchase in the way of nonmineral affidavits and other details, so that if the funds are available it could be put through. The only question as I understand is as to whether the price has been definitely agreed on. Mr. Walker states that as far as he is concerned, if it was absolutely necessary, the Indians could possibly get on without township 28–9 providing they could get the east half of 28–8 which has the improvements and the water. However, he doesn't think Babbitt Bros. would sell the east half of 8 without selling 28–9.

He further says that they will now accept $3 an acre for the east half of 8, if the Government will take an option on 9. The cost of this township and a half would be $60,000 approximately.

Outside of this Babbitt purchase and the Western Navajo extension area there is nothing desired by Mr. Walker.

Referring to the diagram accompanying the original deed of relinquishment to the Government from the Atlantic and Pacific Railroad, which plat was handed me by Mr. Jones as the plat accompanying the original deed, it appears that resurveys have since been made which alters not only the western line along the Little Colorado River, but also the western line of the Leupp area. By the Leupp area I refer to townships 21, 22, 23, 24 north, 11, 12, 13, 14 east, and part of 15 east. However, Mr. Collinson states that in the abstract of title furnished prior to the consummation of the payment to the Santa Fe Co. last year on 52,000 acres at a dollar an acre, which is the north part of the Leupp extension, a completely new abstract giving the outside boundaries correctly was furnished.

Mr. Walker states in connection with his jurisdiction that there is a considerable area of country adjacent to western Navajo which the forest people have proposed to turn over to the Indian jurisdiction. The area in question is the country in townships 33, 34, 35 east of the Colorado River and north of the Little Colorado River, bounded on the east by the present western line of the western Navajo jurisdiction. (Executive order of January 8, 1900.) It also includes that part of sections 31 and 32 south of the Little Colorado River, east of the Big Colorado River, and west of the present western boundary line of the reservation. Also townships 30 north, range 6 east; 29 north, range 6 east; and a portion of 30 north, range 7 east. This is now occupied solely by the Indians, Mr. Walker states, and has been for many years and it would be very desirable to get it. In case it was turned over to the Indians, the Big Colorado River would be the boundary of the reservation all the way from the junction of the San Juan and the Colorado and the junction of the two Colorados, and there would be an additional area south of the Little Colorado. That part of the area north of the Little Colorado and east of the Big Colorado, which is now in the Kaibab Forest, the forest people desire to turn over to the Indian reservation because of the difficulty in administering it. The only way they can get to it is either coming around by Cameron or to the north by the Lees Ferry bridge. This is land that is valuable to the Indians and can be occupied by nobody but Indians, and is desirable that it be under Indian jurisdiction, and that is recognized by the forest people themselves. That part of the area mentioned which is south of the Little Colorado is not in the Kaibab Forest but in the Tusayan National Forest.

Bring this up in Washington with a view of recommending such legislation as is necessary to restore the Utah area as well as this area adjacent to the Colorado River and the Little Colorado River all in one act.

Memorandum: The matter of the status of the Leupp area above described was discussed. It appears that since the resurvey the line of the Colorado River is some 4 miles west of the line as marked in the original plat, which carries the Leupp area proper a similar distance west. However, there are two townships in the southwest corner which belong to the Babbitt Bros. The Babbitts do not want to sell this. In these two townships, being 21 and 22 north, range 11 east, said to be controlled by the Babbits, the Babbitts probably own only the railroad land. While the matter has not been mentioned, it is probable that the Babbitts might likely sell this. Under the act of April 21, 1904, which was an act passed with a view of adjusting the Leupp extension situation and did not do so, it is possible that these two townships now held as railroad land by the Babbitt Bros. might be exchanged for the benefit of the Indians for lands elsewhere. In case this could be done Mr. Balmer thinks it would be wise. Mr. Balmer would like also, in case this exchange or purchase of these two sections could be made from the Babbitt Bros., to secure from the Santa Fe the fractional townships north of it now owned by the Santa Fe, to wit, 23 and 24 north, 11 east; that is to say, a strip 2 miles wide and 14 miles long. The railroad company would be willing to sell these 28 sections at the regular $1 an acre price.

In discussing the withdrawal of 1908, which is the large area of 31 townships south of the Hopi country, Mr. Roblin states that the Marty purchase is completed. This purchase included all the odd-numbered sections of township 23 north, range 21 east, with the exception of sections 3 and 11, which are still in Haldeman & Murphy, who are traders. The Marty purchase has been completed.

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The other purchase which has been completed in this district is the Bailey on the NE. ¼ of sec. 30, Tp. 24 N., R. 19 E. The New Mexico & Arizona Land Co. owns the odd sections in this tract, namely in Tps. 15–16–17–18 E., R. 20–21–23–24 N.,being 168,000 acres. The odd-numbered sections in the balance of the tract, that is, in the remaining 14 sections, are Santa Fe land with the exception of the Marty township and the odd numbered sections in Tps. 21–24, which is owned by A. & B. Schuster Co., in Holbrook. Outside of the Schuster township and the Marty township and this little piece up here—the Bailey—the Bailey township is 21 E. 24 N.

The matter of securing the balance of this whole area for control in the Indians was discussed at the Holbrook meeting last September, attended by the commissioner. At first the Arizona people objected very strenuously to any such proposition, but toward the end of the meeting seemed to amend their point of view, contingent upon the payment of taxes being properly adjusted. With the purchase of the Marty and the Bailey tracts, which will to a considerable extent control the water of that section of the country, the whole situation is better than it was. Now the question arises, because of the fact that about half of the land is in the New Mexico and Arizona Land Co. and the other half in the Santa Fe, and different prices are asked by these two companies, as to whether an adjustment could be made in case the money were available for the purchase of the whole area. It is probable that the Santa Fe land could be bought at the same price as the other Santa Fe lands, as a part of the larger deal, and that the New Mexico and Arizona Land Co. land could be bought at a lesser price than the land around Crownpoint. Mr. Hagerman asks Mr. Cabeen whether he thinks that is true.

Mr. CABEEN. I will say the statement is correct in so far as the New Mexico and Arizona Land Co. is concerned.

Mr. HAGERMAN. You wouldn't want to say that you would take a dollar an acre would you?

Mr. CABEEN. No—No.

Mr. JOHNSTON. There is no place in the world that you can put the Leupp Indians. They have been there for generations, and they say, "If you cut our throats, we won't leave." So the department is up against it. There is another thing that I think—that whole proposition was not started by the three counties—but it was started by one cattleman.

Mr. HAGERMAN. Mr. Johnston refers to the controversy which was prevalent last year against the proposition.

Mr. JOHNSTON. There is no place to put those Indians and justly they are entitled to it—people that have lived there for three generations under the American code would not be willing to be forced off of it.

Mr. HAGERMAN. According to common consent of the meeting, there are in the Leupp jurisdiction about 1,800 Indians and about 1,200 of them are in this area east of the east line of the Leupp extension.

The understanding now as far as I can get it is that the Arizona authorities are not adverse to the acquisition of this land for the Indians, but that the county authorities have left it in the hands of Senator Hayden who, it is thought, will not oppose it providing the tax end can be properly adjusted.

The acreage involved in this whole area at the present time is approximately as follows:

Arizona & New Mexico Land Co	168, 113. 32
Schuster tract	11, 500. 00
Murphy sections 3 and 11 in the Marty township	1, 280. 00
Santa Fe Railroad	105, 000. 00
Total	285, 893. 32

Mr. HAGERMAN. Pending negotiations for the possible acquisition of these lands from these two main companies and the other present holders, is it wise, in your opinion, or would it be better strategy not to encourage allotments within the general area?

Mr. ROBLIN. That is a question that I have been considering and intended to ask you. Mr. Balmer, superintendent at Leupp, has done considerable work in making preparations for allotting Indians in that area and he has the matter well in hand at the present time. I have been trying to secure assistance from the Indian Office so that an allotting agent can be placed in that district. However, there is equally necessary work to be done in the Southern Navajo jurisdiction in Arizona, and I believe that it would be more politic to confine work to the Southern Navajo jurisdiction rather than to put a man in the Leupp jurisdiction and possibly stir up more antagonism. (See pp. 25a and 25b following.)

Mr. HAGERMAN. I understand that this is still withdrawn from entry, so no non-Indians could get in there anyhow, and did not you say at the meeting out there that your understanding was that it would be so continued?

Mr. Balmer stated that during the tribal council last fall the matter of preparing preliminary information as to lands desired for allotment by Indians of the Leupp jurisdiction was talked over and he suggested that Marcus Kamiho (member of the council) be employed to prepare the information. The office opposed the employment of Mr. Kamiho and he would like to be advised whether or not it would be for the best interests of the Indians to continue this work.

Mr. ROBLIN. No Indian can be allotted in that area except upon land which he is using. You can't take Indians over there and allot them indiscriminately. The only preliminary information that an allotting agent desires or can use is the Indian names and the description of the lands they are using. There is no use trying to go in there and take Indians that are not using these lands and place them on these subdivisions because they will be turned down, and I am not spending money where I don't expect to get results. But where an Indian is actually settling on land, I want to know what land he is using.

In regard to Leupp, Mr. Balmer calls attantion to the desirability of leasing if possible all the railroad lands, pending the final decision as to its possible purchase. Mr. Collinson stated that considerable areas in there were already leased. He further states in this connection that at the present time there are four townships in the area open for lease, which country is being used almost entirely by the Indians and which could be leased from the railroad at the rate of 2½ cents per acre. There are four townships leased to non-Indians.

It is recommended that money be provided, Mr. Balmer for the leasing of the Santa Fe townships that are now open and that if possible the other lands in this area be leased for the Indians on the expiration of the present leases. The New Mexico & Arizona Land Co., as to the balance of the area, will lease it for 3 cents an acre and give the Government the preference right to purchase it when the time comes to do so.

Mr. HUNTER. No, I didn't say that, but I think it will.

Mr. HAGERMAN. As I remember, the commissioner stated that he would do what he could, or had done what he could, to keep the withdrawal operative.

Mr. JOHNSTON. He stated that to me.

Mr. HAGERMAN. In view of the whole situation, outlined by the various men present, I am of the opinion it would be wise to refrain from starting an allotting campaign in this area at this time, and will so advise the commissioner when I reach Washington.

In view of the fact that certain of the stockmen and sheepmen in New Mexico who are opposed to any extension of Indian allotments have stated that Mr. Roblin in his allotting campaign has been more zealous than the circumstances demanded, Mr. Roblin stated his position very specifically.

Mr. ROBLIN. Complaint has been made that I have allotted Indians that came from the reservation. That is impossible because no Indian can be allotted by me who wasn't living on the public domain prior to January 30, 1914. Further, I have endeavored to confine my allotment work to areas which have been entirely controlled by Indians, either through ownership of the lands or lease from the railroads, and I have endeavored not to encroach upon areas that are controlled by white stockmen. In fact, in quite a considerable number of cases I have dissuaded Indians from going into areas controlled by white stockmen, and in a few cases I have arbitrarily refused to allow them to do so.

Mr. COLLINSON. The whole thing was stirred up by press reports. The entire agitation was brought about by press reports of the Navajo Council meeting in which it was urged that the Indians settle on and appropriate as much of the country as they could as far west as Suwanee, and this has brought about grave apprehension among the stockmen as to the possibility of allotting in their range.

Mr. FARIS. I haven't anything to say except what he says. All the remarks that I have heard emanate from the talk Mr. Roblin gave at the council plus the press reports thereafter.

Mr. HAGERMAN. Mr. Roblin, pending these negotiations in connection with the exchanges which are to be carried on between Mr. Collinson and Mr. Stacher with your assistance, trying to settle on a schedule, I am sure you will proceed as tactfully as possible, with a view of avoiding conflicts and unpleasantness wherever possible.

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Mr. ROBLIN. Superintendent Stacher has had a gentleman's agreement with some of the white stock owners, agreeing to keep out of their districts, and wherever I have learned of such an agreement I have lived up to it. I incurred the enmity of Mr. Staples because I wouldn't allot some Indians south of the railroad in Prewitt's district, but Mr. Stacher had this gentleman's agreement that he would keep out and I kept it.

There was a full discussion of the whole situation and Mr. Roblin very fully explained his position so that Mr. Collinson and Mr. Faris understood it. Mr. Hagerman suggested to Mr. Faris that if possible he attend the meeting of the Wool Growers' Association at Albuquerque, which Mr. Collinson will also attend, and they will do their utmost to see to it, if the matter comes up, that the position of the Government is thoroughly understood. In the meantime, it is thoroughly understood by all present at the meeting that the allotment business shall be carried on with as much care and lack of publicity as possible until the hoped for arrangements as to exchanges and purchases can be settled.

Mr. Walker, superintendent of the Western Navajo jurisdiction, brought up the matter of the area in southeastern Utah, south of the San Juan River, which was formerly a part of the Navajo Reservation. According to the records, that was made into an Executive-order reservation on May 17, 1884. There have been various orders in connection with the area, but it was finally restricted by department order of July 17, 1922, on account of agitation in Utah because of the supposed presence there of oil. Oil has never been discovered there in paying quantities, and the country is actually Indian country just as much as the country to the east of it in the southeast corner of Utah. This has been withdrawn by departmental withdrawal from entry, but it is not distinctly reserved or set aside by governmental fiat for the Indians. It may be asked what advantage there would be in making it an Executive-order reservation, and the answer is that its present status puts it in the position of a "no man's land." It is not under Indian Office regulations and is a rendezvous for outlaws—people from Utah—and especially those who wish to trade illegally with the Indians, resulting in a very unfortunate situation. This area contains Rainbow Bridge, Navajo Mountain, Monument Valley, and other natural beauties which are mainly interesting to tourists and archeologists. There is every reason for including it in the reservation. There are no white people living in the area.

Mr. Johnston, Mr. Faris, Mr. Roblin, and everyone who knows the situation, are very strongly of the opinion that it would be highly desirable to get this thing done and secure legislation putting it back into the Indian reservation, and observing the San Juan River as the boundary.

Mr. HAGERMAN. In a general discussion of the meeting on the matter of taxation, in which Mr. Johnston took part, it was the general feeling, especially in view of the opinion expressed by Commissioner Rhoads in his memorandum to the Secretary of October 24 last, that the wise thing to aim at will be to devise methods of payment of taxes to the various counties on the lands which have been or may be acquired upon which taxes are now being paid, it being understood, however, that the rates should be adjusted in accordance with the suggestion made by Mr. Rhoads at the Holbrook meeting. By this we mean that the school taxes and perhaps other taxes should be deducted from the rate charged the Navajos. Under this arrangement the lands acquired or consolidated under the proposed exchange provisions will be subject to taxation. It is the opinion of the meeting that these taxes, at least for a period of ten years, whatever the rate of taxation may be, should be paid by the Government out of the tribal or other funds. And that in the meantime no other taxes should be charged against either the real or personal property of the Indians, either within or without the reservation.

After a good deal of discussion it appears that certain taxes are already imposed, both in Arizona and New Mexico, principally on automobiles, and there is no disposition on the part of any of the Government officials present to object to that. In Arizona taxes have been imposed upon the personal property of the Indians on the public domain in Apache and Navajo Counties, but not in Coconino. Mr. Collinson calls attention to the fact that in Apache County, in the Silversmith case, the taxation of Indian personal property was upheld in the Supreme Court of the State, and this man Little Silversmith, a member of the Navajo Tribal Council from the Southern Navajo jurisdiction is actually paying taxes now. It appears, therefore, that whatever policy may be adopted by the Government, that during the net 10 years more or less taxes will have to be paid by some of the Indians off the reservation, and it is questionable whether it

would be wise for the Government to oppose the States in the gradual imposition of taxes on certain classes of personal property.

It appears that of the $200,000 annual appropriation out of $1,200,000 for the past two years, about $185,000 has been spent, and that all the money that is now available is the $15,000 unless the $200,000 for the present year can be made available. If this is correct there is only available at this time $215,000 to be spent during the fiscal year of 1931, ending July 1, 1931.

The amount of the protribal income from oil and timber was fully discussed. Mr. Hagerman said he believed that in all probability the oil royalties from the present leases would produce about $150,000 a year for the next 10 years, unless in the meantime the production from the deep sands is greatly increased, in which case there might be an increase in the royalties. Mr. Faris stated that the timber contract might be expected to bring in after another year not less than $100,000 a year. The contract is for 500,000,000 board-feet, and when the railroad is built it will not pay the company to get less than 3,000,000 board-feet a month—the stumpage is $3 a thousand—on the basis of $100,000 for oil and $150,000 for timber, $250,000 will go into the tribal fund and the land purchases would be conditioned on definitely setting aside two-thirds of the whole income.

After much discussion it was the sense of the meeting and agreed to by Deshne, the Chairman of the Council as far as he is concerned, that for the next 10 years at least $250,000 a year can reasonably be expected from oil royalties and timber stumpage, and that 60 per cent of that amount, to-wit, $150,000 a year, should, if possible, with the approval of the council, be set aside for land purchases and rentals.

Outside of the exchanges, which it is hoped will take care of the Crownpoint situation, the proposed purchases mentioned in this discussion are as follows:

List submitted by Mr. Collinson	$233, 440. 70
Remainder of the Leupp extension	295, 534. 11
Arizona & New Mexico Land Co	248, 000. 00
Leupp area, New Mexico and Arizona	336, 000. 00
Purchase on Southern Navajo	13, 000. 00
Purchase on the Leupp	15, 000. 00
Babbitt land	60, 000. 00
Total	1, 200, 974. 81

This amounts to about a million and a quarter, which, on the basis of $150,000 a year for 10 years would leave about $250,000 for taking care of leases and proposed taxes during the 10-year period. This in fact provides for most of the proposed necessary purchases outside of the exchanges, with the exception of some desired 100,000 acres in the Southern Navajo jurisdiction south of the parcels which the railroad is now ready to negotiate for.

This is all contingent on the possibility of working out the Crownpoint situation on the exchange basis. If that can not be worked out on the exchange basis the Budget will have to be increased.

Mr. Hunter states that the needs of the Navajo Indians who are living off the reservation are as great or perhaps greater than those of any other jurisdiction, and also since purchases made to date have been confined to jurisdictions other than the Southern Navajo, it appears only reasonable that in the purchases now being considered, the Southern Navajo Indians should be given preference.

