Uintah Dream:
The Ute Treaty — Spanish Fork, 1865

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Mormon invasion of the Great Basin in 1847 was followed by two decades of anomalous Indian-white relations. Notwithstanding petitions to Congress from the Territorial Legislative Assembly, native title to the domain was not extinguished, and the government delayed establishment of a land office in Utah until 1869. In the meantime, the Saints occupied every Indian homeland on the eastern border of the basin.[1] In the absence of congressional action, Brigham Young, as Indian superintendent from 1850 to 1857, together with Garland Hurt, established a number of "Indian Farms," or little reservations, designed to introduce the natives to agriculture. The most important of these was located at Spanish Fork in Utah Valley.

The Utah expedition of the United States Army to install new Territorial officers in 1857 brought an end to Young's promising Indian farms. The Indians, losing confidence in the government, were becoming restless, resorting to theft and threatening the safety of the white communities. Under these conditions, Supt. Benjamin Davies recommended to the Indian Commissioner in Washington on 30 June 1861, "For the Utes, Pah-Utes, Pah-Vants and others who congregate at the Spanish Fork Farm, I recommend the establishment of a reserve including the whole of Winter [Uintah] Valley. . . ."[2]

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[1]The occupation was done with a minimum of friction due to a Mormon religious concept of the Indians as a fallen race for whose regeneration they were responsible under divine assignment. Brigham Young's policy was, "It is better to feed them than to fight them."

[2]Supt. Benjamin Davies' annual report to the Commissioner of Indian Affairs, William P. Dole, in *Annual Report of Commissioner of Indian Affairs*, Utah Supt'cy, 1861; the Commissioner's Annual Report is hereafter cited as *Commissioner's Report*.

His recommendation was relayed in a communication from the Secretary of the Interior, Caleb B. Smith, to President Abraham Lincoln on 3 October.

> Sir, I have the honor to submit for your consideration the recommendation of the Acting Commissioner of Indian Affairs, that the Uintah Valley in the Territory of Utah, be set apart and reserved for the use and occupancy of Indian tribes.[3]

The president, occupied with matters of the Southern Rebellion, responded the same day by simply noting, "Let the reservation be established as recommended by the Secretary of the Interior. A. Lincoln."[4]

Three years later, on 23 February 1864, Congress provided for extinguishing the Indian title to Utah lands by treaty, and on 5 May, legislated further for dissolution of the Indian farms and confirmed the Executive Proclamation of 1861 by designating Uintah Valley as a permanent reservation for the Indians.[5]

The south slopes of the Uintah Mountains pour several snow-fed streams into the valley below, where they are carried by the Duchesne and Uintah rivers across a broad valley to enter the Green River. Although visited by the Mountain Men in their heyday, the valley was still largely unknown in 1864. The reservation which was declared to be "extensive and fertile" included more than two million acres and embraced the entire region drained by the Uintah and its tributaries.[6]

Colonel O. H. Irish, who had been appointed Indian Superintendent for Utah on 2 February 1864, waited in vain in Nebraska City for Indian goods which had been ordered for his superintendency. He arrived in Salt Lake City on 25 August to find the local Indians restless and demanding. They were soon to leave for their winter hunting grounds and wanted their promised supplies before departure. "Those Indians," he wrote Commissioner William P. Dole on 26 September,

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[3]*Executive Orders,* Vols. 1-2. p. 169—Indian Reservation, 3 October 1861.
[4]Ibid.
[5]Developments in the establishment of the Uintah Reservation appear in the Utah Superintendency reports contained in the *Commissioner's Report* for 1863, 1864, and 1865.
[6]Report of Agent A. Humphrey in *Report of the Sec. of the Interior,* 30 September 1861, p. 750. See Eli F. Taylor, "Register U. S. Land Office," *Utah Historical Quarterly* 4(January 1931), 29, for acreage.

> inhabiting that portion of the Territory south of Great Salt Lake City, are all anxious to know whether the government proposes to enter into treaties with them. They are anxious to understand their rights. . . . I would recommend that steps be taken to make treaties with the following tribes or bands of Indians, viz., Utahs, ParVants, and Pie-Edes, as soon as they can be congregated in the spring.[7]

At last, on 23 February 1865, Congress passed "an act to extinguish the Indian title to the lands in the Territory of Utah suitable for agriculture and mineral purposes," and on 28 March, Commissioner Dole communicated welcome instructions to Superintendent Irish to proceed with treaty making with the Indian tribes in Utah:

> I deem it very desirable that you should avail yourself of the information in possession of Governor Doty, ex-Governor Young, and other officers of the Territory. . . . To enable you to carry into effect the object of the law, the sum of twenty-five thousand dollars, appropriated by the third section, will be placed at your disposal, and subject to your drafts.[8]

Authorized now to proceed with treaty negotiations, Irish moved rapidly to avoid losing any of the Utah bands to current hostile movements, both within and outside the Territory.[9] He had scarcely finished reading the Commissioner's instructions when news arrived of the outbreak of the so-called Black Hawk War in southern Utah. Soon reports came of men killed, homes destroyed and livestock driven into the mountains.[10]

The Superintendent consulted Governor Doty and Brigham

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[7]*Commissioner's Report,* 1864, Utah Superintendency Report 60, p. 169.

[8]William P. Dole to O. H. Irish, 28 March 1865 in Utah Superintendency Report No. 29, pp. 148-49.

