Southern Ute Lands, 1848-1899; The Creation of a Reservation

by

Gregory Coyne Thompson

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EDITOR'S PREFACE

The Center of Southwest Studies, Fort Lewis College, Durango, Colorado, plans to publish a series of "occasional papers" as manuscripts (and money) are available. It is proposed that topics deal principally with the Four Corners area and that the papers constitute new and timely research by scholars in different disciplines.

It is very fitting that this first paper should be concerned with the Utes, the first permanent inhabitants of Colorado. Gregory Thompson has lived his entire life in Colorado and Utah and has been interested in the Utes for many years. His paper places that people in time and helps us to understand a portion of their history. He details what is known about early Ute history, U.S. policy, treaties, and the establishment of a permanent reservation for the Southern Utes in southwestern Colorado. The author has made use of all known sources, — documents and published materials — to help us of today to understand a part of our history that has simply been ignored. Indeed one could go through most history textbooks and conclude that there were no Indians in present-day United States.

Mr. Thompson writes of the attempts to remove the Utes from Colorado to Utah, the protestation of people of Utah, and the maneuvering in Congress that ultimately led to the creation of the current reservation. It is a chapter in the history, especially, of three bands of Utes — the Capote, Mouache, and Weeminuche. It is hoped that his paper may be an impetus to other scholars to search in the rich field of Indian history.

March 1, 1972

Robert W. Delaney

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Director
Center of Southwest Studies
Fort Lewis College
Durango, Colorado 81301

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# TABLE OF CONTENTS

**EDITOR’S PREFACE** .............................................................. i  
**ABSTRACT** ........................................................................... iii  
**PREFACE** ............................................................................. iv

Chapters  
I. **INTRODUCTION** .............................................................. 1  
II. **THE AMERICAN INVASION, 1848-1877** ............................. 3  
III. **THE CONCEPT OF A RESERVATION, 1876-1879** ............... 7  
IV. **WORDS WITHOUT ACTION, 1879-1882** ............................ 20  
V. **MORE WORDS WITHOUT ACTION, 1883-1894** ................. 31  
VI. **THE SOLUTION, 1894-1899** .......................................... 50  
VII. **THE SOUTHERN UTE LANDS IN PERSPECTIVE** ............. 57

**BIBLIOGRAPHY** .................................................................... 61

**LIST OF ILLUSTRATIONS**

Maps  
THE UTE DOMAIN ................................................................. 2  
PROPOSED SOUTHERN UTE RESERVATION, 1879 .................... 18  
PROPOSED SOUTHERN UTE RESERVATION, 1889 .................... 42  
SOUTHWEST COLORADO, 1899 .................................................. 58

Photos  
SEVERO, A UTE LEADER ......................................................... v  
IGNACIO, A SOUTHERN UTE LEADER ...................................... 17  
CAMP SCENE SOUTHERN UTE RESERVATION ......................... 30  
UTE DELEGATION OF MARCH, 1905 ........................................ 49  
TAPUCHE, SON OF SOBITA ...................................................... 60
The treaty of Guadalupe-Hidalgo of 1848 placed the Southwest under the jurisdiction of the United States Government. One group of people greatly affected by this change of governments was the Southern Ute bands of the Ute nation. Prior to 1848 these Ute Indians had experienced only occasional contact with the Spanish and the Mexicans. The United States citizens who came into Ute lands after the 1848 treaty occupied the Ute lands permanently. This intrusion brought tremendous pressure on the Southern Utes to give up claim to their lands. The Treaties of 1864 and 1868 and the agreement of 1874 reduced the Indian's domain. By 1879 the Southern Ute Indians had been placed on a reservation in Western Colorado, but even this was soon changed. A new agreement, approved June 15, 1880, attempted to further reduce Ute lands. The law contained a section which said the Utes would be moved from their larger reservations in southwestern Colorado to a smaller reservation along the La Plata River in southwestern Colorado and northwestern New Mexico. The land in this region, however, was found unsuitable for the agricultural pursuits of the Indian people. The alternative to relocation in the La Plata River area was to move the three bands of the Southern Utes—Muache, Capote, Weeminuche—into the Utah area. The choices in Utah were either the Uintah Valley Reservation, where other bands of Ute people were already located, or a proposed reservation located in San Juan County. The Uintah reservation was rejected as a future home for the Southern Utes due to lack of agricultural land and the fact that a large number of Utes were already in the area.

A strong congressional effort for removal was made by the representatives of Colorado from 1881 until 1888 when the Senate passed a bill to open negotiations with the Southern Utes for removal to Utah. The Ute people agreed to move; however, the House of Representatives failed to support the Senate's decision after several investigations of the future reservation proved it to be poor agricultural land. In addition, the people of Utah became upset at the prospect of having another Indian reservation established within the territorial boundaries and pressure was applied through their delegate to Congress as well as by memorials to the President of the United States.

For six years attempts were made to move the Utes. However, the congressional support needed for approval was never found, and in 1894 the decision was made by the Secretary of the Interior and the Commissioner of Indian Affairs to leave the Southern Utes in that location. Further, it was decided to reduce the size of the reservation but to allow the Ute families to take allotments on the reservation before reduction. These arrangements were confirmed by Presidential proclamations in 1895 and 1899. After the reduced reservation had been defined, the remaining land was opened to white settlement.
The purpose of this work is to describe the events that led to the formation of the Southern Ute reservation, informally in 1878 and formally in 1899.

A nineteenth century policy of the United States Government was to move the native American Indian tribes onto land reserves. Once relocated the tribes were then encouraged to pursue farming as a means of economic support. For most tribes west of the Mississippi River this meant removal from their more traditional lands to other areas as well as change in their basic patterns of living. For some, hunting, fishing and the trading of goods, not farming, had been the basic means of support. Throughout this time of this change the War Department and later the Bureau of Indian Affairs within the Department of the Interior attempted to meet the needs of the individual tribes. During this period Indian relations were usually matters of federal action rather than state or local. Indian matters that arose within a state by-passed the local agencies and were handled by the federal government.

The Southern Utes were affected by this policy. They were forced onto small land reserves and encouraged to farm. However, unlike the other Indian tribes and even the other Ute bands who had lived in Colorado prior to 1880, the three bands of the Southern Utes were not moved from their traditional lands; rather they were placed on a small portion of that area, irregularly shaped and inconveniently situated in southwest Colorado.

The difficulties attendant to the creation of this reservation are described in this work using local and national newspapers and unpublished letters, theses and dissertations. A number of quotes, some lengthy, have been included in the text of the manuscript to indicate the views of the different groups which settled the Ute question. An account of congressional action has been detailed to elucidate the political forces that shaped the reservation.

There have been a number of people who have provided much encouragement for the completion of this manuscript. The author would like to acknowledge these people and thank them for this encouragement. The research required to discuss the Ute removal question could not have been completed without the financial support of the Doris Duke Indian Oral History Project. In addition Dr. C. Gregory Crampton, Director of the Duke Project, has provided a number of most beneficial suggestions on the research and writing of this topic. Both the research and the writing would have suffered significantly without these suggestions. The guidance and encouragement of Dr. S. Lyman, Department of History and Dean of International Studies, Dr. David E. Miller, Department of History and Director of the Center for the Study of the American West, and Dr. Claron E. Nelson, Departments of Economics, added tremendously to the quality of the manuscript. A very special note of thanks is extended to Floyd A. O'Neil, Assistant Director of the Duke Project and of the Center for the Study of the American West, for suggesting the Ute removal question as a topic, for a continued dialogue on the Ute question throughout the period of research and writing, and for numerous critical readings of the manuscript.

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Any errors appearing in the manuscript are mine and are not those of the people who have helped in the research and writing of this manuscript.

—Bureau of American Ethnology Photo

SEVERO — A Ute Leader.

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CHAPTER 1
INTRODUCTION

As early as the sixteenth century, Spanish documents indicate that the Yutas, the Spanish word for Utes, occupied an extensive amount of territory in the Rocky Mountain and Great Basin area. Their territory stretched from “... the area west of the Colorado River in southeastern California and northwestern Arizona, north of the Colorado and San Juan Rivers in Southern Utah, and on north of the headwaters of the Rio Grande in south and central Colorado.”

Located within that domain were several small bands of the Yutas who later became known as the Southern Utes. They occupied that area described geographically as “north of the headwaters of the Rio Grande in south and central Colorado and north of the Colorado and San Juan rivers in southern Utah.” Three bands were involved: the Weeminuches, the Capotes and the Muaches. Of this group the Weeminuches traditionally claimed land north and east of the Colorado River in Utah as well as part of the southwest corner of Colorado. East of the Weeminuches were the Capotes who lived on either side of the continental divide in the San Juan Mountain Range and in the San Luis Valley. Farther east were located the Muache Utes. Their traditional homeland during this earlier period was probably the eastern slope of central Colorado.

All three groups were hunting and trading peoples; each moved across the land as the seasons of the year, food supplies and demand for trading goods dictated. This movement carried the Utes great distances from their traditional lands including penetrations into New Mexico and onto the Great Plains. These trading patterns brought two of the three bands into contact with the Spanish located in New Mexico. For short periods of time both the Muache and Capote bands traded with the Spanish. The third band, the Weeminuches, remained less affected by this trade because of their greater geographical isolation.

Throughout this earlier period of European contact only a few attempts were made to establish permanent trading settlements within the country occupied by the nomadic tribes. The Spanish did send expeditions into the Ute territory to trade but most returned after completing their business. During the Mexican period of control (1821-46) over the Southwest, several attempts, again mostly unsuccessful, were made to establish trading posts on the headwaters of the Rio Grande and in eastern Utah. The most successful of these was a trading post established in eastern Utah in early nineteenth century by Antoine Robidoux. His action was in response to a number of trappers and traders who came to the Southern Ute lands during this time. Among the notables who came were the Roubidoux’s, Ceran St. Vrain and Bent. However, these were the exception rather than the rule. European contact remained only an occasional experience for the Ute people.