Mr. Walker states in regard to preference in the forthcoming purchases, that if all the remaining area contemplated and set aside in yesterday's proceedings can not now be bought, that the east one-half of township 28 north, range 8 east should, if possible, be bought now because of the dipping vats that are now on this land and the watering tanks. The Government is now paying rental to the Babbitts for the use of these improvements and when there is a shortage they are deprived entirely of the use of it.

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DEPARTMENT OF THE INTERIOR,
OFFICE COMMISSIONER OF INDIAN AFFAIRS,
Washington, March 4, 1930.

Mr. H. J. HAGERMAN,
Special Commissioner Pueblo Lands Board
Washington, D. C.

DEAR MR. HAGERMAN: As special commissioner to negotiate with Indians, and the representative of the Secretary of the Interior on the Pueblo lands board, you are instructed as follows:

1. To devote so much of your time as is necessary for proper cooperation with your colleagues in consummating the work of the Pueblo lands board. We understand that it is hoped to complete this work within a year, and that the other active members of the board are charged with no other duties than those on this board. Under the lands board act of June 7, 1924, there are various duties assigned to the Secretary of the Interior distinct from his functions as a member of the board. You will keep these matters in mind and advise us in regard to them, consulting fully in respect to them with the General Land Office officials.

2. The policy of this department is to comply, as far as possible, from now on, with the expressed wishes of the Navajo Indians that their tribal funds be used for the acquisition of such additional lands as may be necessary to reasonably consolidate and hold the country now actually mainly used by them for grazing purposes. With this in view, at least 60 per cent of the money coming in to their tribal funds will, until further notice, be set aside. If moneys credited to this fund are sufficient, approximately $182,000 may be used for land purchases up to July 1, 1931. When more is necessary, further authorizations will be sought. We are favorable to the use, as necessary, of from a million and a half to $2,000,000 for land purchases if the funds are forthcoming.

You are instructed to take charge of these land consolidations, recommending and arranging for the purchase of such lands as you believe should be so acquired, and for the leasing of such lands, in addition to those already leased, as may be necessary to protect the Indians' pending purchases.

The department favors the settlement of these land matters in the Eastern Navajo country as far as possible by exchanges under the act of March 3, 1921 (41 Stat. L. 1225). You will do all you can to make this act operative and to arrange for such exchanges where, in your opinion, they will work out to the advantage of the Indians and non-Indians. The Secretary is instructing the General Land Office and the Geological Survey to cooperate fully with you.

You will investigate also possible purchases and exchanges of lands to consolidate the Puertocito, Canoncito, and Ramah areas with a view of reasonably providing for these segregated bands of Navajos.

Please give your special attention to the oil and other tribal affairs of the Navajos; plan for and conduct the Navajo Tribal Council on July 7, 1930, at such place as may be found best.

3. There is acknowledged need for steps for decentralization of the administrative burden of Indian Affairs to the end that direction of many local matters may be determined on the ground with a view of expediting action and efficiency in result.

You are requested to undertake the work of general supervision, correlation, and projection of such work and policies as may be in line with this general aim, the field of your operations in this respect being New Mexico, Arizona, Colorado, and Utah.

Mr. C. E. Faris, district supervisor of the southwest district, will be authorized and instructed to work with and cooperate with you at all times, and you should make your plans accordingly.

All superintendents, officers, and employees in all branches of the service within the designated district are given notice of these arrangements with instructions to cooperate with you and Mr. Faris to the fullest possible extent in carrying out these plans looking toward the general betterment of the service.

If necessary, further instructions will be issued to you and to them as occasion arises.

Yours sincerely,

C. J. RHOADS,
Commissioner of Indian Affairs.

Approved this 4th day of March, 1930.

RAY LYMAN WILBUR,
Secretary of the Interior.

SANTA FE, NEW MEXICO,
November 20, 1930.

Hon. CHAS. J. RHOADS,
Commissioner of Indian Affairs,
Washington, D. C.

MY DEAR MR. COMMISSIONER: Reference is made to your letter of March 14, 1930 (A–I 8970–30), and to the letter of April 16 (Inspection 18909–1930), instructing us, in cooperation with the superintendents of the Hopi-Leupp-Western Navajo Reservations, to make a study of the Hopi-Navajo controversy and to recommend what action should be taken in settlement of that controversy. In the letter of March 14 you expressed the wish that Mr. Guy Hobgood should act with Mr. Faris and myself in this investigation. Later it was found that he was very busy with other matters and you then authorized Mr. A. G. Hutton to make an independent investigation and report to me. He did so, and made a valuable report in July last. During the summer Mr. H. H. Fiske, field representative of the Indian Office, completed a careful survey of the same subject, and on July 25 submitted a very comprehensive and interesting report to the commissioner, copy of which has been sent here.

On May 12, 1928, Mr. C. E. Faris, on instructions from Washington, made a very full report on the same matter.

For convenience, copy of the Hutton report relating to this matter is hereto annexed. It is recommended that the Faris and Fiske reports be again studied and considered in connection with this report.

General Hugh Scott, Superintendents Daniels and Crane, and numerous others, during the past 50 years, have written or reported on the matter. There is much in the files of the office in Washington in regard to it.

Never before, however, as far as we can find out, have the Hopis and Navajos been asked to meet and discuss these matters together.

You authorized us to call such a conference. We did so. It was held at Flagstaff, Ariz., on November 6, 1930.

Minutes of the proceedings are inclosed herewith.

It can not be said that the meeting resulted in anything very clear or definite, as far as final conclusions on the part of the Indians, and especially of the Hopis, are concerned. But it did result, we believe:

First. In arousing in the Hopis a feeling that, inasmuch as they are now being actually consulted by the Government, it will be incumbent upon them to reach workable conclusions themselves, or, in default of doing so, submit to reasonable adjustments made in their behalf.

Second. In demonstrating that the Hopis have been misled by overzealous friends and by the wording of the proclamation creating the present Hopi Reservation into believing in a vague and indefinite but nevertheless stubborn way that they are entitled to the exclusive right to not only the area comprised in the present so-called Hopi Reservation, but to a much larger country outside it.

Third. That until recently for more than 75 years the Hopis have actually confined their land occupancy for both agricultural and grazing purposes to a comparatively limited and quite definitely definable area surrounding the Hopi mesas and to a small area in and around Moencopi Wash.

Fourth. That the Hopis are not at heart, and probably never will be to any great extent, a stock-raising people.

Fifth. That if segregation, temporary or permanent, of the Hopis is determined upon, it will be quite out of the question to secure from them as a tribe agreement with or consent to any specific area or areas which may be set aside for their exclusive use. This is because they are congenitally indisposed to reach conclusions and because, even if they were so disposed, they can not come to formal agreements amongst themselves. They have no tribal organization. There is a different chief for each village now, as there has been for the past 300 years, and it is going to be very difficult, even if it were desirable, to change this system of theirs. The testimony of Kotka, a very intelligent and influential man from the first mesa, is especially significant in this respect.

Sixth. That unless some definite solution is determined upon by the Government, and then adopted and enforced, the situation will constantly grow worse, with the prospect of very unpleasant and perhaps disastrous results. It is clearly the duty of the Government to act promptly.

All or most of these conclusions are brought out and discussed from different angles in the various reports above referred to. It is unnecessary in this report to again analyze or review these different reports and investigations, many of

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which were made by competent men especially assigned to the duty of thoroughly studying the situation.

We attempted at the opening of the conference to define the present situation as to lands and expansion in the Navajo and Hopi country as a whole, trying to impress upon the delegates present, both Navajo and Hopi, that beyond boundaries which we hope to designate within a reasonable time this Indian country will not be further extended.

The Navajos were already pretty well in touch with this situation. A number of the Navajos present are members of the Navajo Tribal Council, where this matter has been frequently discussed. To the Hopis, however, it was a brand new point of view. They listened very intently and apparently intelligently—and very respectfully, too, it should be said. It was a novel experience for them to be thus in conference with the Navajos under the auspices of Government officials and under direct authority of Washington.

We then tried to show them that however vast the Indians' empire, however limitless their sway may once have been over the great country between the Colorado River and the Rio Grande, present claims of ownership or control because of that former situation can not now be considered. And, too, that the Office is doing its best to define the present Indian country and get for the Indians as large an acreage as possible—a job by no means either simple or easy. And that the Indians within these areas, irrespective of tribes or groups within tribes, can not to any great extent base their present respective territorial claims on much except present conditions.

The Hopis were then asked to state whether, in their opinion, they are entitled to the exclusive right to any areas, and if so, how such areas should be defined. Their first reaction and response was that they could not speak authoritatively for the Hopi people—they wanted more time. They pleaded that this meeting was a surprise to them and that they had not sufficient notice, that they did not know what they were being called together for until after they arrived at the meeting. I told them we were sorry for that if it was true, but that last July when at Moencopi with the commissioner, he had promised these Indians that a conference would be called by Hagerman as soon as possible and that they should prepare themselves.

The Navajos said they had been discussing it for months. So, in fact, have the Hopis, though it is true that they did not know definitely when the meeting would be called until quite recently. However, it was not surprising that this was the Hopis' reaction. They love to shift and avoid, and they do it very adroitly indeed and with great verisimilitude. One difficulty with them is that they have been overpetted and cajoled by outsiders who admire their wit and cleverness and take them more seriously than they take themselves. They are most interesting and amusing, and withal an intelligent people.

The only specific suggestion they had to offer, after all, was the same roughly drawn sketch which they presented with a petition made on April 8, last, which petition Mr. Miller sent to the office at that time. Copy of this latter is inclosed. The area roughly designated in the sketch presented extended to the Colorado River on the west, to some distance south of Holbrook and Winslow on the south, east to the vicinity of Fort Defiance, and north approximately to the present northern lines of the reservation. Peter Nuvamsa, who presented it, stated that this was a mere suggestion, but the only one they had to make. They then wished to know what was our idea and I told them that the Government had as yet no clear idea, but that if none could be had from them that we would make a definite recommendation for the commissioner's consideration.

It was apparent at the meeting, and is from the reports, that most of the Hopis and of the Navajos who are immediately concerned, desire segregation and a separate agent for the Hopis. Messrs. Miller, Walker, and Fiske are also very definitely for segregation. Messrs. Hutton and Faris were not so favorable to it when they made their reports. General Scott was against it. Both Hutton and Faris agree with me, however, that the definition and fencing of certain specified areas for the exclusive use of the Hopis is now the only solution of the problem. A recommendation for segregation unaccompanied by an actual designation of what should be segregated would be of little avail.

I therefore respectfully recommend that the areas as approximately designated on the inclosed sketch map be set aside and fenced for the exclusive use of the Hopis.

First. *Hopi area.*—Beginning at a point at the northeast corner of township 29 north, 19 east Gila and Salt River meridian; thence west about 28 miles to the Denebito Wash; thence south along the Denebito Wash about 12 miles; thence southeast about 15 miles to Burro Springs; thence east of south about 13 miles to the foot of Tovar Mesa; thence in a northeasterly direction along the base of Tovar Mesa and the line of the Jeddito Wash about 22 miles to a point where the Jeddito Wash intersects the township line between townships 19 and 20 east; thence north about 17 miles along said township line to the place of beginning, containing about 438,000 acres.

This area conforms approximately to the area described in the various reports and accounts made during the past 60 years as the area outside of which, except for Moencopi, the Hopis do not and have not ranged their livestock or carried on farming operations. Almost all of the cultivated land is, in fact, near the mesas, and the testimony seems unanimous that while, at the present time, there may be a few Hopis who occasionally graze some of their stock outside the area, a good deal of it, especially near the outside edges is actually not even now much used by either the Hopis or the Navajos. The Hopis do not use it because, even yet, they do not range their stock very far from their villages. The Navajos do not use it because the Hopis, in spite of not using it themselves very much, make it so disagreeable for the Navajos that, to avoid trouble, they keep away. This is more fully set out in various of the reports above referred to.

The area as herein tentatively recommended does not entirely conform to that recommended by Mr. Fiske in his report. It leaves out a tract about 12 by 15 miles in extent, that is, about 80 sections, lying beyond the Denebito Wash. We do not believe that this area should be included. There are few, if any, Hopis in the area. It is distinctly a Navajo country and will be very important to the Navajos in driving their stock to and from the Flagstaff country when, or if, the segregation and fencing of the Hopi area as herein recommended is consummated. The tract as we recommend it, however, follows survey lines on the east and north and includes more acreage on the south, with the result that the total acreage will not vary greatly from that recommended by Mr. Fiske. We advise the marking of the line through Burro Spring so that this important spring now used by both the Hopis and the Navajos can still be used by the Hopis on the north of the fence and the Navajos on the south.

The Keams Canyon Agency and school would be outside the fence. This we all agree is best, as there is no reason why the school should be within the Hopi segregated territory. It is now a Navajo school and will probably remain so. Most of the Hopi children are well taken care of in the day schools. With segregation and fencing, more of them should be.

There are, as Mr. Fiske points out, a few Hopis outside of this area and a few Navajos within it. These would have to be arranged for.

Second. An area of about 23,000 acres adjacent to and south of the Moencopi village, most of which will be contained in township 31 north, range 11 east, Gila and Salt River meridian. The exact lines of this tract which we believe should be fenced can not be given until an accurate survey is made in accordance with the recommendations hereinafter to be made. This area of grazing land has already been, to all intents and purposes, set aside for the use of these Moencopi Hopis by the superintendent at Tuba City. It has, however, never been fenced, but it should be. It seems even more difficult for the Hopis and Navajos in the Moencopi district to use the range together without conflict than it is in the case of the general Hopi Reservation area. These Moencopi Hopis are more contentious, apparently, than most of the Mesa Indians and seem to be dominated by the old chief at Oraibi and by two or three of his followers at Moencopi who are far from being the best Indians in that pueblo. Their influence undoubtedly is bad. This group of Indians first came to Moencopi from Oraibi after a political or religious schism in the tribe there in 1882 at the time Tuba City was settled by the Mormons. This the Navajos have always resented. The Hopis say that their people occupied all this country long before that time. If they did do so, it was in the very far distant past. However, the Navajos have now become fairly well reconciled to the Hopis' presence there, and even to the use by them of some grazing land. But they feel that, with the general allocation of grazing lands which is now in process, and the proposed limitation of reservation boundaries, it would be only fair to limit and prescribe the area which these Hopis should have the privilege of using. The Navajos say that the Moencopis have practically all the irrigable land and nearly all the water in this section, and are anxious to have the Moencopis's constant expansion checked. We believe that should a carefully and fairly chosen area be segregated and fenced, the Navajos would be fairly well satisfied.

In the course of these discussions during the past year, Superintendent Miller suggested that a large and quite arbitrarily defined area, including both the

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Mesa country and the Moencopi district, be segregated and made into a new agency with a separate agent. This area as so suggested by Mr. Miller at this time is marked on the inclosed map. Both Superintendents Miller and Walker have been anxious that all the Hopis be put under a different superintendency, and that was the general opinion, too, as expressed by both the Hopis and the Navajos at the Flagstaff meeting. This desire undoubtedly influenced Mr. Miller's recommendation when it was made. Such an arbitrary designation of a new district on straight lines as proposed would, however, in no way improve the present situation. Within the lines there would be a large number of Navajos. Superintendent Miller is now, we think, convinced of this.

After careful consideration and considerable discussion, we are now quite strongly of the opinion that unless it is determined to fence these proposed segregated areas, it would be quite futile to designate them or any other particular districts as exclusive Hopi territory. It has been suggested during these discussions that a segregated area might be maintained for the exclusive use of the Hopis without a fence, or at least with occasional drift fences along certain parts of it. We do not now, however, agree with this. The drift fences between the second and third mesas, where Hopis alone are concerned, are apparently not a success. There has, too, been, as is well known by the office, much discussion about the fencing of the Hopi farms to protect them from cattle and horses. From time to time the Hopis accuse the Navajos of trespassing on these farms with their stock. The consensus of opinion seems to be that there is very little of such Navajo trespassing and that most of it is by the Hopis themselves. It is also generally conceded that it would be very difficult to fence many of these farms because they are constantly changing the cultivated tracts because of shifting sands. Incidentally, it may be said that it would actually take no more fence to fence in the main area which it is here proposed to segregate than it would to fence in the various Hopi farms.

To properly fence the two tracts as herein proposed with a 4-wire fence and posts 16 feet apart would take 128 miles of fence, 42,240 posts and 205,000 pounds of wire. This would cost approximately $14,000. Most of the posts, we are told, could be obtained from the Black Mesa country. Most of the work could be done by the Indians themselves.

An exact survey of the proposed line has not been made. It was thought unnecessary to make such a survey unless the proposal in principle should be accepted and approved by the department. It is therefore respectfully recommended that this be given consideration, and that if it is accepted in principle, then, as soon as the weather permits, Mr. Radcliffe, in company with Mr. Charles Bigham and perhaps Mr. Hutton, be instructed to make a detailed reconnaissance of the lines as approximately proposed with a view of a thorough examination of the terrain so as to find the best location for the fence. This will not be a difficult matter if the proposal is accepted in principle. It will be advisable to have Mr. Bigham assist in this survey, as he is very well acquainted with every part of this country. After these fences are built—if they are built—the Indians should be definitely and clearly told that they must respect them; that the Hopis must keep inside the fence and the Navajos outside it, as far as grazing or agriculture or other occupancy is concerned. This would not, of course, mean that they would not have a right of way of travel through the respective areas, nor that the Hopis would not have the right to drive their cattle through the Navajo area to the railroad. At the same time they should be enjoined that they must respect the fenced area and if they do not they will be punished to the full extent of the law. It should be made clear to them that these areas are set aside merely for the use of the Hopis, and that in no way does it mean that the Government is passing upon the areas so set aside as lands to which the Hopis have any specific proprietary right. Nor should it be definitely indicated that there may not in the future be alterations or changes in the districts set aside for the use of the respective tribes.

Moreover, if the fencing is done, there should be provided sufficient police to properly guard it and make the Indians realize that to interfere with it or cut the fence would be a serious offense.

We are of the opinion that while in some respects it would be advantageous could a separate agent be designated for the Hopis, that on the whole, because the segregated Hopi areas will not be in one tract but in two, and also because they will not constitute a large enough country for a separate jurisdiction, it would be unwise to try to allocate to the Hopis a separate superintendent. We believe, too, that, in spite of the fact that the present superintendents meet with some difficulties in dealing with both tribes, that with a separate superintendent

for the Hopis, these difficulties would be increased, rather than diminished. While it is deemed essential to segregate and fence specific areas for the Hopis, it would, we believe, be a mistake for the office to indicate, even by implication, that one group was to be treated on any different basis than the other so far as benefits and privileges are concerned.