[9]In his Annual Report for 1865 he wrote, "notwithstanding the Indians of this superintendency are peaceful now, in view of the fact that Indian wars are raging on our immediate boundaries in Nevada, Idaho, Colorado, and Arizona, how long they will remain so it is impossible to tell, unless those Indians who are in arms against the government are speedily and thoroughly subdued. . . . Yet witnessing the success of the hostile Indians in depredating upon the government and its citizens, our peaceful tribes are anxious and excited. The argument used with them is, that the Indians now in arms are contending for their homes; that if they are conquered and submit, they will be exterminated; that our Indians should join them in this last struggle; as the existence of all Indian tribes depends on their success."*Commissioner's Report* 1865, Utah Supt'cy, Report No. 28.

[10]The fighting began when a young chief, reported as the son of the late Chief Arapeen, was dragged from his horse and thrashed by a white man. Although not involved in the initial revolt, Chief Black Hawk soon assumed leadership in three years of depredations which became known as the Black Hawk War (Utah).

Young, both of whom advised immediate action.

> I therefore called the several bands of the Utah Indians to meet me at the Spanish Fork Indian Farm on the 6th of June. . . . Governor Doty acted cordially with me in making the preliminary arrangements, but was taken suddenly ill in the evening before I started for the Indian Farm. . . .
>
> Brigham Young accepted my invitation. . . . He has pursued so kind and conciliatory a policy with the Indians that it has given him great influence over them. It was my duty and policy, under your instructions to make use of his influence for the accomplishment of the purposes of the Government.[11]

Interpreters serving the convention were D. B. Huntington and George W. Bean. The Superintendent and associates met with the invited chiefs on 6 June for preliminary talks and reading of the treaty.[12] Its preamble stated:

> ARTICLES OF AGREEMENT AND CONVENTION made and concluded at Spanish Fork Indian Farm, in the Territory of Utah, this eighth day of June, eighteen hundred and sixty-five by O. H. Irish, Superintendent of Indian Affairs for Said Territory Comm., on the part of the U.S. and the undersigned chiefs, . . . on behalf of said Indians and duly authorized by them.

These included the following listed at the end of the proceedings:

> For the Yampah Utes: Sow-e-tt, Tabby and To-quo-ne
> For the Pa-Vants: Kanosh, An-kar-an-keg, Pean-up, Eah-Sand and Narient
> For the San-Pitch: Sow-ok-soo-bet
> For the Timpa-nogs: An-kar-tew-its and Naup-peads
> For the Utes: Pam-sook, Quo-O-Gand and San Pitch
> For the Spanish Fork Utes: Kibits
> For the Cum-um-bahs: Am-oosh

Among these the venerable Sow-e-ett was acknowledged leader although feeble with age. Next to him the white-haired Kanosh was given deference as was also Tabby, brother of Sow-e-ett. These together with the late, notorious Chief Walkara, became spokesmen for the natives.

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[11]Irish to Dole, 29 June 1865, in unratified treaties file, Spanish Fork Treaty, 1965, National Archives.

[12]The following report of the treaty and the proceedings are extracted from the original minutes preserved in the unratified treaties file, Spanish Fork Treaty, 1865, National Archives. Unless otherwise noted all the quotations listed are from this document.

The chiefs, seated on the ground in a circle, listened closely as the interpreter did his best to convey the meaning of the written words to these men who must decide whether they would accept or reject them. The reading over, the meeting was brought to a close with an admonition that the chiefs consider the provisions of the treaty carefully before tomorrow's gathering when they would be called upon to make their decision. The Superintendent and Brigham Young would be pleased to counsel with any of them in the meantime. The essence of the treaty is contained in a synopsis presented in the Superintendent's report as follows:

> Sec. 1. The Indians relinquish their right of possession to all of the lands within Utah Territory occupied by them.
>
> Sec. 2. With the exception of the Uintah Valley, which is to be reserved for their exclusive use and occupation, the President may place upon said reservation other bands of friendly Indians of Utah Territory.
>
> Sec. 3. The said tribes agree to remove upon said reservation within one year after ratification of the treaty. . . .
>
> Sec. 4. The Indians to be allowed to take fish at their accustomed places; also to gather roots and berries on unclaimed lands.
>
> Sec. 5. In consideration thereof, the United States agree - -
>
> First. To protect the said Indians and their said reservation during good behavior.
>
> Second. To pay or expend for their benefit $25,000 annually for ten years, . . . $20,000 annually for 20 years thereafter, and $15,000 annually for 30 years thereafter [on a basis of 5,000 population]. . . .
>
> Third. For making improvements on reservation and procuring cattle for stock-raising, the United States agree to expend $30,000, as is already provided for by Act of Congress, May 5, 1864. . . .
>
> Fourth. To establish and maintain for 10 years, at an expense not to exceed $10,000 annually, a manual labor school, the Indians stipulating to keep all children between the ages of 7 and 18 years, at school nine months in the year. . . .
>
> Fifth, the United States agree to furnish a mill for grinding grain and sawing lumber, one or more mechanic shops and tools, houses for interpreter, miller, and farmers. . . .[13]

Article 7 stipulated further that the government would build a house on five fenced acres and add $100 a year for

[13] *Commissioner's Report*, 1865, Utah, Supt'cy, Report No. 30.

each chief. The remaining sections dealt with roads, cessation of depredation, war limited to self-defense, and liquor prohibited on the reservation.