However, the signing of the Treaty of Guadalupe Hidalgo in 1848, which placed control of the Southwest under the United States Government, made this contact more than just occasional. It initiated an invasion of whites into the Ute lands. The number of Americans who had previously made contact with the Utes — a few trappers, traders and the dispossessed Mormons — was suddenly augmented by miners, railroaders, farmers and ranchers. They forced the Southern Utes to move off part of their domain and to alter their way of life.

3. Ibid., p. 344.
4. The Ute nation was a loosely structured confederation of several units called bands. A band consisted of a number of extended southernmost families grouped socially, economically and geographically. By the 1840’s the three southernmost bands were called the Southern Ute bands and by the 1880’s they were officially called the Southern Ute Tribe.
5. Ibid., p. 361.
Two mining booms, one in California in 1849 and another in Colorado in 1859, the development of stagecoach and mail routes from the Mississippi River to California, the opening of the Oregon Trail and the completion of the trans-continental railroad route in 1869 brought increasing numbers of whites to the Ute lands. Some stayed. The competition for land became great. The Utes were unable to protect this land base, so that by the year 1878, a period of only thirty years, it had been reduced to an area of only the western one-third of Colorado and designated the Ute Reservation.

The first notice of the change was given in a treaty made by the United States Government in 1849 with the Utes shortly after the signing of the Treaty of Guadalupe-Hidalgo. Called the Calhoun Treaty, because it was negotiated by James S. Calhoun, Superintendent of Indian Affairs, it was ratified by the United States Senate on September 9, 1850. The treaty stated that the Government would protect the Ute Indians if they agreed to end their frequent raids on northern New Mexico, recognize jurisdiction of the Government over their lands, adopt its laws and, finally, adhere to its Indian policy. It was later used as the legal instrument to secure American entry onto the Ute domain. The right of Government intrusion onto the reservation was written into the treaty by a provision which allowed the construction of military posts and the establishment of Government agencies. Although the Indians seemed not to understand either the nature or the scope of the treaty, by signing it they agreed to these instructions.

While it was the policy of the Government’s Indian Department to establish agencies for the tribes, the remoteness of the Ute lands made this impractical. Instead, the agent for northern New Mexico, located at Taos, was instructed to give the Utes their presents, a provision of the treaty, and to serve what needs they might have in the future. Although this agency was to serve all three bands of Southern Utes, only the Muaches came for their gifts. Rugged terrain and long distances seemed to discourage the other two bands from frequenting the agency. Their isolation from Anglo civilization continued.

However, the isolation was soon destroyed. In the desire to control the Utes, the Government slowly shifted the agencies north, closer to the Utes. The Government had assigned the Capotes to a common agency with the Muaches at Abiquiu, New Mexico, located west of Taos. While not all of the Muache Utes were using this agency, it was gaining importance as a meeting ground for Government officials and Southern Utes. Other agencies north of Taos used for the distribution of goods at this time included Maxwell’s Ranch, New Mexico, and Conejos, Colorado.

The Government further penetrated the area by building a military post, Fort Massachusetts, at the foot of Mount Blanca in the San Luis Valley. The post was authorized in 1852 and established in June of that same year. Due to harsh winters and the isolated location the fort was abandoned in 1858 in favor of a new fort, Fort Garland. Although the American fort was the first to be established in Ute territory, and the first in Colorado, it engendered little attention from the Utes.

1. Hereafter when the word Government is used alone, it designates the United States Government. Other governments referred to will be appropriately identified.
2. The exact boundaries of the Ute domain were not stated. The treaty of 1849 only referred to the Ute land in general.
However, the Muache band did react to other intrusions into their land during these years. Their raids on the few settlements of the San Luis Valley, the settlement at Fort Pueblo, on the confluence of the Fountain and Arkansas rivers, and the settlements along the Red River in northern New Mexico eventually brought a reaction from Governor David Meriwether. He sent Col. Thomas T. Fauntleroy with over 500 men against the band in March, 1855. After several battles the Indians sued for peace, and a treaty was signed on September 1, 1855, in Abiquiu. Although the treaty was not ratified by Congress it did decrease the raiding of the Muaches on the northern settlements.

Finally the Government's desire for stronger control prompted a policy of relocating all of the Ute people on a common reservation. It was to have headquarters in the San Juan Mountains and all the Colorado Utes were to be administered from an agency in that location. In 1863 the plans for negotiations with the Utes were formalized. As had happened in the past and was to happen many times in the future, the Government desires and the Ute desires were not compatible. The Government wanted the Utes to become farmers on land held by the Capotes. The Utes disagreed with both the Government policy and the proposed location of the reservation, and they refused to sign the treaty. The Capotes, who were present at the negotiations, refused to sign the agreement; the Muaches sent only one representative who also refused to sign, and the Weeminuches refused to send any representatives. The Southern Utes were unwilling to leave their particular areas of influence to live on a common reservation with the other bands of Utes.

Despite the refusal of these Utes to sign the treaty, representatives of the Tabeguache band of the Northern Utes did agree to its terms. This new agreement resulted in the reduction of land claimed by the Utes as theirs in the Territory of Colorado. Nearly one quarter of the Ute holdings, mostly land claimed by the Tabeguaches, was taken by the Government. After Senate approval the treaty was signed by President Lincoln on December 14, 1864.

Land cession was not the only provision of the treaty. Schools, churches and agencies were to be organized by the Government to serve the needs of the Utes. They were not. Farming was to be encouraged by the agents, but most of the Indians refused to heed the encouragement. The boundaries of the general land reserve were to be established, but no means of protecting these boundaries were written into the treaty.

The cession of land to the Government by treaty was a new experience for these Utes, but it was soon to become more commonplace. Only four years after the 1864 treaty the Government was forced into further negotiations by miners and ranchers coming onto the Ute lands from the south and east. Those from the south were farmers pushing forth in search of lands in New Mexico. Those from the east were brought by the lure of gold in Colorado. Gold had been discovered in 1858. By 1861 towns were located at Denver, Boulder and Central City, and the area was granted territorial status.

The miners' drive south and east across the Territory brought them into direct conflict with the Northern Utes of Central Colorado and the Muache and Capote bands of the Southern Utes of southern Colorado. The ranchers' push up the Rio Grande brought them into conflict with the Capote bands. Many of the Utes had not been moved to the defined reservation of the 1864 treaty, and those who were

4. Ibid., p. 95.


6. Ibid., pp 22-25.
on the reservation were allowed to move off the area as they pleased. This freedom increased the tension between the whites and the Utes. To end this threat of conflict between the two groups, the Anglos pressured the Government for a more explicit treaty with the Utes.

It was these types of pressures that led to a re-examination of Indian policy by the Senate Committee on Indian affairs. The major question before this group was what to do with not only the Utes but also the other tribes who were feeling the pressure of Anglo civilization. The committee’s answer was that two large reservations should be set aside for the American Indians, including the Utes, west of the Mississippi River. All native people not located in those areas were then to be moved onto the reserved lands. Further, all treaty-making with Indian tribes was to end. The justification for this action was that the tribes were no longer to be considered separate, sovereign nations but rather domestic dependent peoples subject to the laws of the United States. The Indian’s right to own land was to be denied and the lands placed under Government control. Several of these provisions adopted by the committee were written into the 1868 treaty with the Utes.

The new Ute treaty was signed by the President on November 6, 1868, after a commission consisting of N. G. Taylor, Commissioner of Indian Affairs, Alexander C. Hunt, Governor of the Territory of Colorado and ex. officio Superintendent of Indian Affairs, Kit Carson, and the main headmen of the Muache, Weeminuche and Capote bands of the Southern Utes and the Tabeguache, the Yampa, the Grand River and the Uintah bands of the Northern Utes had agreed to a cession of Ute lands. The immediate effect was felt only by the Tabeguache band who occupied the land. The long term effect was felt by all of the Colorado Utes for it reduced the land base of the Ute nation by about one-third. Within the boundaries of the Territory of Colorado the Utes now held only lands located on the western slope of Colorado.

The treaty also called for the establishment of two agencies for the Utes. The first was to be located on the White River some 175 miles from Rawlins, Wyoming, the nearest location for railroad and telegraph service, and the second was to be placed at Los Pinos, nearly 165 miles from the nearest military post, Fort Garland. It was hoped that the agent would finally be able to teach the Indians English and how to become self-sufficient farmers. Despite past failures, the Government had not given up in its attempt to “civilize” the Utes.

As before, the attempts to locate all the Utes on one reservation failed. The Southern Utes refused to leave New Mexico, and the Government still lacked the manpower needed to move them. As a result, that portion of the 1868 treaty was not carried out.

Unfortunately, the land-and-mineral-hungry citizens of the Territory of Colorado were not so willing to ignore what they felt to be the Government’s obligation. By 1870 the miners had pushed their way across the territory to the heart of the Southern Ute land. This invasion into some of the most isolated area in the United States had been triggered by the discovery of gold in that area. Charles Baker had located gold in the San Juan Mountains in 1860, but the start of the Civil War ended his search.

7. Ibid., pp. 36-37.
After the war, miners were once again in the area prospecting for the valuable mineral. Although the treaties of 1864 and 1868 prohibited the trespassing of non-authorized people on Ute land, the miners were not to be stopped. As might be expected, trouble resulted. The Anglos demanded from both the Indians and the Government the right of access to the mineral-rich land. The Indians demanded protection by the Government against the trespassing miners and the removal of those people already located on the reservation. Again the Government was caught in the middle of a land struggle. It was immediately obvious to the Government officials that they lacked the power to block the miners from entering the land or remove those already located on the reservation. Evacuation of the Utes seemed to be the only solution.

The order for Indian removal from the area of the mines came by Congressional agreement. Signed by the President in 1874, the Brunot Agreement, named after the principal negotiator for the Government, ceded an area of land located in the heart of the defined reservation of 1868. The cession, rectangular in shape, acted as a dividing line between the northern portion and the southern portion of the 1868 land reserve with only a ten-mile section along the west boundary of the Ute domain connecting the two Ute reservations.

The Ute Indians failed to understand the strange boundaries of this agreement and soon felt cheated by the Government. They had understood the agreement to mean that they were only giving up claim to the land where the mines were located at the time of the signing of the agreement. The Southern Utes became upset when large numbers of miners moved into the San Juan Cession, as it became known, and started mining. The Indians were also frustrated by the Government's refusal to pay the annuity promised for giving up claim to the land. In only a short time the Utes, both Southern and Northern, became impatient with the invading Anglos and with the Government. Again tensions between the miners and the Indians arose.