The Hopis are distinctly an agricultural, domestic, and industrial people. It is doubtful whether it is wise under the circumstances that now exist, and especially the rapid overgrazing and depletion of the ranges, to encourage them to expand their sheep and cattle business. They have considerable resources in the way of arts and crafts. Their baskets, pottery, and weaving afford them a considerable income. They are being encouraged to keep up the quality of these articles so that they may be more and more a resource to them. Furthermore, the Hopis are, to probably a greater extent than any of the other southwestern Indians, adaptable for outside amalgamation and occupations. More and more of them are being employed usefully in Arizona, California, and elsewhere, in industrial occupations, domestic service, and other useful ways. In view of all of these generally admitted facts, it is probable that the number of Hopis within the Hopi country will not materially increase in the next 10 or 15 years.

These considerations, we feel, should be carefully weighed in arriving at a decision in connection with the proposed segregation.

There are a few of the Hopis—and apparently Tom Pavatea, the prosperous merchant at Polacca, is one of them—who feel that perhaps the continuation of the present status would be satisfactory. However, we apprehend that in these cases their feeling is somewhat controlled by the prospect that they may, themselves, become considerable sheep owners, with herds of sheep wandering over large areas with Mexican or Indian herders. Pavatea is himself quite well off financially. He is an excellent man, but we believe that his views, if they are as we apprehend, are shared by only a few of the Hopis. An overwhelming majority of them desire segregation.

Reference is made to my letter to the commissioner dated August 4, last, reporting a meeting held in Gallup on July 6 with Commissioner Rhoads. In this letter I stated that the general feeling then was that segregation would not "solve or even ameliorate the present difficulties," even if it were possible to agree upon the boundaries. But a careful study of the problem has lead me to reverse that opinion, as herein reported.

The commissioner there asked us in connection with all this to investigate and report on the advisability of changing and realigning the boundaries of the various Navajo jurisdictions, and especially of the present Hopi, Leupp, and Western Navajo jurisdictions. In that letter it was stated that it was tentatively thought that it would be best, first of all to change the name of the Hopi Reservation and then to realign the boundaries of the present three western jurisdictions.

I am now of the opinion that it will be more or less futile to make suggestions for such readjustment of these jurisdictional lines until after this matter of segregating the Hopi areas is passed upon by the department. If the segregation as herein recommended is decided upon, it will definitely affect our recommendations as to jurisdictional changes. The present lines, especially of the Hopi Reservation, are quite arbitrary and unreasonable. But before making recommendations as to how they should be changed we are convinced that several other matters beside this of the Hopi segregation should, if possible, be put upon a clearer basis.

One of these is the Paiute strip in southern Utah. This area of some 600,000 acres will, it is hoped, be definitely added to the Navajo Reservation by the passage of a bill now before Congress. It is urged that everything possible be done to assist in the prompt passage of this bill. We understand that since the meeting in Blanding, Utah, on September 18 with Congressman Colton and others, there will be little or no opposition to the passage of this bill. It is also recommended that the proposal heretofore made to secure certain land and buildings in and around Bluff, Utah, for the establishment there of an Indian school, be given serious thought. We have already urged the need of properly providing for the educational and other needs of these remote and inadequately provided for Indians. Should this be done it is quite possible that it would be found advisable to create a new jurisdictional headquarters at Bluff, taking in part of what is now the Northern Navajo jurisdiction, part of the Western Navajo, part of the Hopi, and part of the Paiute strip. This region, including Kayenta and the Monument Valley are very remote from both Shiprock and Tuba City.

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Then, too, this jurisdictional readjustment will be affected by what transpires in relation to the Castle Butte area east of the Leupp and south of the present Hopi jurisdictions. It is proposed to secure if possible the passage of a bill providing for the exchange of railroad grant lands in this and other regions adjacent to the Navajo Reservation in Arizona. And, if that is done, and such exchanges made possible, then this whole district may be included in one of the Indian administrative jurisdictions, in the same manner that the extensive allotted country east of the reservation proper in New Mexico is now made a part of the Eastern Navajo jurisdiction.

Another matter which will sooner or later have to be adjusted is the status of the odd sections in the present Leupp Reservation. These sections are in the same situation as the remainder of the lands in the Leupp and Western Navajo jurisdictions which were bought from the Santa Fe Railroad by the Government and not paid for, but which, under a new arrangement made with the railroad company by Commissioner Burke, are now being paid for at the rate of $1 per acre. However, none of these lands in the Leupp jurisdiction have been as yet so paid for at $1 an acre. The lands on which the Leupp school as now located is situated are, partly anyway, railroad lands. If the school, as now constituted or in a smaller unit, is removed, as is now suggested, a mile or so away from the present site to higher ground, we ought certainly to know beforehand whether we are erecting the new buildings on Government or on railroad land.

There is also still in controversy some land in the southwest corner of the Leupp Reservation claimed by the Babbitt Bros.

Incidentally it should be stated that at the Gallup meeting it was tentatively proposed that when jurisdictional lines are redrawn, the name "Hopi Reservation" should in any case be dispensed with. The wisdom of such a decision is manifest because the name has definitely been misleading to both the Hopi Indians and their friends. The name "Tusayan" was suggested at that meeting as a good name to use in lieu of "Hopi." However, since then Superintendent Miller has made some careful investigations as to the significance of the word "Tusayan," and he finds that, after writing to numerous people, including Doctor Colton at Flagstaff, Professor Lockwood of the University of Arizona, and others, that the word "Tusayan" is a word which was used by the early Spaniards as descriptive of the Hopi country or of the country in which the Spaniards found the Hopi villages to be situated. Mr. Miller is of the opinion, and with that opinion I am in accord, that if these conclusions are correct, then the name would be no better than the one that is now being used. In view of this, further study will be made of what name will be best when the proposed changes are made.

Respectfully yours,

H. J. HAGERMAN,
Special Commissioner.

I agree.

D. E. FARIS,
District Superintendent.

MINUTES OF CONFERENCE ON NAVAJO-HOPI BOUNDARY CONTROVERSY HELD AT FLAGSTAFF, ARIZ., ON NOVEMBER 6, 1930

The following officials and delegates were present: H. J. Hagerman, special commissioner to negotiate with Indians; C. E. Faris, district superintendent; C. L. Walker, superintendent western Navajo jurisdiction; E. K. Miller, superintendent, Hopi jurisdiction; John G. Hunter, superintendent southern Navajo jurisdiction; and John E. Balmer, superintendent Leupp jurisdiction.

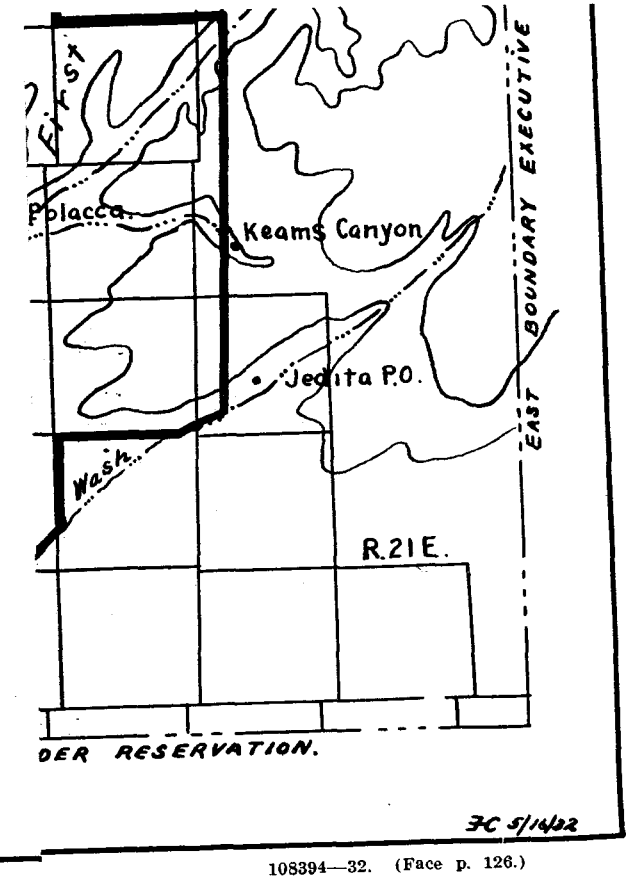
Navajo delegates: Billy Pete, Nosteen Nez, Paul Williams, Claw, Segeni, Lee Bradley, Maxwell Yazzie, Tillman Hadley, Julian Begay, Bill Sawyer, and Dine-Yazzie-Betah.

Hopi delegates: Otto Lomavitu, Peter Nuvamsa, Fred Johnson, Joe Secakuku, Albert Yava, Tom Pavatea, Kotka, Joe Daungeva, Emery Sekaquaptewa, Charles Humchongeva, Poli Hongeva, Frank Tewa, and Harry Keyope.

Interpreters: Navajo, Lee Bradley; Hopi, Otto Lomavitu.

The conference was called to order at 9 a. m. by Commissioner Hagerman and the following proceedings were had:

Mr. HAGERMAN. Gentlemen of the conference, the Commissioner of Indian Affairs, Mr. Rhoads, and Mr. Scattergood, the Assistant Commissioner, were both out in the Navajo and Hopi country last July. They instructed me as their representative to do what I could to discuss and if possible to adjust certain differences that seem to have arisen in the Hopi-Navajo country, and for that



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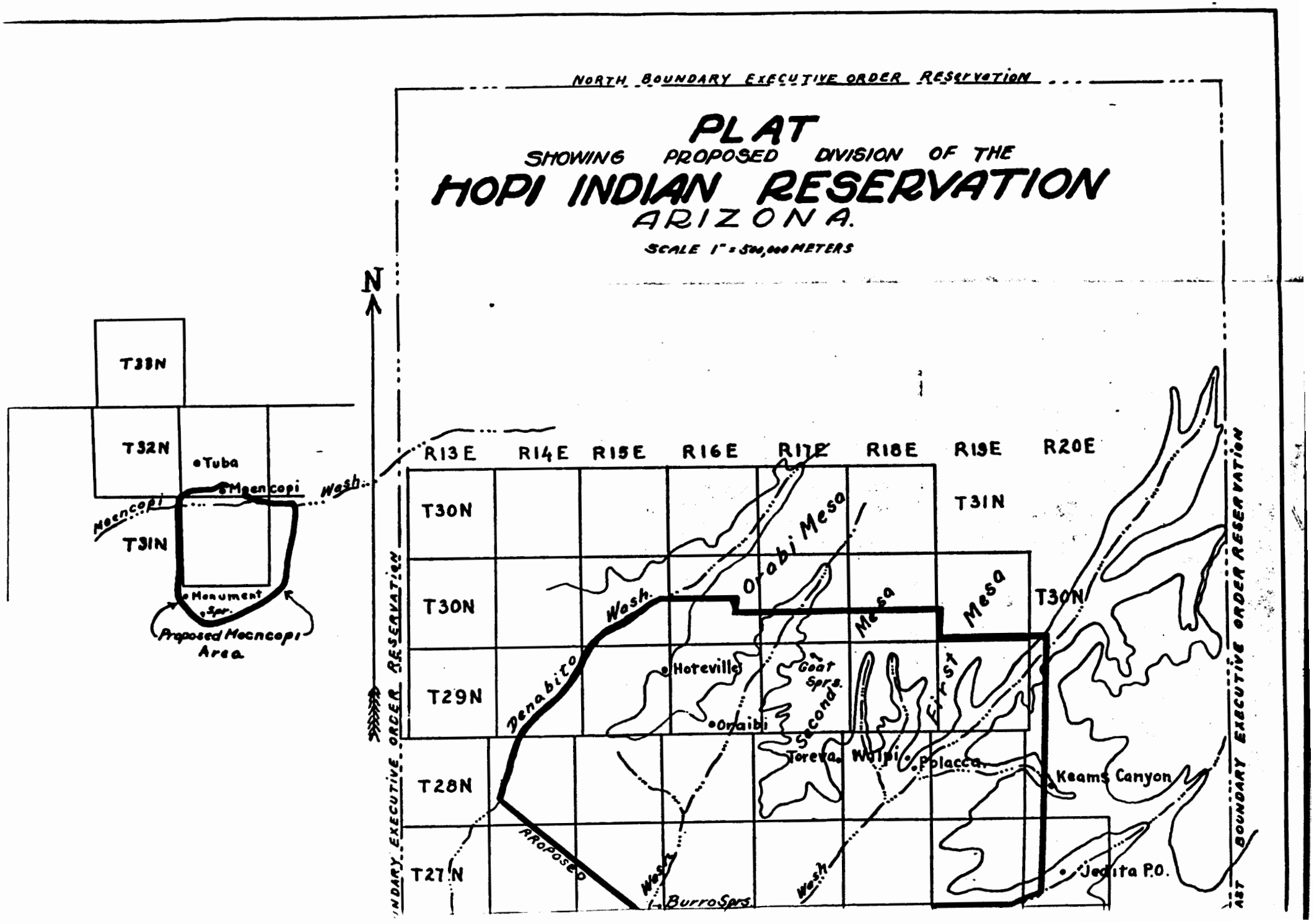

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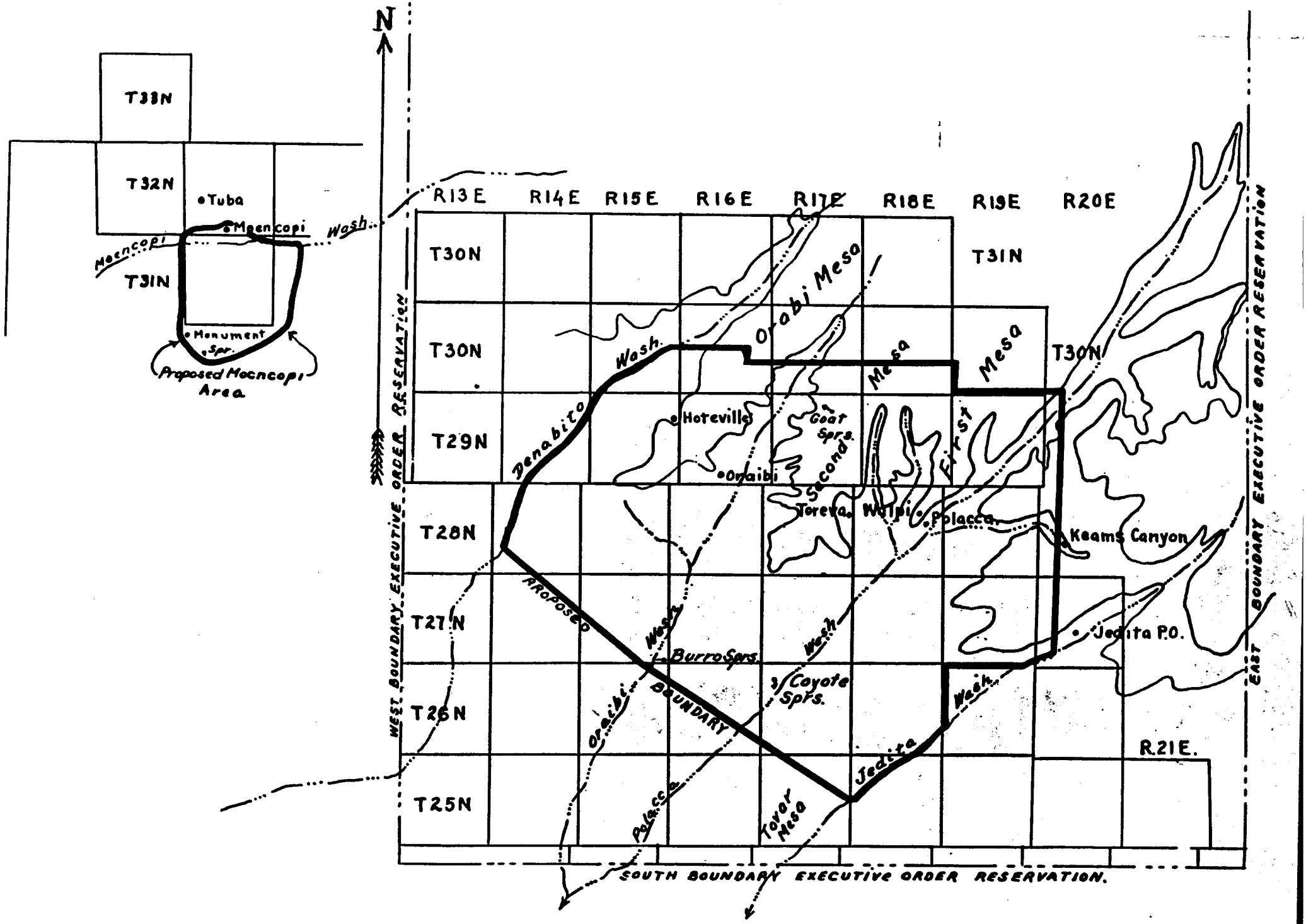

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reason we have called you together to have a full discussion of the situation. Letters from Washington have instructed me to say to you who have come here for this meeting, that on account of the short time which we will have to carry on this conference, we only wish to discuss the main issues. The small matters which inevitably arise in all reservations, not only between different tribes but amongst the same tribes, are always left to the local superintendents, and your two superintendents—whom you know so well—have done everything and are doing everything they can to adjust these small differences as they arise.

This is the first time, as far as I know, where a meeting of both the Navajos and the Hopis, under Government auspices, has been held. There are difficulties, as you see, in carrying on such a meeting, on account of difference in language; but we do hope that you will take advantage of the opportunity to let us know so that we can report to Washington any constructive ideas that any of you may have in connection particularly with the land situation in the Hopi-Navajo country. Recently reports of a good many conflicts have, periodically, come into Washington, some from the Navajos and some from the Hopis, in regard to the matter of grazing and stock. Most of these I must say, have come from the Moencopi area rather than from the Hopi mesas, and when one examines them closely they don't actually amount to very much and are not serious enough to cause the Government a great deal of concern. But what we are concerned with is whether or not this long-standing controversy of the division and use of the range resources of the country surrounding the Hopi mesas and Moencopi can be adjusted on lines which will be equitable and more or less acceptable to both tribes. Much has been said in Washington and in the country in the last year or two about the policy of the Indian Office in connection with Indian reservations, and while I am not in any way authorized to speak for the Government or to interpret these policies, I can, I think, say to you without indiscretion, that the Secretary of the Interior and the Commissioner of Indian Affairs, as far as the Navajo and the Hopi countries are concerned, have arrived at a pretty definite and clear policy. You Navajos who are members of the Navajo Tribal Council already know pretty well what that policy is because it has been explained to you at the Navajo Councils. But the Hopis have not yet had an opportunity of attending any of these meetings. That policy is to outline as soon as possible and as clearly as possible the ultimate outside boundaries, not only of the Navajo-Hopi reservation, but of the lands adjacent and near to the reservations which it is conceded are Indian land and mainly used and occupied by the Indians.