When the conference was called to order on 7 June, blankets were awarded to certain deserving chiefs, after which the council proceedings show that the Superintendent turned to the business of the day. (Huntington interpreter:)

> . . . The great Father at Washington has directed me to call his Indian children together and talk to them of matters that concern their future welfare.
>
> You are the chiefs, the leaders, the head-men of your people. . . . The great Spirit in Heaven, who controls you and me and the great Father in Washington, wishes this ground upon which we stand. . . . He has put it into the hearts of white men to come here and open farms and build houses. . . . The same great Spirit that led them here, has put it into the heart of the Great Father, to extend the same privilege to you; and therefore we are here today, and propose to make a treaty that you shall agree that so much of the land which you have heretofore occupied, shall be occupied by the whites and belong to the government. . . . And that other land shall be occupied by you and your children. . . . I now say to you that if you sign this treaty you shall have farms, houses, and goods, and this is why I wish you, the leaders of your people standing today where you are, to decide for their future welfare. . . .
>
> This treaty, after being signed, is to be submitted to the Great Father's counselors at Washington, for them to agree upon it also. I have done for the present.

Following momentary silence Chief Kanosh spoke: (Bean interpreting)

> We have agreed that four chiefs shall do this talking. . . . I do not see what use it would be to trade the land where there are so few of us. Whatever we would trade for would be all gone soon, whether blankets, or hats, or shirts, or money. The money would soon go in the stores and the other things would soon be gone. . . .

Although a man of reputed wisdom Kanosh, as he continued, reflected the limitations of the native mind to grasp the full meaning of the treaty provisions.

> If the Americans buy the land where would the Mormons who live here go? Will the Lord take them up to his country? I think this is the Mormons' land, the Bishops' land; with the Utahs let them all live here together. I do not want to cut the land in two. Let it all remain as it is.

The chief broke his train of thought abruptly to disapprove of the Indian uprising in Sanpete County and disclaim any participation in it, and then continued:

> It is all right to let us stay where we are. Let me stay at Corn Creek and visit back and forth. . . . Suppose Brigham, our eldest brother, was to die, where would the Indians all run to? When we know he is at Salt Lake City, it is all right. Brigham is the great captain of all, for he does not get mad when he hears of his brothers and friends being killed, as the California captains do. The best thing is for the Superintendent to give us our blankets and shirts, and not talk about trading the land, but let us live and be friendly together. Give all of us blankets and shirts, squaws and all, and do not make us feel poor, but clothe us up.

Then San-Pitch rose to speak (Bean interpreting):

> I do not question the paper, but I do not want to trade the land nor the title to the land. It used to be Lord's land, but now it is the Mormons' land and ours. The maker of the land is probably dead and buried now. But this is good heavy land, lots of water and rocks; and I want it to stay here and us to stay here with it. . . . The whites make farms, get wood and live here on the land and we never traded the land. . . . let them live here and us live here too.

While speaking, the chief became increasingly excited and closed angrily with:

> If the talk is for us to trade the land in order to get the presents, I do not want any blankets or any clothing. I would rather go without than to give up my title to the land I occupy.

Prompted by this unexpected resistance from the speakers, the Superintendent turned towards the man whom he knew had the confidence of the chiefs. In response to his inquiring glance, Brigham Young rose to speak. (Huntington interpreter):

> San-Pitch, Sow-e-ett, Tabby, and all of you, I want you to understand what I say to you. I am looking for your welfare. If you do not sell your land to the Government, they will take it, whether you are willing to sell it or not. This is the way they have done in California and Oregon. . . . If you go to Uintah, they will build you houses, make you a farm, give you cows, oxen, clothing, blankets and many other things you will want. And then, the treaty that Colonel Irish has here, gives you the privilege of coming back here on a visit; you can fish, hunt, pick berries, dig roots and we

> can visit together. . . . The land does not belong to you, nor to me, nor to the Government; it belongs to the Lord. But our Father at Washington is disposed to make you liberal presents to let the Mormons live here. . . . If you will go over there and have your houses built, and get your property and money, we are perfectly willing you should visit with us. Do you understand that, Kan-osh?
>
> Kan-osh (and others): We do.
>
> Young: We feel to do you good; and I know that this treaty is just as liberal and does everything for you and for your people that can be done. . . . Now, if you can understand this, you can see at once that we do not want anything to wrong any of you.
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> Indians: It is enough.
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> Tabby: (Bean interpreter) The hearts of the Indians are full; they want to think, wait until tomorrow; let us go back to our lodges and talk and smoke over what has been said today. The Indians are not ready now to give up the land; they never thought of such a thing.

A show of resistance appeared on the faces around the circle and chief San-Pitch jumped to his feet. But as he turned to leave, someone shouted, "Sow-e-ett wants to speak." All eyes turned to the venerable person seated next to the Superintendent and upon a gesture from him every delegate except San-Pitch relaxed to listen respectfully to his words. The contumacious chief remained standing but listened from outside the circle.

> Sow-e-ett: (Bean interpreter) I am the father of you all. I have always been a friend of the Americans. (Mr. Young: He has.) I have never thrown away my friendship for the Americans. . . . (Superintendent Irish: That is what everybody says of you) After awhile Brigham and the Mormons came here. I saw him and he was my son, my friend. When I met President Young we talked and understood each other, me and my children the Utahs, and Brigham and his children. When some of my children stole horses and acted bad, did I break my friendship? No, never. . . . I do not want to see it, I am old; my heart is very weak now, but it is good.

Uncertainty held the chiefs in silence for a few moments and then according to the record, "The meeting separated and the Indians returned to their lodges very much excited, unwilling to talk any more about giving up their land." Nevertheless, during the afternoon and evening, Colonel Irish, accompanied by interpreters, visited informally with some of the chiefs to discuss the treaty and answer questions.