By 1876 it was apparent to the Government officials that the treaty of 1868 and the agreement of 1874 were failing to solve the continuing problem of conflicts between the Indians and the Anglos of Colorado. The placing of the southern agency at Los Pinos to serve the Southern Utes had failed. These bands refused, in general, to travel to this location, preferring instead to remain in northern New Mexico and deal with the agents in that area. The people of northern New Mexico complained of their presence and demanded that the Government remove them onto their stated reservation in Colorado.

With the miners complaining about the presence of the Indians in the mining area of Colorado and with the people of New Mexico demanding removal of the Southern Utes from their location on one hand and with the Indians upset over the unpaid annuities and the number of people trespassing on their lands on the other hand, the Government was once again caught in the middle of a removal struggle. As before, the problem proved hard to solve. Eventually, after two years of negotiations, only the complaints of the New Mexico citizens were resolved. The rest of the Government's dilemma had to wait nearly twenty-five years before being answered.

12. In 1871 Congress adopted the “no-treaty” suggestion of the Senate’s Committee on Indian Affairs. After that date only “agreements” were made with Indian tribes. Once signed by the Indian tribe a bill incorporating the provisions of the agreement was introduced in both Houses of Congress. If passed, the bill was then made law by the signature of the President. The law was then published as a part of the Statutes at Large. The Utes were among the first Indian tribes to experience this change in Government taxonomy.

13. The division was important in the later establishment of the Southern Ute Reservation, for it successfully divided the Northern Ute bands, located in northwestern Colorado, from the Southern Ute Bands, located in southwestern Colorado.

CHAPTER III

THE CONCEPT OF A RESERVATION, 1876 - 1879

The residents of New Mexico wanted the Utes moved from northern New Mexico onto the area designated for them in the 1868 treaty. The citizens of Colorado wanted a new agreement which would move the Utes onto a new and smaller reservation centered at the White River Agency. During the period 1876 to 1879, the Government reacted to these pressures by removing the Utes from New Mexico, locating the three Southern Ute bands in a common area, and defining the southern area of the Ute Reservation as the land of the Southern Ute. Each of these events helped to create the Southern Ute Reservation.

The displeasure of the people of northern New Mexico had been increasing since the failure of the Government to remove the Muache Utes from the Cimarron and Abiquiu agencies as the Brunot Agreement had stipulated. Under that agreement, the Government had agreed to establish, when the President deemed it necessary, an agency for the Weeminuche, Muache and Capote bands on the southern portion of the Colorado reservation. By 1875 it had become apparent to both Government officials and citizens of New Mexico and Colorado that the Southern Utes would not adopt the Los Pinos Agency and area as their home. The Los Pinos Agency was located in southern Colorado near the headwaters of the Saguache River but at an elevation of 7,000 feet where the snows of the winter arrived early and remained late. The Southern Utes found this climate disagreeable for continued occupancy and chose to remain in New Mexico.

The problems associated with having the Utes located in northern New Mexico were reported by the agents in 1875. The Cimarron agent, Alexander G. Irvine, stated that about 350 Muache Utes belonging to the Colorado reservation were located at Cimarron, though this number fluctuated as these and other Utes moved from the Los Pinos Agency to the Cimarron Agency and back again as weather and other events dictated. The movement of these Indians caused a great deal of fear and uneasiness among the Anglo and Mexican settlers of the area. The agent reported:

The Utes are much more trouble [than the Jicarilla Apaches who were also located at this agency], being very independent, and considering themselves masters of the whole country and all that are in it; act as though every one they come in contact with must of a surety be their servant. . . .

The country is fast settling up, and the Indians and settlers are crowding each other; the Indians claiming the whole country and regarding the settlers as infringing on their rights, in having herds of cattle to eat up their pastures, and in driving all the game from this country, although the Indians are in nowise [sic] particular where they allow their horses to run or graze. A field of grain suits them very well, and there not being any fences in this country the damage is often considerable; and aside from this, they are in the habit of levying contributions upon the settlers, by the way of appropriating to their own use corn, sheep, and cattle, much to the loss and annoyance of the poor settlers; and if I correct them they tell me it is their right to do so.3


3. Ibid.
Besides the conflict between the Utes and the settlers, there was the problem of the impermanence of the Cimarron Agency. The land used for the agency was not owned by the Government but rather had been granted to individuals under the Mexican land grant system. Title to the land was not clear. Furthermore, the buildings used were only rented from private sources and were not part of the Government building complex. The intention had been to use the location and the structures only temporarily. The settlers of the area felt that now was the time for the planned relocation, and Agent Irvine concurred. He felt that the Utes should be removed from Cimarron to their agency at Los Pinos, Colorado.

S. A. Russell of the Abiquiu agency, the other New Mexico location where Utes were found, agreed with Irvine that the Utes should be removed, but did not favor removal to the Los Pinos area. He noted problems among the Indians not mentioned by Irvine. The Utes were refused rations at Abiquiu and had to travel to Los Pinos, a long journey over rugged terrain. As a result, the Indians were poorly fed and poorly clothed. In the winter months many died from malnutrition and exposure. There was also an alcohol problem. People living at Abiquiu or close by were quite willing to sell the liquor to the Indians. These problems helped to increase tensions between the Anglos and the Indians, and Russell concluded that the Indian Department should establish an agency for these Utes on the southern portion of their Colorado reservation, thereby removing them from the unsatisfactory environment of northern New Mexico while at the same time providing a more favorable climate than that found at the Los Pinos agency.

Added to the reports of the agents were petitions from the residents of the area sent to the Secretary of the Interior asking for removal of both Jicarilla Apache and Ute Indians. From 1874, when the Brunot Agreement had been approved by Congress, until 1877, these petitions continued to be sent to Congress, the President and the Secretary of the Interior. It wasn't until December, 1877, however, that Congress acted on the citizens' requests. In that year a resolution was passed asking the Secretary of the Interior to explain why the Ute and Apache Indians were still located at the Cimarron Agency. The resolution, introduced by Senator Stephen W. Dorsey of Arkansas, requested immediate removal.

In response to Dorsey's request the Secretary of the Interior, Charles Schurz, explained the situation of the Utes and Apaches at the Cimarron Agency and what events were transpiring to remove these now landless Indians from that area. He wrote that on the 30th of September, 1876, the use of Cimarron as an agency headquarters had been discontinued and the affairs of this office transferred to the Pueblo Agency under the supervision of Agent Benjamin M. Thomas. The hope was to relocate the Muache Utes on the northern portion of their reservation in Colorado and the Jicarillas on a reservation just north of Abiquiu. The Jicarillas were eventually removed, but the Utes refused to leave the Cimarron area. Until a better solution could be found a Government farmer was left in charge of the buildings at Cimarron and ordered to serve the needs of the Indians. All of this was done although the agency had been officially closed. In accordance with the treaty of 1868, the Brunot

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4. Ibid.
5. Ibid., p. 831.
6. Ibid., pp. 829-830.
Agreement of 1874, and with Presidential recommendation, Congress was then asked to provide for the establishment of an agency on the southern portion of the Colorado reservation which would serve the needs of all three bands of Southern Utes. Such a provision was attached to the Indian appropriations bill for 1877 and passed as part of that act. This Congressional action included the establishment of the Southern Ute Agency, with $10,000 appropriated for the construction of buildings and other provisions made for subsistence of the Indians. In May of the same year, the agent, Francis A. Weaver, was appointed, and, with the help of Benjamin M. Thomas, he selected a site for the buildings on the Rio de los Pinos, the Pine River, in southwest Colorado. But, by the date of Schurz’s report to Congress, January 14, 1878, the Utes had still not been moved from either Cimarron or Abiquiu.

The report of Secretary Schurz did finally prompt further Congressional action. By July, 1878, two acts had passed Congress calling for the immediate removal of both Jicarilla Apaches and Southern Utes from Cimarron and Abiquiu. The Cimarron Utes, as they became known in Government documents, were escorted from their former home to their new location in southwest Colorado by Agent Thomas and Government Inspector E. C. Watkins. Leaving Cimarron on July 18th, they arrived at the site of the new agency on August 15th.

The Southern Utes had finally been removed to one common reservation which was to be served by one central agency. The desires of the New Mexico citizens had been fulfilled, but those of the Colorado people still remained as a pressure on both the Utes and the Government.

After the agreement of 1873 the land ceded to the Government had been opened for settlement under the preemption and homestead laws, and almost immediately a number of people moved into that area known as the San Juan Cession. By April 26, 1875, some 186 of these new arrivals had asked the land office for surveys defining the boundary lines of the ceded land. On September 20, 1876, T. M. Trippie had requested of the same office surveys which would allow these settlers the right to acquire title to land, and in December seventeen settlers located in the San Juan cession asked for public-land surveys. These surveys were made over the valleys of Rio Mancos, Rio Florida and Rio Animas. In addition to these activities, the office recorded the subdividing of ten townships with seven located on the southern border of the San Juan Cession. Within this area nine towns, Animas City, Animas Forks, Howardville, Eureka, Lake City, Mineral Point, Ouray, Silverton and Telluride, had been established. These records further indicate that by December 1, 1877, about one-third of the filings in the San Juan Cession were on lands in the Rio Florida and Rio Animas Valleys and along the northern boundary line of the Southern Ute Reservation. The pressure of the settlers on both the Southern and Northern Ute Reservations was tremendous by 1878 and increasing at a very rapid rate.

Desire for more land and fear of these Indians had increased demands from these citizens that the Government remove the Utes. In February of 1876, a memorial from the Legislative Assembly of Colorado to Congress called for the removal of the Ute Indians to Indian Territory. The basis for this memorial was the Utes’ increas-

10. Ibid.
12. Letter from the Secretary of the Interior. 1878, op. cit., p. 3.
13. Ibid., p. 6.
15. Ibid.
17. Ibid., pp. 2-4.
ing impatience with the Government and the settlers for not fulfilling the treaty and agreement obligations, as well as the Anglos' fear that the Indians would rise in reaction to their continued encroachment on the Ute lands. People of the area wanted Congress to act for their protection.