They have given me the job of doing this, and, as we say in English, it is some job. The thought is that the northern boundary of this Indian country will be the Colorado and the San Juan Rivers, which will include the Paiute strip up in southern Utah. A bill has already been introduced in Congress to restore that area to the reservation. On the west it will be the Colorado River, and part of that has already been restored to the reservation. Out north and northwest of here, in the vicinity of Cameron, a certain additional area has already been arranged for, and a still larger area it is hoped will be arranged for in the near future. East of Leupp is what is known as the Butte country, which is a large area of some 22 townships, which it is hoped can ultimately be acquired for the Indians. The balance of the lines, that is, from the vicinity of Holbrook on the west, to Gallup and Crown point on the east, are going to be more difficult to define, but negotiations have been carried on now for a number of years with an attempt through purchase, exchange, and other methods, to round up and consolidate a considerable area of land to the south and east of the present reservation for the ultimate use of the Navajos.

The only way these adjustments can ever be made is through patience in negotiations with the Congress of the United States and with the representatives in the Senate and in the Congress from New Mexico and Arizona, because very little can be done toward reaching a permanent solution of this problem without the consent and cooperation of the States of New Mexico and Arizona.

There are, according to the last census, about 43,000 Navajos and about 2,848 Hopis. In 1869, that is, about 60 years ago, there were, according to the records, about 8,200 Navajos—now there are about 43,000. It is probable, however, that at that date, 60 years ago, there were more than 8,200, but not many more. The Hopis have not materially increased, according to the records, in the last 60 or 70 years. I am telling you all this so that you, and especially the Hopis present, may understand the situation as the Government now sees it, and the problem which the Government has to face in this land matter. The Hopis are situated right in the midst of the Hopi-Navajo country. For years the Government has been accustomed to look upon this great country as Indian

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country, irrespective of whether the Indians within these lines were Navajos or Hopis. When the United States took over this country from Mexico in 1848, the Hopis practically all lived on the mesas. Within a very short time after that event a delegation of Hopis went to see the then Governor of New Mexico—the military governor, Mr. Calhoun—and made the first representation about this controversy which we have met here to-day to discuss. Ever since that time—periodically—there have been representations made by the Hopis in connection with this same matter, so this discussion is nothing new. In the meantime and ever since then the Government, with the expenditure of large sums of money, has been developing this whole country, putting in dipping vats, developing springs, putting down wells, etc., quite irrespective of whether the Navajos or the Hopis occupied any particular section.

Since 1868 the Indian country of which I have been speaking has been enlarged by Executive order and congressional reservations from about 3,000,000 to about 12,000,000 acres; that is, enlarged four times. For the sake of convenience, in order that this great country can be properly administered, the Government has divided it into six different jurisdictions, now called the Northern Navajo, with headquarters at Shiprock; the Southern Navajo, with headquarters at Fort Defiance; the Western Navajo, with headquarters at Tuba City; the so-called Hopi Reservation, with headquarters at Keams Canyon; the Leupp, with headquarters at Leupp; and the Eastern Navajo, with headquarters at Crown Point. The so-called Hopi Reservation, which was created in 1882, comprises about 3,860 square miles and contains at the present time 2,472 Hopis and 3,319 Navajos. In addition to these Hopis that live now on and around the Hopi mesas, a couple of hundred Hopis in about 1882—that is, about 50 years ago—left Oraibi and went to Moencopi. Why they did this you know better than I. It is an interesting matter of history, perhaps, but the condition that we now have to face is that these people are living away from the balance of the Hopis and over in the Moencopi Wash. What I wish particularly to call to your attention is this: That the outside boundaries of the Hopi Reservation, so called, as decreed by President Arthur in 1882, were merely arbitrary lines—a great straight line this way [indicating], and another that way, a great square, irrespective of rivers, canyons, and natural boundaries, and that a majority of the Indians that are living in that area are still the Navajo Indians, and that moreover a good many of the Hopis have left the area entirely. Now, many representations have come to me and are in the records to the effect that the Hopis believe that in the dim past, they were entitled to a vast area of country, extending very far west and down south, away south of here, and I don't know how far north. That may have been true at one time.

I have been told by the Papago Indians recently that they believed they were entitled to hundreds of thousands of square miles in addition to what they still control, out westward toward California. The Acoma Indians have come to us and said that they thought they were entitled (because they once occupied it) to a large area which is fifteen times as much land as they now control in their reservation. On the same basis, the Apaches would probably claim practically all of what is now Arizona and New Mexico—the Mescaleros in New Mexico. This is all very interesting from an historical standpoint, but, because of former occupancy by these different tribes of Indians which covered practically all of this western country, the Government of the United States can not at this time entertain claims of present ownership by the Indians of the same areas. What we have now to do is to face the situation as it now is, and what the Government is trying to do, and what Mr. Walker and Mr. Miller and Mr. Faris and I are trying our best to do is to get as much land permanently for the Indians as we can, and to add to that as large an area as we possibly can. I think, if you have followed me through this talk, you will realize that we who have charge of this for the time being are doing our very best to solidify the outside boundaries of this Indian country in New Mexico and Arizona, but we can not do so successfully without the full and hearty cooperation of all the Indians in that area, whether they be Navajos or Hopis.

The Government is as anxious to protect the rights of the Hopis as it is to protect the rights of the Navajos. The Hopi Indians have, until in quite recent years, lived almost entirely upon the mesas, but with the encouragement of the Government they are gradually getting out and are using a little more of the range all the time. But in spite of that, up to date, they have not gotten very far away from the three mesas. What we are particularly interested in and what we would like to know from the Hopis and the Navajos in that vicinity is what, in your opinion—the opinion of the delegates here—can best be done, if anything should be done, to more definitely define the respective rights or the respective areas to be used by the two tribes.

Before asking you to speak I just simply want to emphasize again the fact which I have already tried to bring out, that the lines of the Hopi reservation so-called as now drawn, are simply arbitrary, administrative lines; that these lines are likely to be changed at any time. You Hopis know that in the last few years some of the area in the Hopi reservation has for administrative purposes been turned over from Mr. Miller to Mr. Walker, and it is possible that new alignments of all of this reservation will be made, combining perhaps some of the Leupp with some of the present Hopi, some of the Leupp with the Western Navajo, some of the Western Navajo with the Hopi, etc. Such changes however, will probably depend in some degree upon what sort of a conclusion the Government reaches after this conference in connection with the use of certain areas for the Hopis and the use of certain other areas for the Navajos.

Now I thank you very much for your attention. All of this that I have been telling you is in a preliminary way to try to explain to you what the situation is as the Government sees it. I have made no suggestions as to any remedies or conclusions for the controversy—if one exists—as I would rather hear from you and have your ideas on that before making any comments on that phase of the situation.

Now those conferees who are here, who have badges, are the ones who by common consent have been delegated as the representatives of the respective tribes. We wish you to remember that we only have a limited time but we want to hear and get and reduce to writing the ideas of as many of the delegates as we can.

I ask you again to remember that what you say here will be read with the greatest interest by the people in Washington, including probably the Congress of the United States, for it is, as I stated above, the first time as far as I know that there has ever been a common conference for the Hopis and the Navajos together to discuss this subject. Now we would like to hear from you. Tom Pavatea, have you anything to say?

TOM PAVATEA (Hopi). The subject discussed this morning has been that it has been very much in the minds of the Hopi people, including myself. The thoughts expressed this morning have been to some extent accepted and plausible, for only on the line of clear understanding, a very definite boundary line understood by each can anything be done to mutually aid. We consider them (Navajos) as our friends. We consider them as our neighbors, but we among the Hopis have entertained just such a conference as this and have wished that such a conference could come, and the outline suggested there is acceptable indeed to some extent, for only through cooperation along such lines as outlined this morning can anything be accomplished.

Mr. HAGERMAN. Before we adjourn for lunch—and I think that we will do that before very long, in order to give the delegates an opportunity to talk these matters over, we would be glad to hear from any of the Navajo or Hopi delegates in a preliminary way, just as Mr. Pavatea has spoken to you and us. So any one of you with badges, at this time if you care to say anything in regard to the statements I have made, we would be very glad to hear you.

KOTKA (Hopi). I accepted your statement as to adjournment and the opportunity to speak of these matters among ourselves as delegates for we are ignorant of what the subject would be, but since the outline as you stated, we would be glad to take opportunities to discuss these matters in the meanwhile.

MAXWELL YAZZIE (Navajo). According to what you have brought out this morning it is a question of importance, and as the man from Polacca (Pavatea) says, we are ignorant of the subject and would like time to talk these things over ourselves. I would like to say this much to you, friends and Hopis. We have been to school with a lot of you and know you and we are not trying to tear anything apart. We are not doing that. We want to settle anything that is going to be settled in a peaceful way and be friendly at the windup as we are now. We don't want to squabble it and you don't want to squabble it yourselves. We want to give you justice and we want you to give us justice. There is this whole table [indicating] as one piece. It could be cut here, or it could be cut there, peaceful, and that is what we want to do. We don't want to start any hard feelings between the two tribes. We are friends, as you know.

Mr. HAGERMAN. Has any delegate anything further to say at this time, or would you prefer to adjourn the meeting with a couple of hours for conferences?

INTERPRETER (Hopi). Joe Daungeva, from the second mesa, suggests that we adjourn and it would give us more time to consider these matters and be able to present the matters in an intelligent way.

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Mr. HAGERMAN. I think that is wise. I will ask you both to get together and discuss these matters as fully as possible with a view of being able to present to us after lunch as comprehensive a program as you can. I want to say that there is a movie man out here who wants to take a picture of us and the delegates to send to the movies and to Washington, but if there is any real objection on the part of the Indians why of course we don't care to do it. I think however, that it would be to the advantage of all if you consented, so that this conference, which is an unusual one, might be given some publicity in the country.

PETER NUVAMSA (Hopi). I don't know whether we should be photographed or not, in that sense, since we are somewhat unsettled as to the outcome and in other words that is something that is not so important to broadcast yet, it might be done later.

Mr. HAGERMAN. Well, I think it wouldn't hurt to be photographed, anyhow because we are all friendly. What is the vote on the subject? All those in favor of being photographed after lunch will indicate it by rising. I don't think it will do any harm or hurt anyone.

(All arise.)

The conference will not adjourn until 1.30 this afternoon. You had better all be here by 1.15.

The conference reconvened at 1.30 p. m. and was called to order by Commissioner Hagerman.

Mr. HAGERMAN. Members of the conference, we will now throw open the discussion to you. You have had two hours to talk it over and we would be glad to hear from any delegate as to what ideas you may have, either Hopi or Navajo.

JOE SECAKUKU (Hopi): We have had but little time to go over the outline that was given us this morning and we all agree that this is the first opportunity that we have had to hear about our reservation. We feel that we should have two separate reservations. This we believe will eliminate any misunderstandings that may arise some time in the future. Now since a few of us delegates here—the Hopis—are not in a position to discuss this seriously, we have decided we wish to be furnished with copies of what is being said to-day. Also if there is any definite plan at this time from the Government, both for the Hopis and the Navajos, regarding the boundary lines, and if there is anything else that has not been brought to our attention, we would like that also. These are to be taken back to the reservation and discussed with our people as a whole, and at some future date have another conference, at which time to decide just what we want to do, for, at that time we will have all the officials who are in a position to discuss this situation. We have been notified on very short notice, and we are at a loss until we are told by Mr. Hagerman this morning what is being planned for us, and it is very good. It is to our intentions and we will now leave this to your consideration.

MAXWELL YAZZIE (Navajo). I think what Mr. Secakuku is trying to say, or what we have talked at least, is to settle this land question in such a way that it wouldn't cause any hard feelings on the Hopi side or the Navajo side. What Mr. Secakuku suggests is this, that they get a different reservation, separate from the Navajos, and to get an agent for the Hopis alone, and some outline on the map as to how big a territory they will be allowed for this jurisdiction. And it seems as though we will have to have some kind of an outline on the map to see how big a territory they will take in and will give us an idea of what their jurisdiction would be, and since they were not notified in time enough to get their head men out here to this conference, they feel that they will take an awful big responsibility if they say: "We will accept your drawing on the map or what adjustment we might make on the map for our territory," but it is considered to be about the only thing to do about this land question. Of course with the Navajos it is land question all the time. We are trying every way possible to get a foot of land here and an inch over there, and we feel we are not trying to beat any one on the land, but we are not in a position to give any more than we have to, but the thing we want is justice to be on both sides. If we could get that outline on the map so we could talk it over as he said. They told us, we can draw on the map and they might discuss the lines, but their position is so that they can not speak for the whole Hopis. So a map of some sort will have to be furnished we believe.

OTTO LOMAVITU (Hopi). This question regarding the boundary lines of the Navajo and the so-called Hopi reservation has been the subject of controversy for many years. We who are delegated to represent our people, as far as delegation is concerned, in some respects, are not authorized by our people to say anything definite in the sense of conclusiveness and finality. We were notified in a very short time, in the course of about 36 hours, and a good many of our chief men in the respective villages were either away or could not come. We were not told just what the character of the meeting would be, we heard about what it would be, but nothing definite. We were left all in the dark and we had nothing to think about or talk about at all. Consequently, our people delegated us here, not so much as representatives of their power, but in the sense of reporters to bring in the report for their consideration. Beyond that we have no authority, and since we seek fairness and justice to both sides, it is only fair that we be given this time. Not that we do not wish to cooperate with the Government or our fellow tribesmen here, but our position is such that we can not say anything definitely here. Therefore, we would appreciate, as has been suggested, that the officials of the Government definitely outline the suggested boundary—map it out for us—furnish us with copies, then we can take the copies and your words to our people. They will then be able to discuss intelligently the subject on hand. We think this is fair to both parties, and beyond this, we have no more to say. Thank you.

Mr. HAGERMAN. Have the Navajos anything more to say?

LEE BRADLEY (Navajo). Friends, councilmen, and Governor Hagerman: We have also been notified in a short time but we knew exactly what was coming, and it seems to me like you Hopis knew what this was about because you were the people that started this. You were the people who were making these complaints against our tribe, the Navajos. While you were making all these complaints into the Indian Office for this adjustment to be made, we also wrote to the commissioner and asked that this question should be settled as soon as possible, and now the conference is here and it is up to us to settle this problem. You knew very well what this was all about, but there is a catch in it somewhere, that you are lying low for the sake of somebody else. This is my opinion. Now why can't we get together and draw a map and discuss it a little further and go into it a little deeper instead of just letting it drop the way you fellows are intending to do. We knew what was coming and we were prepared. We have our representatives here to discuss this matter and to settle it, and now you state that you haven't got authority to settle it, you are just merely the delegates, just the representatives. Why not get together and go on further. That is my opinion. To my knowledge you are slacking back, holding back on us for the sake of some one. Thank you.

JOE SECAKUKU (Hopi). Mr. Chairman, I believe that our Navajo friends misunderstood that part about dropping the conference. According to Mr. Hagerman's statement this morning that this is the first time that the Hopis have had a conference of this nature, and it is true, we have never been asked or called upon to sit in any conference, and it is a very good thing. We are not against any conference or against any improvement, and as it has been said, we want justice, justice to both parties. Then why not continue this with a little more time and give us, as has been suggested, copies of this discussion? Since it doesn't concern two or three individuals, but two different nations as a whole, it is a serious proposition. We don't expect an immediate result. It means our children and our grandchildren. Do you suppose that a discussion of that nature would be settled inside of an hour or a day? We want more time. I am sure that they will appreciate our position or any of you who are thinking people. We will appreciate therefore—we want all encouragement, we want all information. Therefore, we have asked before that we be given further information if there is any that has not been called to our attention to-day. If the Government has already planned, either by writing or by map, we would like to have it. We would like to have this settled in a friendly way. I am sure that our friends the Navajos will agree and will cooperate with us and we will do likewise. One of the main things the Hopis have always wanted and have asked for is a reservation for the Hopis only. Why couldn't we have it? What keeps us from it? According to the Executive order, what does he know about the conditions 40 or 50 years ago? Who was the interpreter? How does he know the conditions? What was to be the outcome of it all? But we who have received a little education, and you have enlightened us on these different subjects, and I would again say that we ought to have a little more time, and still ask for a separate reservation and a separate agent, and not a man with two jobs, like Mr. Miller and Mr. Walker there, with the Hopis on the one side and the Navajos on the other, what are they going to do with us? There they are on each hand, trying to do the right thing by both of us.

We want some one like Mr. Miller for our agent, or Mr. Walker. Anything that comes up should be taken to Mr. Miller and he in turn discusses it with Mr. Walker. I think that is fair. But we are not asking for something that is

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impossible. We want only the fair thing, just the plain thing. Nothing is hidden. We want everything plain. I am sure all of you feel the same way. I believe that once the Hopi is given a separate reservation and it is understood then that we have our own land, and the Navajo, being a good friend and appreciate our land, we don't believe that we would be bothered any more one way or the other. So we are leaving this to your consideration. Just what do you think? If we are asking something impossible, or if we are insinuating that we are going to drop the conference? But we want something done so that we will not have to carry this on any longer than is necessary. All important matters take time we know, and if it takes a little more time, it is going to be right. Thank you.