The council reassembled on Thursday, 8 June, at 10:00 a.m. All were present except San-Pitch. Superintendent Irish: (Huntington enterpreter)

> I wish to ask the Utah chiefs this morning, if they have eyes that they can see? If they have ears that can hear? . . . Are you prepared to give me your answer, that I may tell the great Father your decision. Shall I tell the great Father, that when he stretches out his hands to you full of gifts and benefits, you reject them? . . . We have come here today to settle this question. . . . Decide for yourselves. Say now what you will do.
>
> Sow-e-ett: It is good. We will sign.

With a deep sense of relief, and confident of Federal support in the high purpose of his efforts, the Superintendent exclaimed "Sow-e-ett, you are an old man, but if you live a year, you will live long enough to be glad of having signed this treaty."

The record simply reads, "The chiefs then attached their marks to the treaty." This consisted of an X opposite each of their names. Article IX of the hand-written document, signed and witnessed, appeared as follows:

> Article IX. This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and the Senate of the United States.
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> In testimony whereof, the said O. H. Irish, Superintendent of Indian Affairs for Utah Territory, and the undersigned chiefs, headmen and delegates of the aforesaid tribes and bands of Indians have hereunto set their hands and seals at the place and on the day and year herein before written.
>
> O. H. Irish
> Superintendent of Indian Affairs
> and Commissioner
>
> | | | | |
> |---|---|---|---|
> | Sow-e-ett (Nearly Starved) | His | X | Mark |
> | Kan-osh (Man of white hair) | " | " | " |
> | Tabby (The Sun) | " | " | " |
> | To-Quo-ni (Black Mountain Lion) | " | " | " |
> | Sow-ok-soo-bet (Arrow Feather) | " | " | " |
> | Au-Kaw-Tew-ets (Red Boy) | " | " | " |
> | San-Pitch (Bull Rush) | " | " | " |
> | Kibets (Mountains) | " | " | " |
> | Am-oosh | " | " | " |
> | An-kar-aw-keg (Red Rifle) | " | " | " |
> | Namp-peades (Foot Mother) | " | " | " |
> | Pan-sook (Otter) | " | " | " |

Pean-up (Big Foot)	"	"	"
Eah-gand (Shot to Pieces)	"	"	"
Nar-i-ent (Powerful)	"	"	"
Que-o-gand (Bear)	"	"	"

The agreement was executed in the presence of Brigham Young, the interpreters, and others.[14]

To what extent the X marks represented understanding of the articles of the document is uncertain, but concluding remarks by the Superintendent and Brigham Young assured the chiefs that the Great Father in Washington would keep his side of the bargain if only the Utes would live up to the treaty.

Superintendent Irish: (Huntington interpreter)

> If you live up to this treaty, if you keep it, you commence today a career of prosperity for yourselves and your children and the time will not be far distant when you will be living in houses of your own, when you will have little farms of your own, when you will be gathering into your barns the produce of your farms, and by the side of your own fires you will be surrounded with your children in comfort.

In concluding comments, Young reminded the natives that Colonel Irish, who was their friend, would not always be with them; but he promised to look after their welfare. Chief Tabby, being asked to express his views said, ". . . I love all of you and do not want to see blood shed on the land. I want you to send a good father to Uintah; one that won't quarrel with us. . . . I will go there. I love that country." Kanosh, growing impatient, voiced an unspoken wish of the natives, "Now we are ready for the presents; fetch them out and deal them out. We don't want the father to hide anything up. Fetch all out." In response the Superintendent announced: "Go and get your women and children and bring them here to receive your presents, they shall all have something. . . ." In the afternoon, the presents were distributed among the Indians, all receiving a share according to their rank, age, or needs.

Friday morning, 9 June, the chiefs assembled to have "talk" with Superintendent Irish upon various matters pertaining to the treaty, their removal, etc.

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[14]San-Pitch was not present at the signing and only after a stormy session between him and Colonel Irish the next day did he later appear in Salt Lake City to make his mark. The Superintendent suspected the rebellious chief of being involved in the Sanpete uprising which proved to be the case as he subsequently took direct part in what became known as the Black Hawk War.

Superintendent Irish: (Huntington interpreter)

> I have brought you here, this morning, to talk with you about going to Uintah. . . . There are no houses out in Uintah and no road out there yet. . . .
>
> That is Tabby's country there, and I think he wants to go and those with him. We want to make little farms for them all. We do not want to make a great big farm and have the government work it, but to make little farms and have you work them and that the produce and everything on them will be yours, and you will have it. We wish to arrange it so that every man will have his little patch of ground, and take his family, his woman and boys and work it and live upon it. . . .

Strange it was that this white man's portrayal of private ownership of land and "living on a little patch of ground" should have appealed to the red man to whom the concept of individual land ownership was foreign. However, it was so that when the Colonel said, "I would like to know what you think about it," Kanosh apparently spoke for the group when he replied, "I like it well."