In response to the memorial two bills were introduced in Congress, both calling for Indian removal. The first bill, House Resolution Number 3020, was introduced by Representative T. M. Patterson. He wanted negotiations to settle the title of all the lands in Colorado and the removal of Colorado's Indians to Indian Territory. The second bill, Senate Bill Number 706, was introduced into the Senate by Jerome B. Chaffee and authorized the Secretary of the Interior to negotiate with the Utes for removal to the White River Agency. The Senate bill was acted upon first and was approved on March 19, 1878. The House was then asked to consider the Senate bill as a substitute for Patterson's bill, which it did. The House quickly passed the Senate bill. This legislation called for the removal of both the Southern Utes and those located at the Los Pinos Agency, near Gunnison, Colorado, to the White River Agency, with title to the vacated lands given to the state of Colorado. The bill was signed by President Rutherford B. Hayes on May 3, 1878.

In compliance with the new legislation, the President named a commission to represent the Government in the negotiations with the Utes. While this commission failed to accomplish the objectives set by the May 3rd legislation, they did manage to have the Southern Utes agree to relinquish their awkwardly positioned reservation for a new location just east of their reservation, but not until several concessions were made to the Indians, and not until a number of councils had been held. In the end, Congress failed to support the efforts of the commission. However, their efforts were useful in later negotiations with these people.

The commissioners, Major General Edward Hatch, Honorable William Strickney, and N. D. McFarland, received their instructions from the acting Commissioner of Indian Affairs, William M. Leeds, in a letter to General Hatch, the designated chairman of the commission. The instructions to the group, dated June 29, 1878, were:

... to act as a commission to visit and endeavor to secure from the Ute Indians in the State of Colorado, their assent to the authorizing negotiations with the said Indians for the consolidations of all their bands at one agency, to be located on or near White River; and for extinguishment of their reservation in said state . . . .

The commission will convene at Fort Garland, Colorado, at the earliest date practicable, thence proceed without delay to the Los Pinos Agency, and after consultation with the agent in charge thereof, assemble all the different bands of said Indians in open council, at such time and place as accomplishment of the object of the commission . . . .

You will fully explain to said Indians when assembled in council, the purport of said act, and the object of your visits to them, taking care in all cases, that you shall be clearly understood by them.

19. Ibid.
23. Ibid.
The precise objects of your negotiations are set forth in the bill which is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the President of the United States be, and he is hereby, authorized and empowered to enter into negotiations with the Ute Indians in the State of Colorado, for the consolidation of all the bands into one agency, for the extinguishment of their right to the southern portion of their reservation in said state, and to report his proceedings under this act to Congress for its consideration and approval.

It is the desire of the department to allow you the largest latitude in conducting your negotiations. You will therefore take the act as your guide, and make such an agreement with the Utes as you may be able and may consider to the best interest of the government and the Indians.

Any arrangement of agreement entered into with said Indians for the cession of any portion of their reservation, should be executed and signed by at least three-fourths of the adult male Indians occupying or interested in the same; and in every instance the assent and concurrence of at least a majority of each and every band of said Ute Indians, is requisite to give validity to the results attained through your negotiation.

To avoid any possible difficulty or misunderstanding in the future, you are instructed to make every effort and use every reasonable inducement to secure unanimity on the part of the Indians in the approval of any cession for agreement that may be made.

Particular care will be exercised in selecting a location for the future settlement of these Indians, to secure a sufficient quantity of arable land to enable them to become, by agricultural pursuits, a self-supporting people. You are instructed to thoroughly impress upon the minds of the Indians the fact that any agreement entered into by them, will be binding only upon its ratification by Congress.26

With this set of rather complete instructions, the commission organized itself on July 30, 1878, at Manitou, Colorado. Edward Hatch was designated chairman with William I. Stickney, secretary. Before the negotiations could be held, it became necessary to replace Stickney with Lot M. Morrill after Stickney became ill with "indisposition" and it was deemed best he not make the tour of the three Ute agencies.27 From Manitou the commission proceeded to Alamosa, Colorado, by Denver and Rio Grande railroad and on to the Southern Ute Agency. Shortly after crossing the continental divide the party met the Muache LItes who were just being moved from the Cimarron Agency. The person in charge, Col. E. C. Watkins, agreed to join the commission and act as a guide to the Southern Lite Agency. The commission considered the addition of Watkins important since he knew the San Juan area well and could direct them to the agency. In addition, the commission secured the services of Col. Albert H. Pfeiffer as interpreter. This too was considered a valuable aid to the commission, for Pfeiffer was well known by the Ute people, could speak their language, and would be well received and trusted by their leaders.28 Both men were of immediate service to the commission, as it was necessary to convince the Muache people that they should join the scheduled conference at the

27. Ibid., p. 6.
agency. These Utes were not anxious to move again, understandably so, for they had not even reached the area that they had just been assigned, and the Government was already asking them to consider moving again. Their presence at the general council later in the month indicated that the influence of both Watkins and Pfeiffer was indeed great with these Utes.

After arriving at the Southern Ute Agency a council was called but had to be postponed for a week to await the arrival of the leaders of the three bands. While the members of the commission were waiting for everyone to gather, a small council was held with Ignacio, Aiguillar, and Severo, each representing one of the three bands of the Southern Utes. During these discussions it became apparent that the Utes were against moving to the Northern Ute Reservation and preferred staying at their present location. These leaders also spoke of their displeasure over the Brunot Agreement of 1874. No money had been received, and whites were settling in areas the Indians considered reservation land. The testimony of Aiguillar indicated the problems the commission was facing.

We never knew the land was sold; never were asked; never knew anything about the treaty that was said to have been made. The great father took it and wanted to give us money, and the money didn’t come. We didn’t know anything about it and the white people came and settled on it.

The agent didn’t know about it either. You now come here — the great father has sent you; you see us, and we see you, and we are contented, you see us here, and you see we are all poor.

Many years together at Cochito we were made many promises; we were full of hopes; we went to Santa Fe and had letters with big seals, but maybe the commissioner lied; he was a fat man; maybe he lied. He as an Indian, could not find any place so bad to come back to as Cimarron.

We sold only the mines and we told them they could take the mountains; not for horses or anything, only for money, but we didn’t get any money. ’Tis now six years [1872] since money came; we have not received anything for it. Who deceived us?

It was obvious to the commission that something was going to have to be done about the money situation, or they faced total failure in the negotiations. Before the rest of the Ute people arrived for the general council an attempt was made to fulfill the promises of the Brunot Agreement. The commission notified the Commissioner of Indian Affairs, E. A. Hayt, that the Southern Utes were unwilling to move and asked for further instructions. In his reply Hayt stated that the Ute annuity money was being sent to the agency for distribution as had been asked. He also stated that if the Utes refused to go to White River then the commission should try to remove them to fertile Indian land so these people could become self-supporting. Hayt’s logic in this move was based on the fact that the House of Representatives’ Committee on Indian Affairs was considering a bill which would remove all the Indians from Colorado and place their land for sale to Anglo settlers. He felt that the Colorado people would create much pressure for its passage. It would be better to have the Southern Utes agree to move to another location, even if it was not the one desired by Government officials, rather than not move at all and face the possibility of being completely overrun by settlers.

29. Ibid., p. 6-7.
30. Ibid.
31. Ibid., p. 9. Aiguillar indicates that no money had been received since 1872, two years prior to the 1874 agreement.
32. Ibid., p. 11.
While Hayt's new instructions gave Hatch more flexibility, the attempt to gain the Southern Ute support for removal failed. The Utes refused to move to either the White River Agency or the Uncompahgre Agency. Their testimonies, recorded in the written testimony and presented as part of the commission's report to the Secretary of the Interior, indicated the Southern Ute feelings toward the proposed removal, the Government and its policies.

Aiguillar and Ignacio, — All the principal men are here ready when the commissioners are.

Genl. Hatch, — Aiguillar wants to go to Rio Navajo: what do the rest think of selling their land and moving elsewhere — not to go until the amount due them is paid?

Ignacio, — We don't like it at White River, and we don't know it.

Genl. Hatch, — If you go to the Heads of Rio Navajo, Chama, and Piedra, the great father finds you will be nearer, and it will be easier to get supplies to you. Don't you think it is better to get your money, and then sell your lands for other lands?

Ignacio, — I want to know how we have injured the settlers?

Genl. Hatch, — You haven't injured anybody, but isn't it better to sell your lands and take other lands than to stay here when the settlers are pressing? We don't ask you to go, but simply wouldn't it be better for you to go? Isn't it better hunting ground and grazing country there?

Ignacio, — Ouray isn't here. The Utes have never sold any land.

Genl. Hatch, — We are not talking to Ouray, he isn't here.

Ignacio, — We never sold any of the land. We like this land and want to stay here.

Genl. Hatch, — We want to do what is best for you; here is one party who says the Rio Navajo is better land.

Ignacio, — We haven't sold any land; we recognize this land as ours; we have lived off the land by game and never saw any money.

Genl. Hatch, — You are to get what has been promised you before you leave.

Ignacio, — We have always recognized this as our land and have never sold any.

Gen'l. Hatch, — They [sic] isn't it better to sell this land now and move elsewhere?

Tapoche, — Why do you want to run lines and take this land from us, and give us land somewhere else?

Genl. Hatch, — The great father was told that you had sold the land, the people about here thought so and the settlers are on each side occupying the land. The great father wants to give you land where you will have plenty of room and not be crowded. The great father believed that the Indians had sold this land and had nothing left but this fifteen mile strip.

Tapoche, — We want to know what Utes sold the land?

Genl. Hatch, — This, — showing a copy of the treaty of 1868,— the great father's agents told him was made by the Indians.

Genl. Hatch then read the names:

Ignacio, — I don't know anything of the names of the Weeminuche bands.

Col. Pfeiffer, old Indian agent, and Mr. T. D. Burns, said the names read were not familiar to them.

Genl. Hatch, — To Ignacio, Did you ever sign this treaty?

Ignacio, — No.