MAXWELL YAZZIE (Navajo). It seems like what Mr. Secakuku suggests would be the only thing to do. Since the boundary of the Hopi Reservation and the Navajo Reservation has been discussed for several years as they say, and in order to take off this bad feeling between the tribesmen, it seems that the best thing that could be done would be to give our tribesmen friends, the Hopis, a separate agent, some agent perhaps like Mr. Miller or Mr. Walker, then their dealings will all be with their own agent and nothing would be taken out to the Navajo agent. As he stated, the agents, Mr. Walker or Mr. Miller would be standing here with double jobs, the Navajos on this side and Hopis on this [indicating] and all trying maybe to crawl between their fingers. He is just standing here like this [indicating] and he is helpless. What my friend wants over there is a man that will give them what is coming to them, and have a man standing here for the Navajos and give them what is coming to them. We don't want a man standing there [indicating] and the Indians trying to crawl out between him. Mr. Hagerman, I wish you would recommend a separate agent for our friends. We would appreciate it, and they would more than appreciate it.

Mr. HAGERMAN. Where do you think would be a good place for the headquarters of such a separate agency?

OTTO LOMAVITU (Hopi). I should think also—this is for myself, but the others would ask the same thing too—that if a thing like that could be made possible, that is, having separate agents to handle their respective people; then, of course, it is only right that the agent be located in their respective territory—that the agent for the Hopis be placed within the Hopi territory, and the agent for the Navajos be placed in the Navajo territory, and the line of demarcation should be very distinct.

Mr. HAGERMAN. Well, I will ask you again, where do you think the agency of the Hopis should be, in case the Government should set aside an agent for the Hopis?

PETER NUVAMSA (Hopi). Mr. Chairman, it seems to me that as far as picking out a location for the agency, in case there should be a separate agent for the Hopis, is concerned, I don't know but what we would be making a mistake in trying to figure out a location for the agency, since this boundary line and the proper allotment to the different tribes has not been defined yet.

Mr. HAGERMAN. Where do you think the lines of such a separate tract should be?

PETER NUVAMSA (Hopi). (Comes to the front and offers a map and other documents to Mr. Hagerman.)

Mr. HAGERMAN. Do I understand that the Hopi delegates present know what this map is?

PETER NUVAMSA (Hopi). Of course we all desire justice to both sides—it must be considered to both sides. Here is just a rough sketch of the old domain. You are welcome to look at it, but of course it is just a rough sketch. It is not anything definite, just a small petition. It was sent in to the office some years ago. It has nothing to do with the subject in hand, but it is from the Chimopovy village.

Mr. HAGERMAN. The sketch handed in is a sketch showing an area bounded on the northwest by the Colorado River, on the west by Flagstaff, on the south by a line some 25 miles south of Winslow and Holbrook, on the east by St. Michaels, Fort Defiance, and Chinle, and practically takes in as much land as the whole Navajo Reservation. Am I to understand that the representatives of the Hopis who are present here have no other suggestions to make to me as to an area which the Hopis would like to have set aside for them except this suggestion which has been handed to me with this map?

OTTO LOMAVITU (Hopi). That copy was just outlined by the second mesa people as to the old tribal plans many years ago. It is just for your information. So that is all. You touched on that this morning, so they just gave it to you.

Mr. HAGERMAN. So you haven't any suggestions at this time as to the outside boundaries of an area which might be set aside perhaps by the Government for the special use of the Hopis? Do I understand that?

FRED JOHNSON (Hopi). Mr. Chairman, we have been called to be present at this conference through Mr. Wilcox, principal of Oraibi day school. We were notified only about two days ago. We were not told exactly just what the character of the meeting would be. We had some ideas regarding it, but nothing so definite at the last minute. We were hurriedly chosen by our people to be delegates here, to listen to the proceedings of the meeting. We are not empowered to express our opinion either pro or con, but we are authorized to report whatever is suggested or whatever is discussed here in its entirety for further consideration. We have no authority, therefore, to be free to even give you an idea of the boundaries of the lands that should be given to the Hopi Indians. This will be done by our own people. As delegates we have no more to say, just to do what we were asked to do, to report this back to our people, and I assure you that in due time answer will be given. We only request that nothing be held from us, from our tribe, by the Government. It may be that you officials who handle this problem may have in your own minds or even in writing already a proposed outline for our reservation, the boundary. It may be that you, yourselves, have that already fixed upon in your own minds, or at least thought so. If there is anything of the kind we would appreciate information on that. We want to be just. We want everything to be done openly and frankly. We want you to understand that we want everything openly, that when this information, if there is any, whatever there may be in your own minds, is given us, we think we will all be satisfied, both parties concerned. We desire to discuss this further after we have been notified. Otherwise, it is as far as we can go.

Mr. HAGERMAN. The Government has not settled upon any line, even tentatively, as a proposal for a separate Hopi Reservation, nor has the Government up to this time settled upon the theory that it would be wise or permissible to in any case set aside any special land for the Hopi Indians. The Secretary of the Interior and the Commissioner of Indian Affairs asked me as commissioner to negotiate with Indians and as their representative to come to you and to try to find out from you what your ideas were about the matter before the Government made any decision in the matter. They therefore requested me to act in their behalf, as I told you this morning. If I can not get from this meeting any specific ideas more than those which you have given to me, I shall make such recommendations as, after careful consideration, I may consider wise and proper, under the circumstances. In spite of your thought that I may be concealing something, I want to assure you that I am not, and that I have not as yet any definite idea as to what those recommendations may be. I might have much more definite ideas if the result of this conference had been more satisfactory than it apparently is. I am sorry, too, that you were not notified sooner. Last July I went to your reservation with Commissioner Rhoads, and the Indians of Moencopi asked for a meeting in the little plaza there with him and stated that they wanted a conference with some representative of the Government. At that time—it was last July—Commissioner Rhoads stated that as soon as circumstances permitted, he would ask me to come over there and consult with the Hopis. The men who were there at that time stated that in the meantime they would consult with the chief at Oraibi and with others over in the Hopi country and discuss this whole matter carefully. Some time ago I notified Mr. Walker and Superintendent Miller that we proposed to call this conference. Mr. Miller was away at the time, but my understanding was that the people were notified, and, as stated by the Navajo delegate a little while ago, we believed that you were conscious all along, from July, that this conference was to be called, and we hoped that during these months you would prepare yourselves. I realize that is it difficult for the Government to deal with the Hopis because there is no Hopi tribal organization. You have the first and the second and the third mesas, you have Hotevilla, you have Moencopi, and Oraibi, and my understanding is that you have a separate organization for each of these pueblos. How it would be possible, even if we did wait indefinitely, to deal with you as a tribe I don't at this time know. [To the interpreter.] I hope that you will explain that to the delegates so that they will understand clearly what my position is. [Interpreter addresses the Hopis in their own language.]

Mr. HAGERMAN (continuing). I should like to ask some one of you who knows, whether or not you think that the different villages and groups of the Hopis could perfect a tribal organization which could agree upon a question such as this, and answer definitely the suggestion which I have made as to what you

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think should be the outside boundaries of a separate Hopi district. If so, how would you proceed to make that Hopi tribal organization? [Addressing Kotka.] What do you think about it?

KOTKA (Hopi). As far as forming such an organization for practical purposes, it indeed is a serious problem among our people, due to the respective chiefs in the separate villages. I don't know that it can be accomplished or is not possible. I don't know. It is almost an impracticable thing in that sense. That is what I believe. We fully appreciate this discussion this afternoon. Personally I am thankful for the information you have furnished us regarding the Government's side concerning our reservation and the two tribes, but I wish to say that I have been the main person who has told the rest of them that perhaps it would be wise for us not to express any more than we are authorized to do. And so I have told them and I have agreed on that because, beyond what I have said, we can not do any more. But I understand from your explanation, Mr. Chairman, that for I, myself, the people from my village have not been carrying on any correspondence complaining about such things to the office. I understand that these people in these remote districts have done most of this correspondence—complaints—and understand also that the Navajos also have been carrying on such a correspondence of a similar nature. I understand that it is the correspondence from the two sides, the Navajos and the remote villages, that has brought us together at this time. Now, considering this subject, my personal opinion on it is this: It is evident that the person who is instrumental in creating the reservation undoubtedly must have consulted with some other person who probably is familiar with the situation. Anyway, there must have been some cause or reason—anyway, some one must have known or been present to guide them, so this Hopi Reservation was designated in such an area.

There must be a reason or a cause for it which now has brought us together and brought us to this condition. We were admitted into this area as friends; indeed, the outcome is that we are in this present position now. Whatever that order was there must have been a cause for it or some reason or some explanation. I am referring to the Executive order that created this reservation. The Hopi Indians of course are not willing that our boundaries which includes the Hopi reservation should be lessened. I am not indeed willing to have the boundary lessened. Now to answer your question, what I mean by saying that is, leaving the Hopi reservation as it exists to-day, it is not a very large area. It is a small area comparatively. Instead of being lessened, it seems to me like perhaps it should be extended more. We can not feel that we could be willing to have just a limited space. That is what I am getting at, that is what I had in mind.

Mr. HAGERMAN. When you say that, do you imply that in spite of all that has been said, that in the opinion of the Hopis the present boundaries of the Hopi reservation includes land to which the Hopis alone are entitled? In other words, do you believe that the Hopi reservation as now bounded is exclusively Hopi land?

KOTKA (Hopi). Most certainly not. I don't mean to say that the reservation is entirely a Hopi reservation. I know the order that created it.

Mr. HAGERMAN. But you did say, just before that, that you thought the Hopis were entitled to an area larger than the present Hopi area didn't you?

KOTKA (Hopi). I know the Executive order. I am familiar with it. I am conscious of this statement, the wording of the Executive order is broad. I only stated a while ago that instead of it being lessened, could it be enlarged. That is all I said. I am conscious of the wording of it.

Mr. HAGERMAN. Now we are getting at the discussion along the lines which I hoped that it would develop and I have a great deal of respect for Kotka's opinion and for his frank discussion of the matter. I would like to ask him—he is a man of experience and knows the situation very thoroughly—whether or not in his opinion it would be to the advantage of the Hopi Indians to have an area segregated, fenced in, perhaps for the exclusive use of the Hopis, or whether he would think it would be better to have an area such as now exists, for the use of the Hopis and the Navajos along the lines of the present administration.

KOTKA (Hopi). As far as my understanding of this Executive order and various conditions immediately connected with it, I am ignorant of it. I don't feel I can say anything more than I have suggested. That is as far as I can go now.

TOM PAVATEA (Hopi). Considering the subject, I don't know but what it might have been the best thing to remain as it is. I don't know. We have got along so far, with some friction indeed, so far as the present system is concerned. This Executive order creating the reservation for us and the other people, perhaps the motive was all right, that we could be friends and be neighbors. If that has worked it would have been fine, but the present condition of course is a little difficult. However, it may be that we should like the present system better, the Moencopi people living at their place, if they could get along all right. We with our neighbors here, somehow we get along all right. I don't know, in the face of that, what to think of it. But with that order creating the reservation, it is a hard thing to discuss as it stands. It might be best to go on as we are. I don't know. If the Moencopi people could just get along.

Mr. HAGERMAN. We seem to have gotten from you gentlemen all that we can get. Frequent suggestions have been made by the Hopis for further conferences, presumably similar to this one, when or if the Government shall have decided upon a more definite plan. What I hoped for was, as I said before, that you might give me information upon which I could make recommendations, but you haven't given me very much. Therefore, the recommendations that I make will have to be founded on the information which I have gotten at this meeting and which it will be possible for me to get from other sources. What those recommendations will be I do not know, but I can not promise that they will be submitted to you before they are submitted to the Government, because we can not take the time or the expense for many conferences such as this. In this case Mr. Walker has come from Tuba City and Mr. Miller from Keams Canyon and Mr. Radcliffe and I from Santa Fe, and we have spent a great deal of time, and with no more certainty as to the authority under which the Hopis would speak, and as Kotka says, it would be very difficult to get them to organize, there would be nothing for me to do except to make such recommendations as I think best, after having thoroughly discussed the matter with such people as are available and will give advice. Therefore, that is what I will do, but before adjourning this meeting, I certainly would be glad if you Indians could get together a little while and discuss it amongst yourselves again with a view of perhaps trying to find out whether you haven't something definite to say to me before you leave. I have only this to add. During the discussion just now, Kotka said he thought the matter had probably been brought to a head more or less by complaints of a segregated group of Hopis. Naturally, he meant the Moencopis, and intimated that perhaps, had they not made these complaints it would not have come to the point that it has. It is true perhaps that the representations of the Moencopis might have had something to do with it, but I am convinced that the Government has been for some time quite sure that the situation has reached a point generally which requires a settlement, and with that in view, I being on the ground here, they have passed to me the job of trying to bring it about, and therefore, it is my duty to make the best recommendations I can. What they will do with those recommendations, I do not know.

There are present a number of representatives of the Indian Office and superintendents with whom I would like to talk for a while, and it occurs to me that if the Indians would adjourn for an hour or so and talk this over further, we might reconvene with an idea of passing on any further thoughts that you might talk over in the meantime. If that is agreeable to the Indians, we will adjourn till half past 4 o'clock, and you, the Indian representatives, stay here and the rest of us will go to one of the other rooms so you can consult here among yourselves.

(Conference recesses.)

(Conference reconvened at 4.30 p. m. and was called to order by Commissioner Hagerman.)

Mr. HAGERMAN. Have you come to any further conclusions of any kind?

OTTO LOMAVITU (Hopi). Mr. Commissioner, we have talked the matter over among ourselves and come to the conclusion that there is nothing to be said at this time more than what we have already said, and perhaps it would be bettter to give the opportunity to our friends here to express their views—the Navajo Indians.

Mr. HAGERMAN. Have the Navajo Indians any further views to express?

BILLY PETE (Navajo). Perhaps you don't know that our grandfathers 40 years ago dealt with this question, and they knew, and I feel that you people know something about it. Whether you know something about it or whether you just don't want to express yourselves on what you have brought from your grandfathers about the lines of the Hopi Reservation. In the time when the old ones discussed this matter the Hopis were urged to move off the hills and get down on the flats where they could farm, but at that time whoever was in charge of that section had allowed them to go as far as their cornfields had rain, and later on another man came on and gave them a larger territory which bounded on Blue-

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bird Canyon. Where that is I don't know. Then he got another extension on up to Roberts's store and beyond, but I don't know the country there. [The Indians gather about a map on the wall and indicate the locations mentioned by Billy Pete. The Navajo interpreter, Maxwell Yazzie, states that the description given by Billy Pete is rather vague, and that he, Maxwell, is not familiar with it.]

BILLY PETE (continuing). Then later on they wanted more land so they ran a line from the village of Polacca to Eighteen Mile Spring, east of Keams Canyon, so that would take in part of Fort Defiance line, perhaps the dividing line between Fort Defiance and Keams Canyon. That is as far as I know about their lines east. The last two extensions, there has been agreements that the Navajos and Hopis would live in that same area, so those lines being settled by the Navajos and the Hopis, and they said that both of them could live in that area in the two extensions. Those lands run that far, and nobody has ever said anything about moving or anything about the lands at all. All we know was that these lands were set, until last spring some Hopis, they are not here now, asked me about how many times they had sent complaints in to Washington and I told them that I didn't know. I never sent in any paper and I don't know of any other Indians signing any paper that could be sent in to the office. Since last summer they have started asking this question. I got kind of "leery" and wanted to ask somebody who knew something about the line, and so I got one of the inspectors and he went over the land—his name is Fiske—I went over this land with him and got a line from the place Tom has a tank, south, up into one of these buttes, then followed an automobile road on to Winslow and Fort Defiance, then from there west on to Blue Mesa back in there somehwere. [Superintendent Walker stated to the reporter that the boundary Billy Pete is attempting to explain is practically the same as that outlined on Inspector Fiske's map.]

Mr. HAGERMAN. I fear that your descriptions are rather vague, but I understand that the lines you are trying to describe are about the same as those that were reported on by Mr. Fiske. I have Mr. Fiske's report and know pretty fully just about what Mr. Fiske stated.

BILLY PETE (Navajo). This is what I know. I understand that.

Mr. HAGERMAN. In our consideration of the matter we will give careful attention to what Mr. Fiske suggests.

BILLY PETE (Navajo). I feel that that line that Fiske went over ought to be sufficient report to make a boundary to where it would be satisfactory. I think the office ought to consider Fiske's tracing and give better attention on it.

Mr. HAGERMAN. We have a great many different reports extending over a long series of years and suggesting all sorts of areas and all of them are going to be given consideration but we have no idea yet as to what the recommendations will be.

BILLY PETE (Navajo). Whatever the decision or recommendation will be, I feel that it is better to let the office do it.

Mr. HAGERMAN. Well, the office may do it any time.

JOE SECAKUKU (Hopi). Mr. Chairman, you haven't given us any word whether the members will be furnished with copies of this meeting to-day for our further consideration.

Mr. HAGERMAN. We can only make about four or five copies but one copy will be sent to your people.

JOE SECAKUKU (Hopi). I think each village should be supplied with a copy—if it is not too much work.

Mr. HAGERMAN. It is a pretty big undertaking to make so many copies. Don't you think one copy could be sent around to the villages, from one to another as you read it?

JOE SECAKUKU (Hopi). I think each village should have that record. This is something important. I think they should be furnished with this report as a record that on November 6 we have met and discussed this matter. It will be appreciated on the part of the Hopis I am sure, for I feel we ought to have some sort of a record.

Mr. HAGERMAN. Well, we will see to it that you get copies. I don't suppose there are any further results to be had from this meeting, and I want to thank you very much for coming here. I regret that we have not been able to get more information. I realize the difficulties, and I realize also it is a very difficult problem; but I do hope that, whatever action Washington may take, that all of you, both Navajos and Hopis, will try to consider it from the standpoint of the Government, which is doing its best to adjust a very difficult problem with justice to both groups of Indians.

MAXWELL YAZZIE (Navajo). Mr. Chairman, we would like to hear something from the man who represents the Moencopi village, not to think that I am trying to rake up something that I might use for bait, but thinking that I do not take anything back around behind the bush to do anything. I will show the things that I have with my fellow councilmen, a report here that I hoped to correct it. On April 1 a copy of this was sent in to the office asking for an adjustment of the reservation at Moencopi village, and since the man with the white trousers here says that the Moencopi people had made more complaint and had caused this meeting to be brought here, I have here from the Indian Office a letter telling me that this adjustment would be made by Governor Hagerman when he comes out for this meeting. Whatever these complaints are, if they are not too big, would the man from Moencopi village please give us an idea of what he has sent in? I will have the secretary read what we have sent in and the answer we have. If any have sent complaints in to the Indian Office it might be well to let it be known. Our agent has a double job, as you men know. What could be handled by the agent on the reservation, small matters, were taken out and gone as far as Tucson to that people, and from Tucson and Prescott, outside of the reservation, sending in complaints to the Indian Office. For that matter I felt that we ought to put in one for an adjustment and want some one to come out to adjust this before it gets into a bigger wheel. I mean before it starts a larger scale of trouble. [Offers the letters referred to to Mr. Hagerman.]