However, "the year after ratification of the treaty" when the Utah tribes were all to be gathered on the Uintah reservation to receive their reward in return for signing away their homelands never arrived because the treaty was never ratified. The "paper" signed at Spanish Fork traveled a long way before it was finally acted upon by the United States Senate. On the way up it gathered the signatures of the Commissioner of Indian Affairs, the Secretary of the Interior and the President. On 6 March 1866, it was submitted to the United States Senate for action which was delayed three years, until March 1869.[15]

Colonel Irish resigned as Superintendent shortly after the treaty signing and was succeeded by Franklin H. Head on 23 March 1866. The population of the Uintah Agency began to swell as increasing numbers of Indians were pursuaded to join the reservation with its promise of a new life. "Many small bands," read the Commissioner's 1869 report, "seeing the advantages of the location, have gone wholly, or in part, upon the reservation." Among them "some of the principal chiefs, including Black Hawk, for many years engaged in

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[15]Indian Office, 13 December 1865 - 29 September 1866, Report Book, No. 15; Department of Interior, Record of L. S., Indian Affairs, No. 6, p. 140; Executive Journal 14, U.S. Senate 1866, Part II, p. 586.

active hostilities, are among the most industrious Indians upon the reservation."[16] The population as of that year was estimated at 1500.[17]

Meanwhile modest beginnings were made in implementing the agricultural program designed for the reservation. Agent Pardon Dodds reported to Superintendent Head on 8 September 1868, "I found there a force of five laborers, an interpreter, and a cook. The laborers were busily employed with the teams belonging to the agency, in hauling supplies of provisions, seed, grain, presents, etc., until about the middle of November."[18] When snows blocked the mountain passes, the hands turned to plowing for a month in preparation for spring planting. Caring for the cattle, cutting timber, and repairing tools occupied them until spring weather permitted planting wheat, oats, corn, potatoes, and vegetables. But when the grain was in head "an army of grasshoppers came and within a week the ground was bare in three fourths of the crops." The same thing happened to several thousand young peach trees just putting out leaves—"the grasshoppers ate them—even the bark and killed all but two or three hundred."[19]

Nevertheless the agent judged the effort and expense justified

> as thereby the Indians have made no inconsiderable progress in their education to habits of industry. . . . The Indians appreciate the cause of the crops failure, and will work upon the land for the coming season.[20]

The natives helped dig a large irrigation ditch which was nearly a mile long. They learned to irrigate, to drive oxen and to hold the plow. The prospect of an extensive orchard was especially pleasing to them. But, he hastened to add, all this was dependent on sufficient operating funds. The appropriation of $15,000 for the year ending 30 June 1868, was not sufficient for carrying on the business of the agency, and yet it was cut to $5,000 for the 1869 year! He pleaded with his

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[16]Superintendent Head in his 1867 report related how he had arranged to meet Black Hawk and some of his followers on the reservation, on which occasion the chief committed himself to a course of peace. This promise he apparently kept. Head to N. G. Taylor, 22 August 1867.

[17]Quotes from Utah Superintendency Report No. 42 (1 August 1869) included in *Commissioner's Report*, 1868-69.

[18]Supt. Report 1869.

[19]Ibid.

[20]Ibid.

superiors for adequate appropriations to enable him to carry on *until the treaty should be ratified.*[21]

Such a beginning, with its successes and failures, presented a challenge coupled with a promise of reward for industry. There was good reason to believe that a new life lay ahead for the natives when the "Great Father" in Washington should fulfill his treaty promises. Neither the local agent nor the commissioner in Washington failed to remind their superiors in every report that success of the program waited upon ratification and implementation of the treaty. Wrote Superintendent Head on 22 August 1867:

> The treaty has never been confirmed, nor has any action been had regarding it. Although it has been repeatedly explained to the Indians that the treaty was not binding until ratified by the Senate, they do not seem to comprehend the matter, and are much dissatisfied that it is not in effective operation.[22]

Again on 16 September, he wrote:

> I have heretofore repeatedly urged that some action be had relative to this treaty. It is impossible to make the Indians fully comprehend the reason why, when they have observed their part of the treaty, it is not fulfilled on the part of the government.[23]

Nevertheless, the Superintendent was optimistic as indicated in his report of 1 August 1869:

> The progress upon this reservation is a most satisfactory illustration of what can be accomplished with proper management in training Indians to habits of industry. . . .
>
> I feel confident that $10,000 per year, judiciously expended at this reservation, one-half thereof annually for cattle and the balance for tools, presents, and the labor of a few whites to aid and instruct the Indians, would in five or six years collect all the Utah Utes upon the reservation, and make them permanently self-supporting.[24]

The flame of hope for solution of the Indian problem in Utah Territory which had burned brightly in 1865 flickered

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[21]Agent Pardon Dodds to F. H. Head in *Commissioner's Report,* 1868, Utah Superintendency No. 42.

[22]Head to Commissioner N. G. Taylor, 22 August 1867, in *Report of the Secretary of the Interior,* 1867, Utah Supt'cy, No. 42.

[23]Head to Commissioner Taylor as of 16 September 1868 in *Report to Secretary of the Interior,* 1867, Utah Supt'cy, No. 28.

[24]Head to Commissioner E. S. Parker, in *Commissioner's Report,* 1869, Utah Supt'cy No. 42, p. 226-27. The Superintendent's estimate was based on Agent Dodd's enthusiastic report of 1 August in which he said: 'The grass-

bravely through the next four years only to be snuffed out in 1869-70. The Spanish Fork Treaty with its promise of mutual benefits to both the red man and the white had reached the Senate on 6 March 1866, where it was referred to the committee on Indian Affairs. Three years later, in February 1869, Senator James Harlan, chairman of that committee, submitted several worn treaties, including that with the Utes, to O. H. Browning, Secretary of the Interior, with an inquiry as to whether he would recommend their ratification. The Secretary referred Harlan's inquiry to Commissioner of Indian Affairs A. G. Taylor, who replied in part on 18 February 1869:

> The ratification of the treaty with the Utah Tribes has been repeatedly urged by this office, as under its provisions, measures could be adopted for the concentration of the Indians of the Territory upon the ample reservation set apart for their use and occupancy, and the necessary means afforded for their support and improvement. It is possible that a better treaty can be made under present circumstances and relations of these Indians and I suggest that it would be as well, perhaps, that the Senate, do not advise the ratification of the pending treaty—in which event, I would recommend that early steps be taken to negotiate a new one.[25]