Genl. Hatch, — Did you ever sign or agree to any treaty?

Ignacio, — I never went to Los Pinos or to Tierra Amarilla to sign any treaty.

Mr. T. D. Burns being asked what he knew of the treaty, said that the treaty was signed by Ignacio and others in his presence but that it was
misinterpreted to the Indians. They were told it was only the mines they were selling, and when he wanted to explain to Ignacio exactly what he was doing, the sub-commissioner, Thomas Dolan, forbade him, and told him it was none of his business; that they had worked at them, — the Indians, — and just on account of such explanation it was nearly broken off before _________ would fail and the department would blame him for it.

*Col. Pfeiffer verified this statement:*

Genl. Hatch, — To Ignacio, Did you sign any sale of any kind?  
Ignacio, — We signed at Tierra Amarilla, but were told it was only for their rations and annuities and the country of the mines and the miners were to leave there as soon as the gold was taken out.

Mr. Mc'Farland, — The great father thought their signatures were true and that the country had been sold.

Tapoche, — The only thing we ever sold was the tops of the mountains; and the only witness we have is Colonel Pfeiffer.

Col. Pfeiffer, — That is the only thing they were told they would sell.

Genl. Hatch, — Wouldn't it be better for you to sell your lands now and you More [sic] promptly?

Sawaiipatche, — None of the Utes here have sold the land and they don't want to sell it yet. They like the place and don't want to leave it. I don't wish to sell the land and none of the rest want to.

Genl. Hatch, — How does he know the others don't want to sell it? Sawaiipatche has an old head for such a young man.

Sawaiipatche, — I am just the same as any other man. I talk straight in the presence of my fathers. We don't want to sell the land if we are corraled. We want the Americans put off the land.

Genl. Hatch, — We would do it if it wasn't for that.  
*Pointing to the contract:*

Sawaiipatche, — No so, we never sold the land. The Americans make out the papers and tell the great father that we have signed them. The country is full of Americans and Mexicans, and we have no grazing for our horses.

Genl. Hatch, — It is better to have money and less land, than so much land and no money.

Sawaiipatche, — I don't know what money is. The great father ought to drive out the Americans. They shouldn't have the same rights in the land that we have. We want to be left alone by ourselves.

Tapoche, — The other commissioners that came out here to buy the land — we would not sell it, but the commissioners went to the great father and represented that we had sold the land. When I went to Washington I met one of the commissioners, an old man with white hair, — and when the great father said there is one of the commissioners, the commissioner went off and wouldn't meet me. I told the great father we had not sold the land, but the commissioner did not return.

Tawaiipatche, — We have always been used to go where we please. We can't live in winter on account of snow but on the San Juan we can live better there.

Genl. Hatch, — You seem to go where you please. I find you in the mountains and on the drives at the south. Nobody wants to fence you in.

Sawaiipatche, — The great father said we could go where we please.

Genl. Hatch, — We don't object to it. You may go where you please.33

It was obvious to the commission that attempts to have the Utes agree to move to one common reservation were futile, and that the alternative opened by the new instructions would have to be used. The reasons for their failure were several, as the report indicated. The Southern Utes thought of the southern portion of the Colorado Reservation as their traditional home and refused to move from that area. Because the different bands of Utes had not lived close together, as had other groups of Indians such as the Pueblo Indians, it was only natural that they would refuse to live closely bunched together on the land of the White River Utes. Furthermore, the Southern Utes did not know the land of the Northern Utes and felt that moving would create a hardship on them. It was also apparent from the report that the Utes felt cheated by the 1874 agreement and feared much the same would happen again. They had intended only to sell the mineral lands in the San Juan area, but the Government had acted differently, to the displeasure of the Utes. Finally, the Utes had received no money for the land that had been taken from them, although according to the records the Government owed them $80,000 in annuities. With these problems facing the commission it was necessary that alternatives to removal be discussed.

The commission, leaving Colonel Pfeiffer to negotiate with the Southern Utes, departed for the other agencies. They still hoped to convince the other Utes to move onto a common reservation. If that failed then they would try to convince them to agree to give up their claim to the western and southern portions of the Colorado Reservation, areas occupied by the Southern Utes. If this was accomplished then the Government only needed to gain the acceptance of the Southern Utes to removal and the land under question could be opened to white settlement.34

Upon returning to the southern portion of the reservation the commission found that Pfeiffer had reached an agreement with the Southern Utes. They were to move to a reservation located along the west slope of the continental divide.35 To formalize the agreement a council was held in Pagosa Springs, Colorado, on November 9th, and a formal agreement was signed by the headmen of the three bands of the Southern Utes.36 The Utes were to relinquish their claim to the rectangular shaped land known as the southern portion of the Colorado Reservation, as well as all claim to the confederated reservation north of the San Juan mining district.37 The land for the new reservation was to be designated by the President, and they were to prepare to move onto this newly defined land during the spring and summer of 1879. The new agency was to be located on the Navajo River, east of the old agency. The agreement as presented to Congress for its approval read:

First. The said Muache, Capote, and Weeminuche bands of Ute Indians agree to release and relinquish to the said United States of America all their right to and interest in the Confederated Ute Reservation in the State of Colorado, and especially to the southern portion thereof, to wit, that part lying south of the parallel of thirty-eight degrees and ten minutes (38° 10'), of which they are now in occupancy; and they agree to the territory hereinafter mentioned in the second article of agreement, during the spring and summer of the year A.D. 1879, and as soon as an agency shall be located and building erected on the said last-named territory.

35. Ibid.
36. Ibid., p. 2.
37. Ibid., p. 3. Stated in a letter from the Commissioner to the Secretary of the Interior.
Second. In consideration of the release and relinquishment aforesaid by said bands, the United States of America, by its said commissioners, agrees to set apart for the use and occupancy of said bands of Ute Indians a reservation on the headwaters of the Piedra, San Juan, Blanco, Navajo, and Chama Rivers, in the State of Colorado, the precise boundaries of which reservation to be hereafter defined by proclamation of the President. And the said United States of America further agrees to establish on said last-named territory, during the spring and summer of the year A.D. 1879, an Indian agency, and to erect proper and suitable buildings therefor.

Third. And the said bands of Ute Indians also agree that they will not obstruct or in any wise interfere with travel upon any of the highways now open or hereafter to be opened by lawful authority in or upon said last-named reservation.

Fourth. This agreement shall not be binding until confirmed by Congress and the President of the United States. 38

The new reservation was to contain about 728,320 acres of land which the commissioners believed to be well suited for the purposes for which it was designed. "It has a healthful climate, abounds in game and fish, and embraces a number of valleys of considerable extent and fertility." 39 Reassured of the welfare of the Utes by these comments, the President officially defined the new reservation as an area including a:

tract of country in the State of Colorado, to wit: Commencing at the intersection of the 37th parallel of north latitude with the 107th degree of west longitude; thence east along said parallel to the ridge described in Hayden's Geographical and Geological Survey of said State as the 'National Divide' of the San Juan Mountains, thence following said divide in a general northerly and northwesterly direction to longitude 107 degrees and 23 minutes west; thence due south to latitude 37 degrees and 17 minutes north; thence due east to the 107th meridian of west longitude; thence south with said meridian to the place of beginning, be, and the same is hereby, withdrawn from sale and settlement and set apart as a reservation for the Muache, Capote, and Weeminuchee bands of Ute Indians. 40

In exchange for this new reservation the Utes gave up nearly 1,894,400 acres of land. The Commissioner of Indian Affairs felt that they should receive compensation. 41 Unfortunately, this provision had not been included in the agreement, a mistake on the part of the commission. Yet, the Southern Utes seemed to expect a compensation for their ceded land, a precedent set in prior negotiations and a matter of discussion in the negotiations that led to the signing of this agreement. In his report to Congress, the Commissioner recommended that they provide a survey of the ceded land and that it be placed for sale through the land office as part of the public domain. The revenue from this, minus the expenses of the sale and survey, would then be invested in four per cent bonds with the interest going for the "common benefit of all the Ute Indians who might settle upon the new reservation provided

38. Ibid., p. 4.
39. Ibid., p. 3.
40. Report of the Secretary of the Interior, 1882, op. cit., p. 319-20. These lands were returned to the public domain by the same procedure on August 4, 1882.
In this way the Utes would receive compensation for their land. The Commissioner's hopes and ideas were good, but were not realized. Congress failed to pass the bill that would have given final Government approval to the negotiations.

With the failure of Congress to ratify the agreement, affairs on the Southern Ute Reservation came to a standstill. Because the agreement for removal had been signed by the leaders of the Southern Ute Bands, their agent assumed Congress would react favorably to removal and did not attempt to improve the condition of the agency buildings located near Ignacio. A letter from the Office of Indian Affairs, dated February 7, 1878, informed him of the contemplated removal and directed that no further attempts to improve the reservation were to be made. At the time of this directive only two buildings had been constructed at the agency location; one was used as a storehouse and the second was a three room dwelling. From these two small buildings the agent, F. H. Weaver, was expected to serve the needs of some 800 Utes who had reported to the agency for rations. The task was impossible, yet arrangements for better conditions for the Utes were not made, and these people were forced to live in a state of "limbo."

This state of "limbo" was complicated by conflicting forces. The Colorado citizens were not satisfied with the location of the Utes. The citizens of New Mexico would not allow the Indians to move back. Finally, Congress would not agree to move them to a new location along the continental divide. The Indians continued to be in a confusing and tenuous position.

42. Ibid.
44. Ibid.
The Government was also frustrated. It still faced the same problem it had four years earlier, although in the period from 1876 to 1879 the concept of the Confederated Ute Reservation had altered tremendously. Now the Government visualized two Ute reservations in Colorado: the northern reservation and the southern reservation; a classification not used in the Government documents prior to this time.

Traditionally, the Utes had not lived together and were not willing to do so now, even at Government insistence. Government negotiations finally accepted this reality, and the southern portion of the Colorado Reservation became known as the Southern Ute Reservation. This concept of the reservation was to carry over into the period of the 1880's and was to influence the final settlement of the reservation boundaries.