Mr. HAGERMAN. This letter I have already seen, and it is a very interesting letter. While it touches upon some of the larger questions we have been discussing to-day, it does also concern the smaller questions that we talked about this morning, which are between the Navajos and the Moencopi Hopis and come under the jurisdiction of Mr. Walker. I think it would be a mistake at this stage to read this letter, which is very long, and that it would not result in any very satisfactory end. The letter from Commissioner Rhoads to these Indians, which he refers to, states that this particular matter and these conflicts will be taken up after we have had an opportunity to talk to you at this meeting, and that will be done. However, if the representative or delegate from Moencopi has anything to say in reply to our Navajo delegation we certainly will be very glad to hear from him. Has Poli Hongeva or Frank Tewa anything that you desire to say in regard to this?

POLI HONGEVA (Hopi): Most certainly I would have my opinion on the subject. Perhaps I am considered a man who ought to know the situation and I certainly do know the conditions of the situation. We are considered friends; indeed, we are friends with this tribe, but the friction has most always been over our livestock. I take it for granted the Navajos know what we are doing and we know what we are doing. I say this, that they know what they are doing. I take it that if these people would behave themselves, if they act gentlemanly, that is, become what is proper, we would not have these difficulties over our property at all. I have reference to this, that they are making too free use of our livestock and also of our farming products. What I mean is this, that they have been using our livestock for their own use and using our products for their own benefit. Now, no man will stand anything of that kind. When a man comes and uses my property without my consent, they wouldn't stand it if I go in and appropriate their property to myself. They take the same sense as their property to them. We live upon them. We subsist upon them. We subsist upon the products. This is the cause of it and the case has been reported time and again. It is the only cause which brings in this friction between us and our neighbors there, the matter, as I would say it, of stealing, appropriating something that does not belong to you, that is the only friction that comes in between us. That is all I have to say.

Mr. HAGERMAN. Now this is a matter which, as I said in the beginning, doesn't go into the fundamental question which we are gathered here to talk about, and which, in some way or another, will soon have to be settled on the ground. I regret very much that these misunderstandings exist between the Hopis and the Navajos, and I trust that each side will try to arrange matters so that any misapplication of the other fellow's property will henceforth cease. I really do believe that some suggestions may be made in connection with this particular part of the situation which will result in good to both sides, if the suggestions can be carried out, but as they are very vague in my mind at this time, I am unable to make them more specific. Are there any other remarks that anybody wants to make? Are you ready to adjourn?

JOE SECAKUKU (Hopi). I move we adjourn. [Motion seconded.]

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Mr. HAGERMAN. It is moved and seconded that we adjourn. All those in favor, say "aye." [Vote unanimous and meeting adjourned.]

I hereby certify that the foregoing is a complete record of the proceedings had and things done and an accurate transcription of my stenographic report of the Navajo-Hopi boundary conference held at Flagstaff, Ariz., on November 6, 1930.

JEEMIE W. SANTELON, *Reporter.*

MARCH 12, 1931.

MR. SAMUEL F. STACHER,
Superintendent Eastern Navajo Agency.

DEAR MR. STACHER: There is inclosed photostatic copy of General Land Office letter dated January 5, approved by the department January 7, 1931, approving the lieu selections made by the Santa Fe Pacific Railroad Co. under the exchange act of March 3, 1921 (41 Stat. 1225–1239).

This is the first exchange of lands consummated under the act in question, and it is requested that you make appropriate notation on the records of your office that the Government area consolidated by the exchange is considered to be reserved for the Navajo Indians. We are forwarding a copy of this letter and also a photostatic copy of the letter of approval to Commissioner Hagerman for his information.

Sincerely yours,

C. J. RHOADS, *Commissioner.*

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Carbon to Commissioner of the General Land Office, Santa Fe (061598 "K" NMB).

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, January 5, 1931.

The SECRETARY OF THE INTERIOR.

SIR: On April 21, 1930, the Santa Fe Pacific Railroad Co. filed application 061598 for the exchange of the following base and selected lands under the act of March 3, 1921 (41 Stat. 1225–1239).

The base lands relinquished by the railroad company to the United States are all of sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35, township 18 north, range 12 west, and all of sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35, township 19 north, range 12 west, New Mexico principal meridian, New Mexico, containing 23,056.96 acres. The lands selected by the railroad company are as follows:

Township 19 north, range 10 west, New Mexico principal meridian, New Mexico: All section 4; all section 6; all section 8; north ½ north ½, southeast ¼ northeast ¼, southwest ¼ northwest ¼, northeast ¼ southeast ¼, northwest ¼ southwest ¼, south ½ south ½ section 10; all section 12; all section 18; all section 20; northwest ¼, southeast ¼, south ½, southeast ¼, southwest ¼ section 26; northeast ¼, north ½ southeast ¼, southwest ¼ southeast ¼, west ½ section 28; all section 30; and all section 34.

Township 18 north, range 11 west, New Mexico principal meridian, New Mexico: All section 4; all section 6; all section 8; all section 10; all section 12; all section 14; all section 20; all section 22; all section 26; all section 28; all section 30; and all section 34.

Township 19 north, range 11 west, New Mexico principal meridian, New Mexico: All section 4; all section 6; all section 8; all section 10; all section 12; all section 14; all section 18; all section 20; all section 22; all section 24; northeast ¼, north ½, northwest ¼ southeast ¼, northwest ¼, south ½, section 26; all section 28; all section 30; and all section 34; containing 23,057.72 acres.

There is filed with the case a deed executed on April 18, 1930, reconveying the base land from the railroad company to the United States; also an abstract of title of the base land, which shows title thereof to be in the railroad company.

A part of the selected lands are in conflict with prior oil and gas permits 052236 and 052409. The railroad company has filed its consent to the reservation to the United States of the oil and gas in the lands under the act of July 17, 1914 (38 Stat. 509), and a waiver of right to claim compensation under section 29 of the act of February 25, 1920 (41 Stat. 437), with the request that patent to the lands oin conflict be withheld awaiting final action on the oil and gas permits according to your decision of October 4, 1930.

The Geological Survey has reported that the base and selected lands are included in coal withdrawal No. 6, approved May 18, 1911, and that the lands are regarded approximately equal in value as to coal, petroleum and natural gas.

There are no reservations or withdrawals affecting the land except the reservation of coal, oil and gas and no protests have been filed against the exchange.

Proof of posting and publication has been furnished and the selector has complied with the law and regulations. It is respectfully requested that the selection be approved.

Very respectfully,

THOS. C. HAVELL, *Assistant Commissioner.*

Approved January 7, 1931.

JOHN H. EDWARDS, *Assistant Secretary.*

Copy to Indian Service.

MARCH 20, 1931.

Memorandum for Commissioner Rhoads.

This memorandum is for your personal use during your coming trip to the Southwest in connection with the pending visit of the subcommittee of the Senate Committee on Indian Affairs to the Navajo jurisdiction, and covers the points raised by Commissioner Hagerman in his letter of March 11, 1931.

Mr. Hagerman is under the impression that possibly a number of Navajo allotments on the public domain have been illegally made, as it is his understanding that only such Indians as have actually resided on the land for 16 or 17 years can in any case rightfully secure an allotment. As it is evident that this matter is misunderstood the following is set out in order to clarify the situation:

Prior to the fiscal year ending June 30, 1914, the appropriations for surveying and allotting Indian reservations were of a general nature. However, the appropriation for this fund for the fiscal year ending June 30, 1914, specifically provided:

"That no part of said sum shall be used for survey, resurvey, classification, appraisement, or allotment of any land in severalty upon the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona."

The appropriation for the fiscal year ending June 30, 1915, provided:

"That hereafter no part of said sum shall be used for the survey, resurvey, classification or allotment of any land in severalty on the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona, who was not residing upon the public domain prior to June 30, 1914."

This condition as to the use of money from the general surveying and allotting fund, restricting its use in making allotments to the Navajos and other Indians in those two States to only those Indians who had been living on the public domain prior to June 30, 1914, has since been carried in all the general appropriation acts up to the present time, including the fiscal year 1932. At this point it may be mentioned that this restriction as to the use of money from this fund would not prevent the various Navajo superintendents from making allotments to qualified Navajo Indians living on the public domain, regardless of whether they were living there prior to June 30, 1914.

In our instructions to the allotting agent assigned to allot the Navajos, he was specifically instructed that no expenses could be incurred in regard to those Indians who were not residing on the public domain prior to June 30, 1914. This was necessary, as the allotting agent was being paid from the general surveying and allotting fund. However, it should be borne in mind that an Indian is not required to live continuously on one particular tract from prior to 1914 up to the time of filing his application for allotment. In order to be eligible, he need only live away from the reservation and show that he has made settlement on a particular tract for a period of two years before or after filing an application for allotment in order to be considered entitled to be allotted under the law and regulations if otherwise qualified. It may also be said that under the law and regulations a qualified Indian also has the right to make selections and file allotment applications for his minor unallotted children or other children to whom he stands in loco parentis, provided such children are in being at the date of the parents' own allotment application.

After careful review of the matter, it is apparent that Navajo allotments on the public domain have not been illegally made through violation of the laws; to the contrary, as far as our records disclose, it is apparent that they have been

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made strictly in accordance with existing law and departmental regulations governing same.

Reference is now made to that part of Commissioner Hagerman's letter stating he wishes to know concerning the attitude to be taken as to whether we are definitely committed to the idea of discontinuing allotments, especially in the eastern Navajo district, in favor of obtaining lands for the Navajos through consolidations and exchange.

In this connection it may be said that this office and the department has already gone on record as favoring the consolidation and exchange method in lieu of making allotments, if suitable legislation is first obtained, as is evidenced by the favorable report with recommended amendments made by the department January 28, 1931, on S. 5577 (copy attached), based on our favorable memorandum report on the bill to the Secretary, January 22, 1931.

This proposed legislation not only provides for consolidations in three counties in Arizona but also provides that no further allotments shall be made in McKinley, San Juan, and Valencia Counties, N. Mex. (eastern Navajo district), pending the completion of consolidations and exchanges in Arizona, and also in New Mexico within the three counties above referred to, under the act of March 3, 1921 (41 Stat. 1239). Ample provision was made in the bill to provide allotments for those unallotted Indians within the consolidated areas of the six counties involved, three in Arizona, and three in New Mexico.

Should legislation similar to that embodied in the above bill be enacted in the future, it apparently would be more beneficial to the Navajo Tribe as a whole than the indiscriminate making of further allotments, especially as it is now practically impossible to add to the Navajo Reservation in Arizona and New Mexico, by further withdrawals of public domain. It may also be said that as the Navajos stand to obtain a larger area in the aggregate through the consolidation and exchange method, if allotments are continued to be made promiscuously, it will soon be impracticable, if not impossible, for consolidations and exchanges to take place in the near future as the checkerboarding of more allotments will preclude lieu consolidated selections by the owners of private lands who might be willing to relinquish their holdings for consolidation with the Indian lands.

Copy of the regulations governing Indian allotments on the public domain is attached.

SANTA FE PACIFIC RAILROAD CO. LAND DEPARTMENT,
Topeka, Kans., March 24, 1931.

Hon. H. J. HAGERMAN,
Special Commissioner Land Field Service, Santa Fe, N. Mex.

MY DEAR SIR: Your letter of March 13 asking for a specific résumé of facts relating to land purchases and exchanges adjacent to the Navajo Reservation.

On September 5, 1928, we received a communication from the office of Indian Affairs signed by Charles H. Burke, commissioner, and approved by Assistant Secretary John H. Edwards, quoting item in the second deficiency act for 1928 appropriating $1,200,000 for the purchase of additional land and water rights for the use and benefit of the Indians of the Navajo Tribe, title to be taken in the name of the United States in trust for the Navajo Tribe, $200,000 being payable from the funds on deposit with the Treasurer of the United States during the fiscal years of 1928 and 1929. The commissioner states that Superintendent Stacher had recommended the purchase of about 75,000 acres belonging to our company and leased by the Indians, and Superintendent Duclos had recommended the purchase of about 200,000 acres leased by the Indians and asked this company to fill out a proposal of sale, setting a price on the lands to be offered.

Reply was made to Commissioner Burke on September 27, 1928, directing his attention to the fact that under this act the Indian Department was apparently in position to purchase the odd sections in the Western Navajo and Leupp extensions, containing 327,402.22 acres (which had been deeded to the United States September 23, 1912, with the understanding that lieu was to be allowed therefor and for which lieu was later denied), the reservation having been extended to include these lands, and it was our feeling that the appropriation mentioned should include purchase of our lands in the Western Navajo and Leupp extensions. We also called attention to the fact that much opposition had developed to sales to the Indian Department in New Mexico and Arizona because of the removal of such lands from taxation in countries which were already having difficulty in maintaining a valuation sufficient to finance their administration, that it was not our practice to grant options on our lands, but if Mr. Burke could determine approximately what appropriation would be available for purchase of lands at that time, he should make us a definite proposal.

Under date of October 18, 1928, we received a letter signed by Assistant Commissioner Meritt, approved by Assistant Secretary John H. Edwards, asking us to submit definite offers to sell at a stated price per acre a specified part of the areas now under lease and directed our attention also to the provisions of the act of March 3, 1921, applicable to lands in San Juan, McKinley, and Valencia Counties, providing for exchanges. The commissioner also called to our attention conditions in what is known as the Puertecito area, in Socorro County, N. Mex., where purchases were also strongly recommended by Mr. Stacher for the benefit of the Indians. After negotiations through our attorneys, Messrs. Britton and Gray, in Washington, arrangements were completed for the purchase of 42,099.71 acres in McKinley County, lying adjacent to the Fort Wingate Reservation, and 52,133.37 acres in the western Navajo extension, at a price of $1 per acre. Endeavor was also made to work out a plan for the purchase, for the benefit of the Indians, of lands in the Puertecito area, which were, however, under lease to Jose Chavez y Baca, who owned patented ranches and water rights in the area desired and who had leased our lands for many years. An agreement was finally reached that we should sell approximately 24,868.14 acres of our lands for the purpose of consolidating the areas in which the Puertecito Band of Indians were allotted for $1 per acre, minerals reserved, contingent upon the purchase for $10,000 of 1,440 acres of patented lands belonging to our lessee, Mr. Baca, upon which he has improvements and had developed water. Appropriation amounting to approximately $35,000 for the latter purchase was not, however, available at that time.

In view of the suggestion of the commissioner, calling attention to the act of March 3, 1921, covering exchanges in McKinley, San Juan, and Valencia Counties, N. Mex., we gave some study to the provisions of said act. The question of such exchanges was not a new one, as Mr. E. O. Wooten, agricultural economist of the United States Department of Agriculture, in his bulletin No. 1001, dated February 23, 1922, being a study entitled "The Relation of Land Tenure to the Use of Arid Grazing Lands in the Southwestern States," had directed attention to the disastrous consequences resulting from continued overgrazing due to the open range method being followed, particularly in the railroad grant area. Because of the land now lying in a solid body, protection and seasonal grazing were impossible, resulting in denuding the ground of vegetation and greatly increasing erosion. As a corrective of this condition, Mr. Wooten advocated the consolidation of private and Federal holdings by exchanges. This, of course, would remove the opposition from the various counties involved, because if exchanges should be made and the areas involved be consolidated by exchanges, no lands would be removed from the tax rolls. It would be possible to solidify certain areas occupied by the Navajo Indians for their benefit without expenditure, and likewise make solidifications of lands being used by stockmen so that they might control same, conserve their grazing resources, and improve their ranches. Both the Indian Department and the stockmen would be enabled to develop water for their own use, and the constant conflict of interest between the stockmen, operating in the allotted areas, and the Indian Department would thus be eliminated.

Superintendent Stacher had written concerning the urgency of the Puertecito situation and upon taking this question up with Commissioner Rhoads immediately following his appointment we were informed that the entire question of purchases and exchanges of lands for the benefit of the Navajo Tribe should be handled with you. Upon your request meeting with yourself and all the superintendents of the Navajo Reservation, Deshne, Chief of the Navajo Council, T. W. Cabeen of the New Mexico & Arizona Land Co., and Rev. W. R. Johnston of the Indian Rights Association, was held at Santa Fe January 24 and 25, 1930. Following an extended discussion of the requirements of the Indians it was decided that the lands occupied by the Indians, which I would recommend be sold, comprised approximately 63,568 acres in McKinley County, N. Mex., and 169,872 acres in Arizona, outside the reservation, and 295,534 acres in the Western Navajo and Leupp extensions. Following a discussion of the proposal for exchanges it was decided by all concerned that if the act of March 3, 1921, would be applicable to the lands to be acquired for the benefit of the Indians in New Mexico that it would be to the advantage of all concerned to acquire such lands by exchange rather than by purchase, the advantages being as outlined in preceding paragraph. We found, however, that the original instructions of the General Land Office, in connection with the act of March 3, 1921, provided only

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for the exchange of nonmineral lands and as the area adjacent to Crownpoint in which exchanges were proposed was included in a coal withdrawal it would be impracticable to effect exchanges without an amendment of the instructions of the General Land Office. This matter you handled with the department and secured an amendment to said instructions in order that the lands might be exchanged in fee, and by circular of the Commissioner of the General Land Office and Commissioner of Indian Affairs it was held that privately owned and State school lands held in fee, whether mineral or nonmineral, might be exchanged for other lands mineral or nonmineral if of approximately equal value, and that upon filing of the application for such exchange a report would be obtained from the Geological Survey who would pass upon such values. Some minor changes in the instructions also obtained made the act more workable. The initial exchange in which this company deeded to the United States its odd sections in townships 18 and 19 north, range 12 west, accepting in lieu thereof unappropriated even sections in townships 18 and 19 north, range 11 west, and 19 north, range 10 west, was initiated on April 21, 1930, and was finally approved on January 7, 1931. It is proposed in these exchanges to consolidate so far as possible areas now occupied almost exclusively by Indians adjacent to the reservation for their benefit and to also work out consolidations of other areas so occupied. There will be some areas in McKinley County where exchanges will not be possible and in such locations you may then wish to propose purchase.