With the Indian Bureau's acquiesence in the death of the treaty, there remained only to carry out its formal execution and burial. On 11 March, Senator Harlan reported four treaties (including that with the Utah Utes) to the Senate with negative recommendations. The result was the adoption of a resolution "that the Senate does not advise and consent to the ratification of said treaties."[26] The resolution was forwarded to the President. The hand-written articles, formulated and hopefully subscribed to by Superintendent O. H. Irish and sixteen trusting Indian chiefs with their X marks, on 8 June 1865, were returned to the Commissioner's office and

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hoppers have not at all troubled us the present season, and the crops of every kind are excellent." The one hundred and ten acres under cultivation were substantially as follows:

Crops	*Acres*	*Bushels*	*Value at Agency*
Wheat	50	1,750	$10,500
Corn	20	1,200	6,000
Potatoes	6	1,500	6,000
Turnips	20	3,000	6,000
Oats	6	240	480
Vegetables, etc.	8	- - -	1,000
Total	110	- - -	$29,980

[25]Record Group 48—Letters received, Secretary of Interior. File January to April, 1869—Box 23, National Archives.

duly buried in the unratified treaty files now located in the National Archives.

The rejection of the Ute treaty, together with others, was symptomatic of a changing national concept of Indian administration. The belief that the Indian could best work out his salvation separate and apart from the white race was giving way to ideas of "assimilation, Allotment and Citizenship."[27] It was also in harmony with a developing resistance of the House of Representatives to the Senate's exclusive control over Indian affairs.[28] The Indian treaty system was on its way out.[29] The practice came to an end in a clause attached to an appropriation act in favor of the Yankton Indians which read

> provided that hereafter no Indian nation or tribe within the Territory of the United States shall be acknowledged or recognized as an independent nation, tribe or power with whom the United States may contract a treaty.[30]

In keeping with President U.S. Grant's policy of placing Indian administration under military control, Brevet Colonel J. E. Tourtellotte replaced F. H. Head in the Utah superintendency, with Lieutenant George W. Graffam as agent in Uintah. Upon learning that the Ute treaty had already been scrapped, Tourtellotte faced the disappointing realities optimistically:

> Whenever such abundant supplies are raised upon the reservation that the Indians can then be bountifully subsisted, the Ute Indians of the Territory will, of their own desire, move thereon. . . . I think in three years time most of the Utes of this superintendency will move upon the reservation without expense to the government. If that can be done I see no reason why those Indians cannot become self-supporting.[31]

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[26]*Executive Journal*, Vol. 17, 1869-71, p. 7.

[27]Felix S. Cohen, *Handbook of Federal Indian Law* (Washington, D.C.: Government Printing Office, 1945), p. 66.

[28]The House objected to the Senate's making treaties with the Indians involving financial appropriations in which it had no voice.

[29]*Commissioner's Report*, 1869, and the first *Annual Report of the Board of Indian Commissioners* submitted that same year, recommended abolition of the treaty system of dealing with the tribes. *Commissioner's Report* 1869, pp. 6 and 50-1.

[30]Cohen, *Federal Indian Law*, pp. 66-68. Since the government still recognized the original Indian title, it continued to deal with its redskin wards on a basis of mutual consent, however, through *agreements* instead of *treaties*. The difference between them was largely in the process by which the latter was ratified by both houses of Congress.

[31]*Commissioner's Report* 1870, Utah Superintendency, No. 41, pp. 607-8.

However, the military superintendent found little support from Lt. Graffam in leading the Uintah natives across the ruins of a shattered dream. The local agent had failed to win the Utes' confidence and, ill at ease among them, he wrote that "Troops must either be stationed in the Valley: the Indians delt [sic] with more liberally, or the Agency abandoned."[32] Finding it more to his liking, he spent so much of his time at Fort Bridger that the natives complained to Col. Tourtellotte. "He did not care for them," they said, and asked that he be replaced by a good chief. Tourtellotte reported to the Commissioner in Washington on 25 July 1870, "I am much interested in the Uintah Valley Reservation, but fear it will not prosper under the management of Lt. Graffam."[33] The agent was replaced on 21 October, but his successor, John J. Critchlow, did not arrive at the Uintah Agency until the following February.

At this low ebb in the fortunes of the Utah Indians, they felt the protecting hand of the "Great Father" in Washington still further withdrawn. Congress enacted legislation prohibiting army officers from holding civil positions, and with the removal of Col. Tourtellotte, the Utah superintendency was abolished altogether in 1870. From that time Utah's single agent at Uintah reported directly to the Commissioner of Indian affairs in Washington.[34] Certain drawbacks to settlement in the valley which had formerly been hopefully tolerated, now loomed large without the treaty promise of sufficient finances to overcome them. Notwithstanding adequate area with natural resources sufficient to sustain all of the Indians in Utah, its isolation, which had been originally regarded with favor, now no longer recommended it. Both the agency and the

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[32]Lt. George W. Graffem, Annual Report to Col. G. E. Tourtellotte, 3 May 1870, in the Office of Indian Affairs. L. R. Utah Supt'cy, 1849-1880, in the National Archives.

[33]Letter from Col. Tourtellotte to Commissioner Parker, 19 May 1870, Ibid.