CHAPTER IV

WORDS WITHOUT ACTIONS, 1879 - 1882

With the failure of the 1878 commission to negotiate removal of the confederated Ute bands to one common reservation, and with the refusal of Congress to support the alternative to that removal, a smaller Southern Ute reservation in a more favorable location, the Government was once again left in a most untenable position. Something had to be done with the Ute Indians. The whites were increasing the pressures on the Ute reservation, and the Indians themselves were becoming alarmed. An answer to the Ute question was finally offered not by the Indian Department or the Interior Department, but by the citizens of Colorado and the United States Congress. This gave Congress the opportunity to become the major force in establishing Ute policy, and this involvement of Congress changed the relationship between the Government and the Utes.

The people of Colorado wanted all of the Indians within their state boundaries removed. Unlike the citizens of the Territory of New Mexico, who had only been able to send appeals to the Secretary of the Interior and Congress, the citizens of Colorado were able to pressure their representatives in Congress to introduce legislation calling for total removal.

The miners of Colorado were one group who exercised their citizenship toward such an end. Although the Ute lands had been reduced to about one-third of their size prior to 1864, the remaining third was found to be rich in minerals. The lure of this wealth brought the miners into direct conflict with the Indians. These trespassers on the Indian land came from communities that were developing just outside the boundaries of the reservation. By 1878, these new communities included areas just east of the continental divide and in the San Juan Cession. Creede, Leadville, Lake City and Silverton were all associated with the mining operations near the reservation.

For the Southern Utes the problem of trespassers was particularly difficult due to the position of their reservation in relation to the San Juan Cession. The reservation was positioned in such a manner as to cut across seven major river valleys located in southwest Colorado. These valleys included the San Juan, Piedra, Los Pinos, Florida, Animas, La Plata and Mancos rivers, and were the main routes of travel between the growing communities of the San Juan Cession and the settlements of northern New Mexico. To go around the reservation when traveling between the two locations meant a trip of several days and many more miles in distance than by cutting across the reservation. For this reason people were constantly trespassing on the reservation to follow the shorter routes. The Southern Utes complained to the Government about this invasion, but the Government was unable to keep people off Ute land as it had promised to do.

In response to these Ute complaints and to white complaints that the Utes were not staying on their reservation, a military post, Fort Lewis, was established. First located at Pagosa Springs in 1878, the post was moved to a location on the La Plata river near Hesperus, Colorado, the following year. This attempt to limit travel on and off the reservation failed to reduce the number of complaints to the Government or solve the problem, and Fort Lewis was abandoned, in 1891.

Increased settlement along the northern boundary of the reservation and in the southern portion of the San Juan Cession had brought a number of people close to the Ute land. By 1877 the Government had surveyed the area for legal subdivision and the official plan of this survey had been filed in the United States Land Office.
in Del Norte.\textsuperscript{1} The first settlements in the area were in late 1872, and by 1877 people were able to file homestead claims.\textsuperscript{2} In the spring of 1880, W. A. Bell surveyed an area located about 28 miles from the Southern Ute Agency at Ignacio for the purpose of developing a town.\textsuperscript{3} The patents for this site were obtained from the land office early in 1881 and enough people were located on the site to vote for and approve incorporation as the town of Durango. In 1885 the population of Durango and Animas City, its forerunner, had grown to 2,254 people.\textsuperscript{4} These whites wanted the Utes removed from their reservation to allow the development of better routes of travel to northern New Mexico. They were eager to support the efforts of other Colorado citizens to convince Congress of the need to remove the Indians from the state entirely.

On February 4, 1878, two of the first three bills presented to Congress by the Colorado delegation to secure the removal of all the Ute Indians from the state were introduced by Representative T. M. Patterson. The bills called for negotiations to extinguish the title to the Ute lands and for their removal to Indian Territory.\textsuperscript{5} The two bills were numbered 3020 and 3021 and immediately referred to the House Committee on Indian Affairs for consideration.\textsuperscript{6} Apparently Senate Bill Number 706, introduced seven days later, calling for the consolidation of the Ute bands on one reservation to be located on the White River in northern Colorado, was considered the best bill by all parties concerned and was substituted for Patterson's bills.\textsuperscript{7} It was certainly most important in establishing the pattern for legislation on the Ute bands for several years to come.

The question of removal was not again presented to Congress until after the 1878 negotiations, which sought consolidation of the Ute lands in Colorado, were finished. By April, 1879, it was apparent to observers that the consolidated Utes would neither locate on one small reservation nor would Congress agree to the negotiations with the Southern Utes calling for their removal to a new reservation in the San Juan Mountains near the continental divide. One of the observers, Representative A. M. Scales, introduced House Resolution Number 351, asking that the Secretary of the Interior be given the authority to negotiate with the Indians on the reservation of the Warm Spring, Umatilla, Chippewa, Ute and other Indian tribes and establish by law the extinguishment of title to their lands, removal from their present locations and consolidation on certain reservations.\textsuperscript{8} The bill was sent to the Committee on Indian Affairs for consideration.

The Colorado citizens were not only land hungry; they also feared an Indian attack. This fear was inflamed by the murder of the agent at the White River Agency, and the abduction of his family and the killing of several employees as well as some of the soldiers who had been called to the area to quell the violence. Immediately the cry came from the citizens of Colorado and their legislature for the immediate removal of the Utes to an area where they would not pose a threat to the white

\begin{enumerate}
\item Ibid., p. 50.
\item Ibid., p. 5.
\item Ibid., p. 6. Animas City was founded in 1877.
\item Ibid., p. 739.
\end{enumerate}
community. Congress soon felt the pressure of this outbreak, known as the Meeker incident. While only a portion of one band of Northern Utes, the White Rivers, had been involved in the outbreak and killing, all of the Ute bands in the state were blamed and their removal was demanded. A flood of new bills were introduced into both houses expressing the desires of the Colorado people: the Utes must go!

Representative J. P. Belford was the first to introduce a removal bill after the Meeker incident. He asked that the Ute reservation be abolished in Colorado and those people moved from the state. Belford was not concerned with where the Utes were to be sent but only that they be removed. His bill was referred to the Committee on Indian Affairs and was not called back for consideration.

Senator N. P. Hill introduced the second bill for removal. This bill received a more favorable response and became one of two bills which formed the basis for the negotiations of 1879. The bill, Senate Joint Resolution Number 51, asked:

That the Secretary of the Interior be, and he is hereby, authorized and empowered, through a Commission of five persons to be appointed by the President, or by direct negotiations, as he may deem best, to enter into an agreement with such of the Ute Indians in Colorado as have not, by acts of hostility against the United States or otherwise, forfeited their rights under existing treaties, for extinguishment of their title to reservation in said state, for their removal and settlement in the Indian Territory or elsewhere.

It was read twice in the halls of the Senate and referred to the Indian Affairs Committee for consideration. After short deliberation the committee made revisions. The bill was reported back to the Senate by Senator Allison and placed on the Senate calendar for debate. Later in the proceedings of the same day the bill was considered by the Senate, ordered engrossed for the third reading, read and passed. At passage it read:

That the Secretary of the Interior be, and he is hereby, authorized and empowered, through a Commission of five persons to be appointed by the President, or by direct negotiations, as he may deem best, to enter into an agreement with such of the Ute Indians in Colorado as have not, by acts of hostility against the United States or otherwise, forfeited their rights under existing treaties, for extinguishment of their title to their reservation in said State, for their removal and settlement in some suitable place not in the Indian Territory; and the said Secretary of Interior shall report his proceedings under this resolution to Congress for its consideration and approval; the expense of such negotiations to be paid by the United States, for which purpose the sum of $10,000 or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

This Senate Resolution, after being introduced into the House by A. M. Scales, chairman of the Committee on Indian Affairs, was combined with House Resolution Number 142, and again presented to the House on December 12 by Representative Belford. The House Resolution asked that a commission be created to negotiate with

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10. Ibid., p. 30.
11. Ibid., p. 69.
12. Ibid., p. 77.
13. Ibid., pp. 69, 77.
the Utes for title to their reservation lands, the repeal of all laws making Colorado Indian territory and placing the land in public domain.14 A new reservation was to be created for the Utes once they agreed to removal.15 The bill was then sent to the Indian committee and reported back to the House on December 16 by Representative Scales.16 On the 18th of December the resolution was debated with the House meeting as a Committee of the Whole to consider the Ute matter, and it was decided to combine Senate Resolution Number 51, and House Resolution Number 142 into one bill for consideration by the House.17

Apparently the House passed the Senate's new bill, because the Secretary of the Interior sent instructions to the agent of the Southern Utes, through General Hatch of the Army, to summon the major leaders of the Ute Indians to Washington, D.C., that they might consult with the Government about its desire to make a new agreement with the Utes which would allow the permanent location of the Indians on lands in severalty.18 The leaders left the reservation on January 16, 1880, with Ignacio, Buckskin Charley, Severo and Ojo Blanco, representing the Southern Utes.19 Arriving in Washington on the first of February, the group spent that month and part of March conferring with Government officials before finally agreeing to a relocation policy.20 It was the first time in the history of negotiations with the Ute Indians that they had agreed to move to a new reservation or to lands in severalty without first having the lands chosen and inspected for them.

The agreement signed by the Utes and dated March, 1880, called for the relinquishment of their reservation in Colorado except those lands defined for use in severalty. For the Southern Utes this land was to be located on the La Plata River in Colorado and, if needed, in New Mexico.21 In addition the leaders of the Utes promised to obtain the consent of their people to this cession of their land, after assurances that the Government would provide the lands for allotment-in severalty, issue patents in fee-simple, and assure land title free of any incumbrances.22 Those lands received were to be tax-free lands for twenty-five years and then taxable only if the President of the United States saw fit to remove the restriction.23 The leaders were also assured that annuities committed in past treaties and agreements were to be distributed and continued as the past agreements had stated.24

Added to the agreement were the necessary provisions for implementation. It gave the President the authority to name a commission of five to present the conditions of the agreement to the Ute tribal members for ratification.25 Once the agree-

15. Ibid., p. 44.
16. Ibid., p. 132.
17. Meanwhile another bill was presented to the Senate asking for Ute removal. Senator Henry Teller's bill — Teller was the third member of the Colorado delegation — was simple in its request: it asked that the Utes be removed from the state. Like the others Senate Bill Number 772 was also sent to the Indian Committee. Ibid., p. 30, pp. 176-77.
22. Kappler, p. 182.
23. Ibid.
24. Ibid.
ment was ratified then this commission was to take a census of the Indians, appraise the improvements on their land, select and allot the lands to be given to the Utes, make a full report of their duties to that point and of their action, to the Secretary of the Interior, make a map of the entire survey and submit it with their report and finally aid in the actual deeding of the lands. Each of these actions were conditioned upon the passage of the legislation by Congress approving the agreement between the Utes and the Secretary of the Interior. This agreement was then presented to the Joint Committee on Indian Affairs by the Secretary, Carl Schurz, with his approval and a statement by the President, addressed to both Houses asking for their final approval of the measure as well as stating his support for the Secretary’s action.