A very vigorous opposition arose in Apache and Navajo Counties, Ariz. against the proposed purchase of lands in those counties for the benefit of the Navajo Tribe because of their removal from the tax rolls. This involved approximately 169,872 acres of our lands. Following a meeting by Commissioner Rhoads, and yourself with the Boards of Supervisors of Apache and Navajo Counties, in Holbrook, much newspaper comment and appeals to Arizona Senators, a conference was held with Senator Hayden at Winslow. With the benefit of our experience in New Mexico under the exchange act of March 3, 1921, it was decided by Senator Hayden, after a conference with the county supervisors, that an exchange act in Arizona would aid greatly in the solution of the situation in existence there and it was proposed that appropriate legislation should be drafted and submitted in the last Congress. This was done by Senator Hayden in his bill Senate 5577, introduced by himself and Senator Bratton. In this bill the area in Navajo County to be acquired by such exchanges was limited, upon the insistence of county officers, to that territory which is now primarily occupied by the Indians, but left the situation in Apache County, in which the area is not so well defined, to be worked out to the best advantage.

It is not necessary to enumerate further the advantages to be derived from consolidation of lands for the benefit of the Indians as this has been previously set forth. There is no question but that a very large area of the 169,572 acres outside of the reservation required for the Indians could be consolidated by such exchanges.

In order to accomplish the desired consolidation it would be necessary to confine further allotments for the benefit of the Indians to the areas thus consolidated or otherwise acquired for them.

Should there be no consolidations of lands effected it would be impossible for either the Indian Department or the white stockmen to exercise any control over the range, because of the intermingling of private lands, Indian allotments, and public domain. Unregulated grazing results in the extermination of the best forage, which must have protection during the growing season and in periods of drought, and its replacement with inedible weeds and barren lands. Only such development of water as is essential will be undertaken under such conditions and no one feels justified in making substantial investments in the livestock business in such an area. In addition it results in constant conflicts between the stockmen and the Indians for both grass and water. Much difficulty of this kind was experienced in the past and some few instances have been complained of to us during the past two years, but since the leasing of large areas of our lands by the Indian Department such conflicts have been minimized. In the area in Arizona known as the Castle Butte country, north of Holbrook, we withheld our lands from lease to others upon your assurance that it was the intention to acquire this country for the benefit of the Navajo Tribe and included same in lease to the Indian Department. In this area control of the grazing is largely dependent upon our lands because of the location of water. Such leasing by the Indian Department is, however, only a temporary solution as we are desirous of disposing of our grant lands and doing so in such a way as will result in their beneficial use and the greatest possible development of the country. For this

reason the plan of consolidation appealed favorably to us as it will not only avoid deterioration of these grazing areas, but will encourage investment by stockmen, as well as by the Indian Department, more effective use of the range in the production of livestock, add value to the property tributary to the railroad, and will produce more traffic.

Pending action on exchange legislation in Arizona, there is for consideration this year:

First. Further exchanges in McKinley, San Juan and Valencia Counties, N. Mex., under the act of March 3, 1921, in order to effect consolidation of areas desired for the benefit of the Navajo Indians.

Second. Purchase of our lands consisting of offnumbered sections in the Western Navajo and Leupp extensions, aggregating 295,534 acres. Fifty-two thousand one hundred and thirty-three acres of said land were purchased in 1929 and statement was made by Assistant Commissioner Meritt, at that time, that the department had in contemplation the purchase at a later date of those lands.

Third. Purchase of lands for the consolidation of area in which the even sections are allotted to and occupied by the Puertecito band of Navajo Indians in Socorro County, N. Mex., where exchange legislation is not effective, such purchase involving an appropriation of approximately $35,000.

We are conferring with Superintendent Stacher to decide upon areas to be included within additional exchanges and shall be glad to hear from you with reference to purchase of additional lands, particularly those in the Western Navajo and Leupp extensions.

Yours very truly,

W. B. COLLINSON,
Land Commissioner.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 2, 1931.

Hon. H. J. HAGERMAN,
Special commissioner to negotiate with Indians.

DEAR MR. HAGERMAN: The receipt is acknowledged of your letter of March 2, 1931, requesting the views of this office as to whether or not vacant lands within Government areas consolidated under the act of March 3, 1921 (41 Stat., 1225–1239), are subject to allotment to qualified unallotted Indians.

In reply this will advise that it is our understanding that an allotted Navajo Indian on the public domain in the three counties of New Mexico, referred to in the act, may relinquish his allotment located within the lieu area selected by the railroad company or others, and in consideration be allowed to select lieu land within the Government consolidated area. It obviously follows that an unallotted Indian who is otherwise qualified to receive an allotment should also be allowed to make his selection within the Government consolidated area for the reason that if he is denied that privilege and is required to select his land on the public domain it would operate to prolong, if not defeat, further consolidations due to the fact that such allotment would probably fall within an area of lieu land sought by the railroad company or others for consolidation purposes. However, purchased lands are not subject to allotment, under the fourth section of the general allotment act.

Sincerely yours,

C. J. RHOADS, *Commissioner.*

Approved April 3, 1931.

JOS. M. DIXON,
Fisrt Assistant Secretary.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 3, 1931.

Hon. H. J. HAGERMAN,
Special Commissioner to negotiate with Indians.

MY DEAR MR. HAGERMAN: The receipt is acknowledged of your letter of March 27, with copy of one to you from Superintendent Stacher and your reply thereto, regarding allotments on the public domain to Navajo Indians.

We note with some concern what each of you say about the allotment situation in connection with the bill (H. R. 16005) pending in the last session of Congress to

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authorize exchanges of public domain lands and Indian allotments with privately owned lands so as to have consolidated areas. It is true that the bill mentioned provided that no more allotments shall be made in certain counties in Arizona and in the McKinley, San Juan, and Valencia Counties in New Mexico; and that thereafter allotments to Indians in said counties shall be confined to lands within Indian reservations, or to lands heretofore or hereafter acquired by the United States for the benefit of Indians generally which includes the consolidated areas. However, the general allotment act of 1887 and its amendments and the regulations of our department recognize fully the rights of Indians living on the public domain to secure to themselves that permanent privilege by applying for and receiving an allotment of vacant undisposed of lands. We therefore would prefer, if obtainable, legislation for consolidations that would not limit the present legal allotment rights of the Navajo Indians. Our Navajo Indians should have the same privilege under the allotment laws to file an application for 160 acres as other citizens of our country to file an application for a homestead, which, under some of the laws applying to citizens, may be an area as large as 640 acres.

We appreciate, of course, if we permit allotment applications to be filed for tracts here and there within areas that we may want for consolidation purposes, that there will be conflicting claims that will delay somewhat our plans for consolidations. For this reason only would we be willing to slow up for the instant the approval of allotment applications, but we would like to especially have your recommendation on what Mr. Stacher says to you about permitting Indians to file at this time allotment applications for land on the public domain beyond the grant lines of the railroad.

It is noted that in the first paragraph of the superintendent's letter to you he calls attention to one instance of an Indian woman having valuable improvements and to the fact that a white homesteader has moved into her hogan and taken possession of her property. The Government has been very generous and active in protecting the rights of individual Indians who have made improvements on vacant public lands and it would be appreciated if you would have Superintendent Stacher advise you of the description by the proper aliquot part of the section, giving the township and range of the tract on which the Indian made improvements, name of the Indian, and name of the white person. We will immediately present the matter to the General Land Office with a protest against allowing the homestead and will follow it up later to see that the Indian woman is given full protection.

Reverting to what has been said about consolidation and allotments, would it be possible for you to designate generally the areas wherein allotment applications could be filed without jeopardizing the carrying through of the consolidations as were proposed by the bill heretofore mentioned?

Sincerely yours,

C. J. RHOADS, *Commissioner.*

WINSLOW, ARIZ., *April 5, 1931.*

HON. CHAS. J. RHOADS,
Commissioner of Indian Affairs,
Washington, D. C.

MY DEAR MR. COMMISSIONER: The memorandum for Commissioner Rhoads dated March 20, 1931, and prepared by Doctor Marschalk, was received and read with care. This memorandum is responsive to my letter of March 11 asking for definitions of the office policy in respect to further allotments and to exchanges in the Navajo country, and especially around Crownpoint.

I note that in the opinion of Doctor Marschalk and Mr. Reeves the provisos in the appropriation acts from 1914 to date, against using any funds appropriated for surveying and allotting Navajo Indians who were not residing upon the public domain prior to June 30, 1914, can not in any way be construed to impede the allotting of any such Indians or their children by the superintendents even though an allotting agent in the same district is paid from these funds.

As there is no allotting agent now in the Navajo country and the bill (S. 5577) did not pass, it might be all right, I presume, to resume allotments in the eastern Navajo country, if the commissioner feels secure in the opinion of Doctor Marschalk and Mr. Reeves that the law is being observed, and if it is deemed good policy to do so in view of the opposition of the Senators and Congressmen from Arizona and New Mexico to any further allotments.

The proviso in S. 5577 against further allotments in the three Arizona and three New Mexico counties was, of course, not proposed by the department, but only accepted in order to bring about what it was hoped would be great benefits. The bill would not be considered by the Senators from New Mexico and Arizona without this proviso; it was, it appears, killed by Senators Frazier and Wheeler because of the proviso. Or it might have been killed by them anyway—because they propose to kill, as long as they can, any measures supported by the Indian Office.

I had a long talk with Superintendent Stacher at Coolidge (near Gallup) on April 1. He still wishes to resume allotting, and expresses some doubt as to whether his Indians will be satisfied with such consolidations as can be effected through exchange. Neither he nor they will actually be fully satisfied with anything except the addition to the reservation in New Mexico of about 3,000,000 acres more land and the additional privilege of continuing allotments indefinitely beyond that area.

He stated that he was finding it impossible to effect a second exchange, as was being proposed by him and Mr. Collinson, because some of the Indians would not surrender their allotments unless they were promised other allotments elsewhere outside the areas to be consolidated for them.

I told him he had better see Collinson again and try to find a way which would be acceptable to both. He did meet Collinson at Gallup on the 3rd, and Collinson came here yesterday. Collinson says they have now agreed on a second exchange, one which Stacher hopes will be possible of consummation.

This proposes:

First. To consolidate for Indian use townships 17 north, 11 west; 17 north, 13 west; and 19 north, 13 west; by the railroad's surrendering their odd sections in said three townships.

Second. To take in exchange therefor and consolidate in the railroad townships 17 north, 9 west; 17 north, 10 west; 17 north, 7 west; and east half of 17 north, 8 west; and part of 18 north, 6 west.

These three townships to be consolidated for the Indians contain a great many allotments. By obtaining them solid for the Indians we would then have in this district in Indian control townships 18 north, 12 west; 19 north, 12 west; 17 north, 13 west; 18 north, 13 west; 19 north, 13 west; 17 north, 11 west; or 138,240 acres.

This, I think, would be worth while.

If this second exchange as proposed can be consummated, township 17 north, 12 west, which is in the hands of the New Mexico & Arizona Land Co., should, I think, be bought, if it is not possible to get it by exchange.

There are, of course, generally four school sections in the townships to be consolidated in the railroad which can not be turned over in the exchange, so in exchanging three townships for Indian consolidation, 12 sections more outside of these corresponding townships will have to be provided for the railroad.

To effect this second exchange as now proposed, there would have to be surrendered by the Indians about 8 allotments (2 sections) in township 17 north, 10 west; about 18 allotments (4½ sections) in township 17 north, 9 west; and about 7 allotments (280 acres) in east half of township 17 north, 8 west.

Township 18 north, 10 west, they will let alone for the present as Indian allotments. These are now leased for oil and bringing in some income for the Indians. There is probably no pay oil there but lessees may pay the Indians some lease money for years.

Mr. Stacher is still of the opinion, so Mr. Collinson thinks, that those Indian allottees may not consent to give up their allotments in the 4½ townships unless they have new allotments elsewhere, in spite of the fact that the whole exchange idea is based on the theory that the Indians are getting quid pro quo when the exchanges are effected.

The east half of townships 18 and 19 north, 9 west, and the west half of 17 north, 8 west, are now pretty thickly allotted and should remain Indian. It does not always follow that many allotments mean many Indians, but in this area that is true. Farther east there are a great many allotments in townships 17 and 18 north, 4 and 5 east, but room for many more. Stacher and Collinson suggest that, perhaps, if it is necessary in order to effect the second exchange as indicated, those Indians surrendering their allotments in the lieu areas be permitted to secure new allotments in this eastern area. This is, however, away out in the Cabezon country in western Sandoval County, over 50 miles from the reservation, and renewed allotting there would doubtless mean loud protests from the native people and from Senator Cutting.

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It is a hard problem, whatever way you look at it. Mr. Stacher's job is an almost impossible one.

It is also suggested that north of the railroad grant checkerboarded area in San Juan County, where there are already a good many allotments over a vast area, allotting be resumed. There again, while the people of San Juan County have never so definitely protested, I think, against continued allotments, as the people of McKinley County have, it is hard to say what the reaction would be. It is almost certain, however, that they would object.

My own opinion is that the only way of getting anywhere with this vexatious problem is to abide by the exchange program with no resumption of allotting now, unless it be in some cases, which are necessary in order to carry through exchanges. If, in the country north of the railroad checkerboarded 50-mile line, further Indian settlement is to be made, it should, in my opinion, be by homestead only, from now on.

However, I shall, of course, abide by the decision of the commissioner in the matter.

I don't suppose the legality of the allotments already made will be attacked, but I apprehend that should allotments be resumed, the new ones, and perhaps old ones, may be questioned. This would cause no end of trouble and difficulty:

Anticipating that the Frazier committee will no doubt dig into this whole allotment and exchange situation when they come out here, I have not only gone into it as fully as I could with Mr. Stacher, but have written Mr. Collinson of the Santa Fe for a statement from him about it. He gave me such a statement yesterday. It was carefully prepared and submitted, he says, to his superiors.

This is a very interesting document indeed. It will incidentally be noticed that the matter of purchases from and exchanges with the railroad company under the act of 1921 was broached by the Indian Office in 1928 when I had been detached by the department from any participation with Navajo affairs. Early in 1930, under instructions, I took hold of the matter again and called the conference at Santa Fe on January 24, 1930, from which time I have been trying my best to help.

I think Mr. Collinson's letter pretty clearly indicates that, as far as the railroad areas adjacent to the reservation are concerned, the railroad company is willing and anxious from every point of view to go the limit in trying to make adjustments by means of exchange—but that if it transpires that exchanges can not be consummated, they will dispose of their lands to the best advantage for themselves whenever a demand for them recurs. I am inclosing a copy of Mr. Collinson's letter.

I also inclose copy of a talk I have carefully prepared for delivery here in Winslow on April 7. There is an insistent demand, both here and in New Mexico, that the position be defined as nearly and as clearly as possible under the circumstances, and I have tried to make a frank and straightforward statement of the situation.

Will you kindly advise me if it is desired that allotments be resumed, and, if so, to what extent and where?

Respectfully yours,

H. J. HAGERMAN,
Special Commissioner.

WINSLOW, ARIZ., *April 9, 1931.*

Hon. CHARLES J. RHOADS,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR MR. COMMISSIONER: This will acknowledge receipt of office letter of April 3 which reached me after I had written my letter of April 5. Many of the points brought up in the letter of April 3 were replied to in my letter of April 5.

It is stated in the letter of April 3 that: "We appreciate, of course, that if we permitted allotment applications to be filed for tracts here and there within areas that we may want for consolidation purposes that there will be conflicting claims that will delay somewhat our plans for consolidation. For this reason only would we be willing to slow up for the instant the approving of allotment applications * * *." This answers the question contained in the last paragraph of my letter of April 5 as to whether it is the intention of the office to resume allotments in the eastern Navajo district.

I understand therefore that allotments have been merely temporarily suspended, that there is nothing at present in any law to prevent their indefinite continuance

and that it is the policy of the office to continue them except as they may here and there temporarily interfere with suggested consolidations under the act of 1921.

So far only two townships (18 and 19 north, range 11 west) and part of a third township (19 north, 10 west) have been consolidated by exchange in the railroad company. As soon as it is known that allotting has been resumed, it will, I fear, be rather difficult for Mr. Stacher to secure from the Indians releases in townships which it is sought to consolidate in the railroad company. I fully realize how difficult it is for him to explain the situation to the Indians in any case and trust that neither he nor the office feels that I do not appreciate the many difficulties he has to contend with.

In response therefore, to the request for my recommendations, first as to what Mr. Stacher says about permitting the Indians to file at this time, allotment applications beyond the grant lines of the railroad company, and second, as to designating generally the areas wherein allotment applications could be filed without jeopardizing consolidation, I would say it appears from what your legal advisors tell you, there is nothing to prevent applications north of the grant lines, and that in my opinion it would be difficult to designate areas within the railroad grant lines wherein allotments now would not jeopardize possible exchanges. I respectfully refer to my letter of the 5th as to the Cabazone country possibly coming within that category. I understand Mr. Stacher is now examining that district as to its availability for additional allotments.

There appears to be of record now 936 allotments in McKinley, San Juan, and western Sandoval Counties beyond the 50-mile railroad grant line. This is approximately 150,000 acres. A glance at the allotment map will show that most of these allotments are within about 20 townships lying in a northwesterly and southeasterly strip about 20 miles wide, approximately paralleling the Santa Fe grant 50-mile line, which strip of townships is about 75 miles long, beginning in the neighborhood of the Cabazone country in the southeast (township 18 north range 4 west) and extending to Stimpson's store on the northwest (township 27 north range 12 west). Within this strip of approximately 470,000 acres, practically all of these 150,000 acres of present allotments are situated. There are a few outside of it but not many.

In the area north of the 50-mile line, in the first tier of townships next to the reservation line, there are scarcely any allotments for the reason, I think, most of the land is no good. I would suggest that if alloting is resumed it should be particularly directed to these 20 townships where there are probably two or three hundred thousand acres of as good land for allotment as the 150,000 acres already allotted.

Taking now the country north of the township line between townships 16 and 17 north and south of the 50-mile railroad limit, going as far east as Cabazone. This contains about 44 townships or approximately 1,000,000 acres. In this area are approximately 1,075 allotments containing 172,000 acres. Of these 1,075 about 458 containing 73,280 acres (42 per cent) are in the tier of 12 townships 12 miles wide immediately adjacent to the reservation (to wit, townships 17–22 north ranges 12–13 west). This leaves 617 allotments containing approximately 100,000 acres scattered over the remaining 32 townships. Of these 617 allotments nearly 100 are in township 17 north range 10 west and the east half of townships 18 and 19 north range 8 west.