[34]Letter from Commissioner Parker to Col. Tourtellotte 5 November 1870. "The President under the 5th Section of the Act of Congress approved July 15, 1870, making appropriations for the Indian Department, has discontinued several Indian Superintendencies, among the number that for Utah Territory, and directed that the agency for the Indians therein be attached to the New Mexico Superintendency. . . . The Agent for the Tribes in Utah will be instructed to report hereafter to Superintendent Pope." This letter was followed by another on 11 November, closing with "I now inform you that the arrangement is changed, so far as to require that the records etc. of your office be forwarded direct to this office, and that the agent report here and not to Superintendent Pope." Reports and correspondence continued to be filed in Washington under the heading of Utah Superintendency until 1880. Letters cited are found therein under dates given. National Archives.

natives found it to their disadvantage. The objective to concentrate the red men in Uintah failed as the reservation population dwindled to approximately seven hundred.

So when John J. Critchlow arrived at the Uintah Agency in February of 1871, he found it very much down to earth. He faced a situation to test the courage and capacity of a dedicated Indian agent. Gone was the vision of a "Great Father" in Washington, who, in return for title to their homelands, would generously establish an Indian community in Uintah Valley; and gone was the Ute confidence in "Washington's" promises together with incentive to work for their fulfillment. Critchlow began his difficult task by holding a council meeting with Chief Tabby and several important Indians. He said:

> I laid before them the benevolent plans and purposes of the government in relation to their care and support, telling them . . . that I desired to do as the Great Father told me; that I did not want to promise them much, as they knew promises were not always kept.

Upon this frank introduction, he said, the natives were "disposed to give me a fair trial."[35]

By September he could report new land under cultivation and added, "from present appearances of the various crops I am much encouraged and believe . . . that the capabilities of this valley for agricultural purposes are equal to any in the territory."[36] From his practical outlook he challenged: "make this agency a home for the red men of this territory . . . and most if not all of the Indians will be found, in a few years at most, on this reservation."[37] To this end Critchlow labored for twelve years as Indian agent in Uintah Valley. But the attraction of treaty provisions which had started a gathering movement toward the reservation in 1865 was no longer operative and the agent was severely handicapped by inadequate appropriations.

Before Critchlow retired in 1883, changes both in the reservation and its population had already set in to mock the high expectations of the chiefs who signed the treaty of 1865. In 1880, following the Meeker massacre, the Government transferred the insurgent Whiteriver Utes from Colorado to Uintah, and two years later the Uncompaghre Utes were removed to a

[35]J J Critchlow, to Acting Commissioner H R. Clum, 22 September 1891 included in *Report of the Secretary of the Interior*, 1870-71, Vol. I, Utah Supt'cy No. 100, p. 961.

separate reserve adjoining the Uintah on the east. The two reservations were consolidated in 1886 and the Uncompahgre reserve was restored to public domain. The combined agency was located at Fort Duchesne with Ouray, at the confluence of the Uintah and the Green rivers, becoming a sub-agency. The dream of a general gathering of Utah's Indians in the spacious valley faded until, in 1901, the three small bands totaling less than 1500,[38] remained its only Indian occupants.

Already at the end of the century, land-hungry white settlers were challenging the right of the Government to withhold from public entry more land than the natives could use. The Dawes General Allotment Act of 1887, which was applied to the Uintah-Ouray Reservation in 1902, provided for acreage allotments to the Utes in severalty. A committee was appointed to persuade the reluctant natives to accept this move towards individual land ownership. The program, including a provision for citizenship[39] which contemplated the welfare of the Indians, was also intended to speed up assimilation through break up of tribal solidarity and thereby hasten the day when federal relations with the Indians could be terminated.

The federal committee, disregarding native protests against the move, completed its task in Utah by 18 July 1895, when 1390 allotments had been made, including 103,205 acres of irrigable land. On 3 March of that year the President had been authorized to set aside for the "Uintah Forest Reserve such portions of the Indian lands as he thought necessary to protect the [water] supply for the Indians or for general agricultural development. . . ."[40] Under this authority, 1,010,000 acres were shifted from the Indian reservation into the Uintah Forest Reserve. Congress on 3 March 1905, set aside another 250,000 acres of non-irrigable Indian lands in the valley as grazing reserve to be used by the natives in common. Finally, in that disruptive year in the history of the reservation, the President proclaimed that the unreservd and unalloted lands of the valley, totaling 1,004,285 acres, would be opened to settlement on 28 August 1905. Receipts from sale of the lands at $1.25

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[36]Ibid.

[37]Ibid., p. 964.

[38]E. E. Dale, *The Indians of the Southwest* (Norman, Okla.: University of Oklahoma Press, 1949), pp. 138 and 250. These included 708 Uintahs, 523 Uncompahgre and 241 Whiteriver Indians.

[39]This provision was superseded by the Snyder Act of 1924 granting citizenship to all the Indians.

[40]See H. M. Tidwell, "Uintah and Ouray Indian Agency," *Utah Historical Quarterly* 4(January 1931), 32.

per acre would accrue to the tribal fund for use of the natives.[41]

To facilitate white settlement on the restored public domain, offices were established in Price, Provo, and Vernal in Utah, and Grand Junction in Colorado for registration for homestead drawings. Heavy demand for the released acreage was evidenced when 5467 land hungry whites registered the first day and the total registration over a twelve day period was 37,657. The demand exceeded the number of available quarter sections by nearly seven to one. As a pitiable reaction to this irresistable encroachment upon their domain, several hundred defiant Whiteriver Utes left the reservation with hopes of joining the Sioux tribes in South Dakota in some form of resistance. The thousand mile hegira came to an unsuccessful end when the Sioux failed to extend a welcome and the disappointed fugitives returned in 1908 to accept the inevitable.[42]