From the Joint Committee the report of the Secretary of the Interior was then sent to the House on May 11, 1880, and ordered to be printed and again referred to the Committee on Indian Affairs. The report was given Bill Number 5092 in the House, and Number 1509 in the Senate. The Senate acted quickly on the bill and by April 12, 1880, had passed its version of the agreement by a vote of 37 to 13 with 23 Senators abstaining. This bill was then introduced into the House by Representative Thaddeus C. Pound as a motion to be considered and then sent to the Committee on Indian Affairs. By May 1, the bill was returned to the floor for consideration but not allowed to be discussed. It was brought back from the committee once again on May 6th with a favorable report. A general debate on the issue lasted until June 7 when the lawmakers finally put the bill to a vote. It passed by a count of 174 for, 15 against, and 103 abstaining.

Because the two bills differed slightly it was necessary to call a session of the Joint Committee for Indian Affairs to work out a compromise. The Senate was represented by George H. Pendleton, John S. Williams and W. B. Allison, the House by A. M. Scales, Jas. R. Waddell and Russell Errett. The compromise allowed the Southern Utes to be settled along the La Plata River in New Mexico if there proved to be a lack of agricultural land in Colorado. With the agreement on this amendment the bill, Senate Bill Number 1509, a substitute for House Bill Number 5092, was agreed in final form by both houses on June 14 and sent to the President for his signature the next day. By the 16th, the bill had been returned to Congress by the President, although June 15 was the date it officially became law.

The passage of the bill allowing negotiations with the confederated Utes of Colorado had not come too soon, for the Indians felt that the agreement they had

26. Ibid.
30. Ibid., pp. 2319-20.
31. Ibid., p. 2409.
32. Ibid., p. 2926.
33. Ibid., p. 3097.
34. Ibid., pp. 4260-63.
35. Ibid., p. 4384.
36. Ibid., p. 4487.
37. Ibid., p. 4534. The compromise also named a commission to pick a reservation site for the Uncompahgre band in Utah of arable land could not be obtained. Eventually, these Utes were moved to Utah.
38. Ibid., p. 4620.
signed in Washington on March 6 had constituted a binding document and were uneasy about the long period of inaction while the bill received official sanction.39 The Indians began to feel they were being cheated out of their lands without consideration by the Government's officials. They became upset and let it be known to the Indian agents that they did not approve of the Government's inaction. The urgency of the problem was well stated in a letter by Charles Adams, an interested citizen of Colorado, to the Secretary of the Interior. He wrote:

The Indians themselves consider that they have virtually given up their lands, and in case they derive no benefit thereby it will be only a question for them whether to accept the peaceable or retaliate by the only mode known to them—war in the most cruel and barbarous manner. They do not understand why a solemn agreement urged upon them and entered into with them by one branch of the government may be rejected by another branch, but much less do they understand why a matter which seemed so urgent and was considered as preventing a war two months ago has not been acted upon, and this delay and uncertainty suggests to their minds the idea that the government is using this delay to allow its soldiers and all the others who wish to gain a firm foothold on the reservation, and then declare the agreement not approved, but hold the lands; and while still their chief Ouray and their agent can and do control them a very few days may change the present status of affairs.40

The President responded to Adam's plea by naming a commission of five people to negotiate with the Indians.41 The people named to this commission included George W. Manypenny, Alfred B. Meacham, John B. Bowman, John J. Russell and Otto Mears.42

Because Congress had placed a four month limit on the amount of time that could be spent in gaining the support of three-quarters of the male Utes for ratification of the agreement, the Commission was ordered to meet with the Secretary of the Interior immediately for final instructions before leaving for the Confederated Ute Reservation. Consultation was held on June 19 and 21. The Commission then left for Colorado.43 The group met at the Grand Central Hotel in Denver on June 28 where the Commission was called to order by George Manypenny, the designated chairman.44

The agreement had called for negotiations with all the bands of Utes in Colorado. The first of these councils was held at the Los Pinos site, near Gunnison, Colorado, with the Uncompahgre Utes. While in council with these people, the White River Utes were summoned to the same location thereby eliminating the necessity of a council at the White River Agency. Both groups agreed to the new agreement on September 18. From the Los Pinos location the Commission then traveled on to the Southern Ute Agency. Part of the Commission left the Los Pinos Agency prior to the end of negotiations to begin the work among the Southern Utes and arrived at their agency headquarters on August 15. Because a large number of Southern Utes were already at the headquarters awaiting the arrival of the Commission, the negotiations were able to begin immediately.45

40. Ibid., p. 2.
44. Ibid.
45. Ibid., pp. 259-260.
The first full council was held on August 18. The main chiefs of the three bands, Ignacio of the Weeminuche, Aiguillar of the Muache, and Tapoche of the Capote, and 123 of their followers, were in attendance. In addition there was present Ouray, a leader among the Uncompahgre band of the Northern Utes, who were located at the Los Pinos agency. Ouray, who could speak both Spanish and English as well as Ute, had been influential in the negotiations of 1868 and 1873. The Government continued to rely on him, finally “appointing” him to be the main chief of the Colorado Utes. For this reason the Commission had sought his help in convincing the Southern Utes to sign the agreement. However, before the agreement was signed Ouray died.

The immediate response to the Commission and the agreement was rejection by the Weeminuche and silence by the other two bands; however, after nine days of negotiations, interrupted by Ouray’s death, Ignacio, Aiguillar, Tapoche, Buckskin Charley, Severo and about 70 male adults agreed to sign the agreement. Fifty-nine more signed the following day. Although these signatures did not fulfill the requirement for ratification, the Commission felt the negotiations were proceeding well enough to survey the lands along the La Plata River for the possibility of relocating the Southern Utes. This was accomplished on September 5.

By the time the commissioners, Bowman, Russell and Mears, had returned from the La Plata area 156 more Utes had signed the ratification agreement. This number was still considered less than three-quarters of the adult male population. The total number of confederated Utes was estimated to be 4,207 by the census taken for the 1879 agent’s reports. Of this number 1,307 were reported as Southern Utes. The Commission felt that one out of every six of this number represented an adult male; thus, it was necessary to have 527 signatures to indicate Ute acceptance of the agreement. Of that number 218 Southern Utes had yet to sign the document. To gain the additional signatures the agent, Henry Page, Chief Ignacio and W. F. Burns, the interpreter, left for the Big Bend of the Dolores River, later known as the town of Dolores, where there was located a group of Weeminuche Utes that were not represented at the council. The signing by these people increased by 204 the number of Southern Utes agreeing to the document. By September 20 the Commission had gained the signatures of 581 Utes, about fifty more than estimated as necessary.

The necessity for having three-fourths of the adult male Utes sign the agreement marked a departure from the normal procedures of past Indian treaties and agreements. It was the usual practice to have only headmen sign representing the desire of all the members of the tribe. The difficulty experienced in having so many members of the tribe sign the agreement was indicated by the length of time it took to first create a census for the confederated bands and then locate the Utes. However, the advantage was that more of the tribal members were able to express their opinion on the agreement.

46. Ibid., p. 261.
47. Ibid., p. 262.
49. Ibid., p. 18.
50. Ibid., p. 19.
51. Ibid., pp. 19-20.
52. Ibid., p. 20; Report of the Secretary of the Interior, 1881, op. cit., p. 262.
Their task completed, the Commission left southwest Colorado for Washington, D.C., and sent the agreement with the list of names of consenting Utes to the Secretary of the Interior. The money due the Utes upon ratification was forwarded to the reservations for distribution, and on November 4 the Southern Utes received their portion of the money, $25,000. By December 15 most of the other bands of the Confederated Utes had also received their annuity money. The agreement had been signed in the allotted time, and the money was received by the Indians by the end of 1880.

Once the ratification was completed, removal of the Northern Utes from Colorado to Utah, and removal of the Southern Utes to the La Plata River became the next duties of the Commission. The Northern Utes were removed by the end of 1882, but the Southern Utes' removal was much more difficult. To expedite this work of the Commission its members were divided into three groups to work with the major Ute bands. George Manypenny was assigned to the Southern Utes. His duties included the selection and surveying of the lands for the Indians and the supervising of their removal to the chosen area.

After first inspection of the proposed new land for the Southern Utes, in the fall of 1880, Manypenny had written Carl Schurz, Secretary of the Interior, that insufficient agricultural land was available along the La Plata River in both Colorado and New Mexico. However, despite his report, the land was withdrawn from the public domain and on April 22 the surveyors were ordered to proceed with the surveying of the land for allotment purposes. The surveyors, from the firm of Tyler and Medary, were contracted by the Government on October 18, 1880, but didn't arrive on the reservation until May, 1881. They then worked through the summer. Manypenny inspected the area again. His later report detailed his misgivings about the La Plata region. It indicated that even white settlers were scarce in the region. Only one settlement owned by a Mr. Rambo was situated north of the reservation, and Manypenny found only nineteen settlers south of the reservation although he had been told there were twenty-three. None were found on the reservation. While inspecting these few ranches Manypenny was struck by the lack of land under cultivation. From all appearances the proposed reservation land was not capable of supporting the agricultural efforts of nearly 1200 Indians.