So far, of the 12 townships in this area adjacent to the reservation 3, namely, townships 18 and 19 north, range 12 west and township 18 north, range 13 west, are already owned by the Government as stated in my letter of April 5. Two others, to wit, township 17 and 19 north, range 13 west, as well as township 17 north, range 11 west are being now negotiated for by Mr. Stacher and Mr. Collinson. The Pueblo Bonito National Monument would take care of most of townships 21 north, ranges 10 and 11 west. In the balance of this country between the 50-mile line and north of the line between townships 16 and 17, there are only a few thickly allotted areas. There are only one or two thickly allotted areas west of the Cabazone district. One of them is in the east half of townships 18 and 19 north, range 9 west.

The question is, of course, whether the Indians will be willing to surrender any of their allotments in any of this area for the purpose of consolidation even though much of the country is thinly allotted. When allotments are generally resumed and when, as I apprehend will be the case, the Indians are told they are being robbed or unfairly treated, I doubt whether they will willingly surrender their allotments for the purpose of consolidation. So far very few allotments have actually been surrendered, nor is it contemplated, as I understand it, that many will be,

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in order to bring about the exchanges which Mr. Collinson and Mr. Stacher think it will be possible to consummate.

If, as I now understand it, qualified Indians have the right to demand allotments on any of the public domain I do not know how they can be refused if they demand them anywhere.

I have said nothing about the country south of the areas I have been discussing—east of Wingate and north of the railroad. Most of it is in the hands of the New Mexico-Arizona Land Co. and would have to be bought in any case. The Santa Fe will not consider exchanging the two or three townships they own in that area until and unless exchanges are effected in the area north of it. Practically all of this southern country is pretty nearly solidly allotted in any case, so there would not be much chance for any new allotments there.

On the whole, therefore, I would say in response to your inquiry that if allotting is now resumed it would be wise, if possible, to avoid making any allotments in any of the area north of township 16 and the 50-mile limit line with the exception perhaps of townships 17 and 18 north, ranges 4 and 5 west, and that assuming allotting is resumed, the Indians' attention be directed by Mr. Stacher to the 20 townships lying north of the 50-mile limit, as described in the beginning of this letter.

I am still of the opinion that resumption of allotments in San Juan, McKinley, Valencia, and Sandoval Counties of New Mexico under the act of 1887 may seriously jeopardize the chances the Navajos now have of securing directly or indirectly, additions to their reservation in New Mexico, Arizona, and Utah of about 2,000,000 acres of land.

I do not feel, however, in view of the position as outlined in the letter of April 3 and of the legal status as defined in the memoranda of March 20, as though it would be proper for me to make any further recommendations as to the policy to be adopted.

I have also received the letter of April 2, 1931 (L-A 13906-31), approved by Assistant Secretary Dixon in reply to my letter of March 2, stating that the Indians who do surrender their allotments shall be allowed to select new land within the Government consolidated area. I understand Mr. Stacher has already emphasized this with the Indians but so far this does not mean much because there is but little land left available in the consolidated area and because most of the Indians now generally have not so much the idea of securing allotments for the purpose of living on them as they have of securing them for the purpose of controlling adjacent country. It is stated and I apprehend that it could be demonstrated that not more than 50 per cent of the allotted Indians in this district actually know where their allotments are and that less than 50 per cent of them live on them.

I do not yet know if this were true if it would be considered by the department to be in contravention of the law.

As to the instance Mr. Stacher mentioned and referred to in the commissioner's letter of April 3 of a white homesteader attempting to take an Indian's hogan, I was informed in the Santa Fe land office that would never be permitted and Mr. Stacher himself was to have gotten Mr. Murphy of the land office out there this week to look into this particular matter, and I presume he has done so. Such manifest outrage will surely not be permitted.

Respectfully yours,

H. J. HAGERMAN,
Special Commissioner.

MR. PRESIDENT AND MEMBERS OF THE LIONS CLUB OF WINSLOW:

I greatly appreciate this opportunity of addressing you. As you know, I come here with the superintendents of the Western Navajo, Leupp, and Hopi jurisdictions of the great Navajo Reservation to meet with Mr. Fred H. Bixby and other stockmen who have large interests in this neighborhood. For years there have been difficulties between the Indian and white stockmen in this vicinity, and both the Department of the Interior and the people here are very anxious that these difficulties shall be settled amicably and in fairness to all parties. They will be, if the Congress will support us. Without additional legislation by Congress only unsatisfactory and partial adjustments of these differences can be made.

The main difficulty and the one out of which most of these lesser troubles arise is, and long has been, because of the unsatisfactory status of certain large areas of land north and northwest of Winslow and adjacent to the Navajo Reservation.

A portion of these tracts is what is known as the Castle Butte country between here and the Hopi Reservation. That contains 28 townships, or about 650,000 acres. Another tract is that around Cameron. It is now conceded by practically every one that if possible, both of these areas should be acquired by the Government for exclusive Indian use.

In the Castle Butte area, all within 40 miles of the Santa Fe Railroad right of way, the odd sections of railroad bonus land, are owned mainly by the Santa Fe Pacific Railway Co. or the New Mexico & Arixona Land Co. Much of this country has for a long time been grazed by the Indians. There are some Indian allotments within the area, but it can not be said in any sense that the whole country is controlled by allotments, as is the case in some parts of New Mexico. Much of the country is also being used by non-Indians. Long before I had anything to do with Navajo affairs, conflicts and quarrels over the use and status of this country were rife. The Government withdrew the even sections from entry. You people asked that they be restored. They were not. This caused some bad feeling. The Government insisted that it was actually mainly Indian land. Some of the owners of the odd sections maintained in effect that if it were, the Government should buy, lease, or exchange these odd sections. Other owners, until recently, stated that they would only sell and not exchange the land. But now, practically all of these owners of the odd sections are willing to exchange. But the white people of this country objected to the segregation of these lands from private ownership because of the tax situation. You state that you could not afford to lose the taxes they pay.

This was the preplexing and seemingly impossible situation until in September, 1929, Commissioner of Indian Affairs Charles J. Rhoads took a hand in the matter. As you will remember, he met them at Holbrook with the commissioners of Navajo, Apache, and Coconino Counties and discussed the situation calmly with them, mainly from the viewpoint that the counties receive much direct benefit from the Indians which, if the Indian lands were taxed, the counties would be deprived of. There then followed much discussion here and in Washington and in my office in Santa Fe. Then Senator Hayden took a hand. Your representatives and he and I, with representatives of the landowners, met at Winslow for two days, and after Senator Hayden had gone over the ground in detail a plan of action was agreed upon. It was in line with the pronounced policy of the Secretary of the Interior. It is agreeable to the Commissioner of Indian Affairs. It is, I believe, agreeable to the State of Arizona and to the counties of Apache, Coconino and Navajo. It would, if carried out, not only to all intents and purposes add this 650,000 acres to their reservation, but other large areas which I will mention later. To carry through this plan, an exchange act for these three Arizona counties was necessary. At the recent Congress a bill for this purpose was introduced by Senator Hayden, of Arizona, and Senator Bratton, of New Mexico. This bill is as follows:

"That the Secretary of the Interior is hereby authorized, in his discretion, under rules and regulations to be prescribed by him, to accept relinquishments and reconveyances to the United States of privately owned lands, including patented and nonpatented Indian allotments and selections, within the counties of Apache, Navajo, and Coconino, Ariz., and any Indian so relinquishing his or her right shall be entitled to make lieu selections within the areas consolidated for Indian purposes by this act. Upon conveyance to the United States of a good and sufficient title to any such privately owned land, except Indian allotments and selections, the owners thereof, or their assigns, are hereby authorized, under regulations of the Secretary of the Interior, to select from the unappropriated, unreserved public lands of the United States within said counties in the State of Arizona lands approximately equal in value to the lands thus conveyed, and where surrendered lands contain springs or living waters, selection of other lands taken in exchange thereof may be of like character or quality, such values to be determined by the Secretary of the Interior, who is hereby authorized to issue patents for the lieu lands so selected. In all selections of lieu lands under this act notice to any interested party shall be by publication. Any privately owned lands relinquished to the United States under this act shall be held in trust for the Navajo Tribe of Indians; and relinquishments in Navajo County, Ariz., excluding Indian allotments and selections, shall not extend south of the township line between townships 20 and 21 north, Gila and Salt River base and meridian.

"SEC. 2. The purpose of this act being to overcome the disadvantages now existing of 'checkerboard' control of lands by Indians and private landowners, to the end that the holdings of the respective parties may be unified or consolidated, it is hereby enacted that pending the completion of exchanges authorized

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by this act no further allotments of lands to Indians shall be made in the counties of Apache, Navajo, and Conconino, Ariz., and the counties of McKinley, San Juan, and Valencia, N. Mex.; and thereafter allotments to Indians in said counties shall be confined to lands within Indian reservations or to lands heretofore or hereafter acquired by the United States in said counties for the benefit of Indians generally."

There was never much, if any, chance of buying these lands for the Indians. It will take a lot of money and Congress would be very loath to appropriate it. Moreover, if they were bought and taken out of taxation by the Government, that would certainly not have been acceptable to you. Under the bill lieu selections in these same counties will be subject to taxation and to higher assessments because, consolidated they are more valuable than in checkerboard.

The bill failed of passage. In 1921 there was passed a similar bill relating to New Mexico. That bill reads as follows:

"The Secretary of the Interior is hereby authorized, in his discretion, under rules and regulations to be prescribed by him, to accept reconveyances to the Government of privately-owned and State school lands, and relinquishments of valid homestead entries or other filings, including Indian allotment selections, within any township of the public domain in San Juan, McKinley, and Valencia Counties, New Mexico, and to permit lieu selections by those surrendering their rights so that the holdings of any claimant within any township wherein such reconveyances or relinquishments are made may be consolidated and held in solid areas; *Provided*, That the title or claim of any person who refuses to reconvey to the Government shall not be hereby affected."

Never was it practicable until quite recently to make operative the 1921 act in New Mexico because of the complicated regulations at first prescribed by the department. Within the last year, however, these regulations have been simplified, and exchanges under the law are being negotiated. One such exchange, involving four townships near Crown Point, northeast of Gallup, has been completed. Another is now being negotiated. If these exchanges and consolidations, combined with purchases here and there where exchanges can not be effected are allowed to progress, some 22 townships, or approximately 500,000 acres, adjacent to and east and south of the present Navajo reservation lines in McKinley and San Juan Counties in New Mexico can, and we believe will be consolidated into Government ownership for the exclusive use and benefit of the Navajo Indians. This will, to all intents and purposes, carry the reservation lines from 6 to 18 miles beyond the present executive order boundaries in northwestern New Mexico.

The odd sections in this additional area, except where already exchanged or bought, are owned by the railroad or other private owners. A good many of them are leased from year to year by the Government for the Indians. Such leasing is unsatisfactory. It involves annual payments of considerable amounts, and we never know when the owners may lease such lands to nonIndians. These 500,000 acres contain many Indian allotments. When whites settle in the midst of Indian allotments trouble generally follows. This is regrettable, but it is true. We hoped that the Indians and the whites could live together amicably, but experience has proven that generally they can not—in this district at any rate. It is, therefore, hoped that the thickly alloted area adjacent to the reservations in New Mexico can be consolidated for exclusive Indian use as well as other segregated tracts outside that area.

There has been a good deal of opposition to the extension of the Indian reservation in New Mexico, even on the lines and to the extent above proposed, mainly because of the fear of the loss of taxable land values. At the same time the people of McKinley County realize, as you do here in northern Arizona, that the Navajo Indians are perhaps their greatest asset. The problem is how to adjust the matter on reasonable lines. The exchange program gives the only real promise of such adjustment because, in New Mexico, as in Arizona, the lieu lands exchanged for the base will be subject to taxes and in consolidated tracts subject to higher assessments than checkerboarded odd sections.

Outside the 500,000 acres in McKinley and San Juan Counties there are in the adjacent territory many more Indian allotments, though generally much more scattered than in the 500,000-acre area. These allotments are distributed more or less over an area of 4,000 square miles. All of this country was once used by the Indians. Much of it is now used for grazing by the Indians. Much of it is now used for grazing by non-Indians with homesteads, deeded land, State leases, railroad leases, and even leases from Indian allottees, as the basis of such use. Once, for a short period, something over a million acres of this country lying

between the Navajo and the Jicarilla Reservations in New Mexico was actually added to the Navajo Reservation. But in 1908 and 1911 it was withdrawn and restored to entry. While this was a reservation and thereafter Indian allotments were made not only in the country so included in the reservation but outside it.

By means of allotments efforts have been made to secure and control for the exclusive use and benefit of the Navajo Indians some 3,000,000 acres more land than is now in the Navajo Reservation of New Mexico. There are now about 2,500,000 acres in the Navajo Reservation in New Mexico and about 10,500,000 acres in Arizona.

The Senators and people of New Mexico think this is too much. In view of that opposition it is, no doubt, more than the Indians can ever get and it is a mistake to encourage them to try to get so much through allotments. If they try to do so or if we try to do so for them, it will only strengthen the opposition and block the only solution which, in our opinion, is possible.

The Government has and always will encourage the Indians to take advantage of the Indian homestead act.

The allotment act of February 8, 1887, provides that in all cases where any tribe or band of Indians has been or shall hereafter be, located upon any reservation created for their use, either by treaty or stipulation or by virtue of an act of Congress or Executive order setting apart the same for their use, the President of the United States is authorized, when he is of the opinion that any reservation is advantageous for agricultural or grazing purposes, to cause any part thereof to be surveyed or resurveyed if necessary and to allot the lands in severalty to any Indian located thereon.

Each head of a family, under this law, was entitled to a quarter section, single persons over 18 and orphan children under 18 one-eighth of a section, and one-sixteenth of a section to children under 18 who were born before the date of the order of the President directing the allotments.

Section 4 of the same act also provides that where any Indian not residing on a reservation or for whose tribe no reservation has been provided shall make settlement on surveyed or unsurveyed lands of the United States not otherwise appropriated, he shall be entitled on application to the local land offices to have the same allotments as those provided for in the case of Indians residing upon reservations.

The appropriation bill of 1913 made an appropriation of $200,000 for the survey, classification, appraisement, and allotment of lands under the provisions of the act of 1887, with a proviso, however, that no part of the same should be used for the survey, classification, appraisement, or allotment of any land in severalty upon the public domain to any Indian, whether of the Navajo or other tribes within the State of New Mexico and the State of Arizona.

In 1914, however, under protest from the Indian Office this proviso was changed and read: "Provided that thereafter no part of said sum should be used for the survey, resurvey, classification, or allotment of any lands in severalty on the public domain to any Indian of New Mexico or Arizona who was not residing on the public domain prior to June 30, 1914." These same restrictions have been, as far as I can find out, in every appropriation bill since 1914.

This law has been interpreted with the utmost liberality in behalf of the Indians since 1914, since which date many thousands of acres of allotments have been made in these two States, and particularly in western New Mexico. The Navajos are naturally keen for continued allotments. They need more ranges and the Government is trying to do everything it can to make their present ranges more productive. But we want all the land we can get for them by reservation extensions, by exchange, by allotments, by purchase, by homestead. These Indians have been particularly keen to secure through allotments the control of as great areas as possible and as soon as possible for fear that the remainder of the public lands are to be turned over to the States and that after that it would be very difficult for them to secure any further extensions. Since the recent publication of the report of the Garfield committee it looks as though this would be the case in New Mexico and Arizona. If the exchange program can not be carried out, then the allotment law should be adjusted.

For two years—in 1924 and 1925—when this situation first came to my notice and soon after I was asked to take charge of Navajo affairs, the Indian Office made every possible effort to secure the passage of a bill adding about a million acres to the reservation in this disputed area. The bill provided for the exchange of railroad land, the purchase of private lands and an appropriation for such purchase. We did a vast amount of work to bring that about in

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negotiations with the railroad, the landowners, the State, and the Indians, but just at the moment when success seemed assured, we failed because Congress would not pass the bill.

Now, the question is, what can be done? Are we to allow the situation to hang between the devil and the deep sea because we can not get everything we want? Nothing can be done without the consent and cooperation of the Senators and the Representatives from New Mexico and Arizona.

On March 4, 1930, the present administration in orders to me signed by the Secretary of the Interior and the Commissioner of Indian Affairs, stated that the policy of the department is to comply as far as possible with the expressed wishes of the Navajo Indians that their tribal funds be used for the acquisition of such additional lands as may be necessary to reasonably consolidate the country mainly used by them for grazing purposes along the borders of the reservation. With this in view 60 per cent of the money coming into their tribal fund was ordered set aside. The department furthermore favors the settlement of these land matters as far as possible by exchange under the New Mexico act and a similar act for Arizona.

Unfortunately, owing to the debacle in crude-oil values and in markets and in timber values, the Navajo tribal income has fallen off, but Congress has appropriated considerable sums to carry out the program. However, but limited purchases can properly be made unless exchanges are consummated. Generally, the only reason for purchasing is in the blocking out of large areas mainly consolidated through exchanges.

We are trying to carry through the policy above outlined.

To recapitulate: What we are trying to do in the States of Arizona and New Mexico and Utah is this:

First. To consolidate by purchase and exchange under existing laws something over 500,000 acres adjacent to the Navajo Reservation in eastern New Mexico.

Second. To gradually consolidate outside of this area in New Mexico in the allotted country certain other areas for the exclusive use of the Indians, including the Puertecito, Canoncito, and Ramah areas, where are segregated lands of Navajos.

Third. To consolidate under proposed new laws in Apache County, Ariz., about 115,000 acres north of the railroad.

Fourth. To consolidate for the Indians about 600,000 acres in the Castle Butte area.

Fifth. To consolidate by further purchase and exchange about 50,000 acres more in Coconino County near Cameron. This has already been arranged for, thanks to Senator Hayden.

Sixth. To add to the Navajo Reservation what is known as the Paiute Strip in southern Utah comprising about 600,000 acres. This measure is generally acceptable to the people of Utah.

If these policies as above outlined and the only possible program of making them effective in cooperation with the States concerned are wrong, we would be glad to have some one tell us what a better policy and a better possible program may be.

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