The Meriam Indian Study appearing in 1928-29 and the Senate-sponsored investigation from 1928 to 1933 of conditions among the Indians of the United States reached into the Uintah-Ouray reservation to disclose a partially acculturated native population of 1206 possessed of 261,000 acres of grazing land, 1046 allotments totaling 84,000 acres, plus school and agency reserves of 20,183 acres. Twenty-one thousand, three hundred and nineteen acres were leased to white settlers. One hundred and fifty families lived in permanent homes with another hundred in temporary houses or tepees. There was one boarding school with a capacity of 110, a day school accommodating 25 and a poorly equipped hospital.[43]

The nation-wide surveys resulted in corrective Indian legislation during the 1930's in which graft and incompetence on agency levels, the "pauperizing" effect of the ration system and the demoralizing features of the allotment plan received due consideration. The most far-reaching measures resulting from the fact-finding surveys were included in the Indian Reorganization Act of 1934, generally known as the Wheeler-Howard Act. In a significant reversal of policy, this legislation brought

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[41]President's Proclamation on Opening up Uintah's Reservation in Utah, *Dept. of Interior Annual Report,* 1905, I: 472-77.

[42]Floyd A. O'Neil, "An Anguished Odyssey—The Flight of the Utes, 1906-1908," *Utah Historical Quarterly,* 36 (Fall 1968), 315-27.

[43]Survey of Conditions of the Indians of the United States Report in the U.S. Senate Committee on Indian Affairs—Hearings: Uintah-Ouray Reservation, pp. 14, 733-41.

to an end and sought to overcome the harmful effects of the allotment system, and recognized, at long last, an Indian culture and the values of Indian communal life. Upon this recognition, provision was made for tribal assumption of social and economic responsibility, including improvement in the educational system and freedom of religion. Ultimate termination of Federal controls continued as a desired objective, but to be achieved gradually through exercise of their new freedoms and responsibilities.[44]

The benefits of new legislation were introduced on the Uintah-Ouray reservation with Ute acquisition of a corporate voice through an official organization vested with specified legal powers. Taking advantage of the granting clause, they adopted a "Constitution and By laws of the Ute Indian Tribe of the Uintah-Ouray Reservation" in 1937 with the following preamble:

> We the Indians of the Uintah, Uncompaghre and White-river bands hereafter to be known as the Ute Indian Tribe of the Uintah and Ouray Reservation, in order to establish a more responsible tribal organization, promote the general welfare, encourage educational progress, conserve and develop our land and resources, and to secure to ourselves and our posterity the power to exercise certain rights of home rule, not inconsistent with the Federal, State and local laws, do ordain and establish this constitution for the Ute Tribe of the Uintah and Ouray Reservation.[45]

The constitution, which was approved by Secretary of the Interior Harold L. Ickes on 19 January, stipulated that jurisdiction of the Ute Indian tribe "shall extend to the territory within the original confines of the Uintah and Ouray Reservation."[46] Membership of the tribe should consist of "all persons of Indian blood whose names appear on the official census roll of the Ute Indian Tribe. . . as of July 1, 1935."[47] The governing body "shall be a business committee known as the Uintah and Ouray Tribal Business Committee"[48] to consist of six members, two elected from each of the three bands.[48] The duties and powers of this committee as enumerated in Article VI extend into practically every phase of the social, eco-

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[44]In 1961, under the Ute Partition Act (Public Law 671), 490 mixed blood Indians were "terminated" with some unhappy results due to their lack of preparedness to compete in the white man's world.

[45]U.S. Department of Interior, Office of Indian Affairs, 1937, p. 1.

[46]Ibid., Article I.

[47]Ibid., Article II.

[48]Ibid., Article III.

nomic and political life of the tribe.

On 6 July 1938, with the approval of the Interior Department, the tribal unit was given corporate existence. Its charter was duly ratified by vote of the adult Indians and certified to by the Chairman of the Tribal Business Committee and the Superintendent of the Uintah-Ouray Agency.

The 1940s brought some improvement in housing, schools and hospital services to the reservation. An annual per capita income of $187 in 1939 rose substantially in the 40s through receipts from oil and gas bonuses, leases and rentals. In 1946 the Ute bands were farming 4000 acres of land and owned 5000 cattle and 7000 sheep. Also, to climax their material progress, there waited in the offing a "judgment fund" won from the Federal Government of which their portion would amount to $17,000,000 as compensation for loss of tribal lands when treaties with their fathers failed. An award of such proportions carried with it not only a challenge to the native's readiness to manage wealth for beneficial use, but prompted a question as to the measure of compensation the judgment fund represented in the Ute loss of their inheritance in Uintah Valley. Their position at mid-century as a reduced minority group surrounded by a white community was hardly the fulfillment of treaty expectations of 1865, which envisioned a self supporting Indian community spread across the hills and valleys of the original Uintah reservation.

Perhaps the ideal presented to the chiefs who signed the treaty document at the Spanish Fork farm was beyond realization. But had the document been ratified and its provisions kept by the authority in Washington, it might have gone far towards fulfillment under dedicated agents such as John J. Critchlow, whose vision was to make his agency "a home for the red men of the territory."[49] His was a program which foreshadowed the spirit and provisions of the Reorganization Act of 1934. Had the Indian administration safe-guarded the boundaries of the reduced area for which the chiefs signed away the balance of their tribal lands in 1865, and through the years, devoted the millions spent on rations and annuities to training the natives to assume increasing responsibility in the development of the rich resources of the Valley, the Uintah Dream might possibly have unfolded with broader and more promising horizons.

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[49]Critchlow to Clum cited in fn. 35.