Observation of these poor conditions spurred Manypenny to expand his inspection of the area to include the valleys of Animas, Florida, Los Pinos and Piedra, as well as the San Juan and Mancos regions. He ordered the surveyors to include the Valleys of Mancos, Animas and the Florida in their survey. This caused much concern among the whites of the area, for they had understood the agreement to read that all of the Utes on the Southern Reservation were to be moved on to the land along the La Plata River with the rest of the reservation land being opened for settlement. They accused Manypenny of having “deliberately perverted the language of the treaty and committed a great wrong.” However, the agreement had stated that Manypenny was restricted to either the La Plata region or the lands located on the reservation.

Manypenny realized that neither area was suitable for the Utes, not only because the land was impoverished, but also because it was surrounded by angry whites:

The strip of land through which the streams flow on which the Indians are to be located is only fifteen miles wide. On these streams there are settlements in Colorado, north of the reservation

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55. Ibid., pp. 33-39.
57. Ibid. p. 390.
60. Ibid.
61. Ibid., p. 393.
62. Ibid.
and in New Mexico, south of it. The population is increasing and will continue to increase, and the prevailing and only sentiment among the people is that the Utes should not be permanently settled on the land selected for them. There will be on the highlands between these streams large bodies of land, much of it barren, that in due time will be open to such of our people as may desire to go in, whether their errand be to dwell, prospect, or annoy the Indians. In such a condition of things, to assume that the Utes will not be disturbed, but permitted to dwell in peace, would be to nurture a delusion of the gravest kind.63

Added to the pressure of the white settlers in the area was the presence of the railroad. Because of the large number of mining operations and development of southwest Colorado, the Denver and Rio Grande Railroad extended its lines from Alamosa to Durango, and finally into Silverton, the center of the activity in the San Juan Mountain area. The line from Alamosa to Durango crossed both the Jicarilla Apache Reservation, lying just southeast of the Ute Reservation but in the Territory of New Mexico, and the Southern Ute Reservation. Trouble developed when the railroad company failed to receive official sanction from either the Secretary of the Interior or the Ute Indians to construct its grades across the reservation.64 Finally the Secretary of the Interior responded to the railroad's efforts to build the line across the reservation and allowed construction to continue but forced the company to dismantle an "instant" town, Arboles, that had sprung up on the reservation.65 This effort was noted in the annual report of the Southern Ute agent when he wrote:

Arboles, a new station of the Denver and Rio Grande Railway Company, having been located on the Rio San Juan, on the reservation, at once became a frontier railroad town of the worst description, made up principally of saloons and dance-houses and filled with outlaws of both sexes. This town lasted but a few days. All trespassers were at once successfully removed without serious difficulty.66

The railroad's presence added to the Indian's frustration. The Indians had been told they were to be moved but were not. At the same time their reservation was being invaded by increasing numbers of whites. The Indians responded to this by demanding compensation from the railroad company for the right of way and for the materials used from their reservation. Manypenny was able to persuade the Indians to allow the work to go on while the Government handled the negotiations with the company.67 Nonetheless, the Indians were upset at the increased travel on their reservation.

This antagonism of the Utes and the land-hunger of the white community forced Congress to speed the removal of the Indians. It was obvious that the land of the La Plata was not sufficient for the Utes, but it was also obvious that the people of the area did not want the Utes left where they were.

A new effort was sparked to find another location for the Utes. The first of the bills asking for this removal were introduced by Senators Teller and Hill. Teller introduced three bills, Senate Bills Number 1847, 1848 and 1849, asking that the Senate accept and ratify the agreement of 1880 and make the necessary appropria-

63. Ibid.
66. Report of the Secretary of the Interior. 1881, op. cit., p. 82. By July 27 the railroad had established its terminal at Durango and was bringing people into the area in increasing numbers.
67. Ibid.
tions to carry out the agreement.\(^68\) Hill also introduced a bill, Senate Number 1861, calling for acceptance of the agreement and its implementation.\(^69\) In addition he asked that Congress provide suitable agricultural lands for the Southern Utes and the Uncompahgre Utes besides those lands provided for in the agreement.\(^70\) Both Senators' bills were referred to the Committee on Indian Affairs but failed to return to the floor of the Senate for consideration. One year later two more bills were introduced by Senator Hill. Senate Bills Number 27 and 29 asked that the 1880 agreement be amended to allow for removal of the Utes to a new location.\(^71\) Added to the Hill bill was the introduction of a resolution. Senate Resolution Number 21, by Senator Teller asking that the Commission appointed for the 1880 agreement be authorized to conclude an agreement for an exchange of the land allotted to the Southern Utes in Colorado for land in Utah.\(^72\)

Teller also submitted another resolution on the same day asking the Secretary of the Interior if the land given to the Southern Utes by the 1880 agreement was suitable as a permanent home for these people.\(^73\) It was obvious that Teller concurred with Manypenny's report. This concurrence had earlier been stated in the January, 1881, discussion of the failure of Senate Bill Number 1509, which had been the legislative action approving the 1880 agreement.

They [the Committee of Indian Affairs] provided that the Indians should go to the La Plata River. I said in my place in the Senate, standing where I do now, that to my almost certain knowledge, not having been there, but from evidence that to me was entirely satisfactory, it was no place to put them. I recollect I said that white men of the most energetic character would find it difficult to make a living upon that soil. During the last season I made a trip to that region. I did not propose that anybody should inquire whether I spoke from personal knowledge or hearsay on the question, and I went there with witnesses. They proposed to put a thousand Indians upon the La Plata River, at an elevation of more than eight thousand feet above the sea, more than two thousand feet higher than Mount Washington, and expected them to become cultivators of the soil, and to allot them this arid and worthless land. Said one of the witnesses who went with me, 'Every month of the year there is a frost.' When we went over the place provided for a thousand Indians we found about five hundred acres of land that might, by active energetic European or American citizens, be made a home, possible and there were five hundred inches of water in the stream. Five hundred inches would not irrigate the five hundred acres and, said the people who live in the neighborhood, 'Every year or two the whole creek goes dry.'\(^74\)

The Secretary of the Interior, S. J. Kirkwood, agreed with Teller and Manypenny. In his report to the Senate he stated:

_ Touching that portion of the inquiry in the resolution refer-

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\(^69\). Ibid., p. 16.

\(^70\). Ibid.


\(^72\). Ibid., p. 266.


\(^74\). Congressional Record. Vol. XI. op. cit., p. 782.
rning to the Southern Utes I have to say that it appears, from the report of Hon. George W. Manypenny, the Ute Commissioner, who during the last year’s operations had special charge of the operations of the Commission touching the Southern Utes, that there is not sufficient land of the character required to carry out the stipulation with these Indians in the region of country now occupied by them; further, that such prejudice exists upon the part of the settlers in the country surrounding the valleys wherein the agricultural lands for their allotments would have to be selected, that conflicts would occur between them and the settlers, whenever the latter should have gathered in their vicinity in any considerable number.

It is not at all unlikely that negotiations will have to be entered into with the Southern Utes for their removal from Colorado, and legislation is understood to be now pending before Congress looking to such end. This would then be an additional reason for withholding any legislation looking toward the opening up of their lands until such steps as Congress may see fit to take in relation to the final settlement of the Southern Utes is fully determined and completed.75

A fourth voice to be heard on the dilemma of the 1880 agreement was that of the Commissioner of Indian Affairs, Hiram Price. He also agreed that it would be to the Utes’ advantage to give them lands other than those mentioned in the agreement. He suggested the Uintah valley as the proper place for the Indian settlement, providing that there were sufficient lands in the area and that the Uintah Utes would agree.76

The statements of Kirkwood and Price presented the attitude of the Department of the Interior to Congress. Congress then responded by introducing supportive legislation. On February 13, 1882, Senate Bill Number 1186, a substitute for Senate Bill Number 29, was submitted to the Senate. The bill, introduced by Senator Hill, asked that suitable agricultural lands for the Southern Utes be provided in place of those lands named in the 1880 agreement.77 This bill was then amended to name the Uintah Reservation as the land to be exchanged for the La Plata River area.78

The desire of the people of southwest Colorado to have the Utes moved out of the state had prevailed. Now Congress adopted the attitude that it would be best to move the Indians out of the state, probably to the other Ute reservations in Utah. The bill passed the Senate but failed to gain the support of the House, and it died in that session of Congress.79

Lack of interest in the Ute question seemed to be the reason for Congress’ inaction. This was due partly to a change in representatives. The new office-holders were less involved than had been the old. Teller had been appointed Secretary of the Interior and his replacement, G. W. Wolcott of Denver, was not interested in the


76. T. J. Morgan to the Secretary of the Interior, March 1, 1890, National Archives, Indian Division, Record Group 75, Washington, D.C., p. 5. Hereafter cited as Morgan to Secretary.


78. Ibid., p. 2796.

79. Morgan to Secretary, op. cit., p. 5.
removal controversy. The other Colorado senator, H. B. Tabor, seems to have also not been at all interested in the controversy. Certainly, he did not show the enthusiasm for the affair that his predecessors had. And the interest among the citizens of the state appeared to have declined, if the limited number of articles calling for removal which appeared in the Durango and Denver newspapers are any indication of public opinion.

The interest of the Department of the Interior had also declined. The 1880 commission was ordered to disband and submit its records and reports to the Secretary of the Interior. This action was carried out by a clause in the Indian Appropriation Act of March 1, 1883. All work left unfinished was continued by a special agent from the Department. By this time the necessary surveys for allotment had been completed and paid for out of the appropriations given to the commission for the purpose of removal. Had the Department deemed it expedient, the Utes could have been given land-in-severalty, but this was not the case.

This period of inaction marked the end of the first stage of Congress' dealings with the Utes. Prior to 1879 Congress had spent little time discussing the Ute Indians of Colorado. However, after the Meeker incident and the increased pressure of the Colorado and New Mexico citizens Congress seriously debated the question of what to do with the Utes. By the end of 1882 the question had been solved for the Northern Ute bands but interest in solving the question for the three Southern Ute bands had declined.

However, Congress' involvement had changed the Government's approach to the Utes. No longer were the Utes met by two or three commissioners who asked them to give up their lands; now they were debated about in the Halls of Congress, and the entire nation was made aware of their problems. This public awareness was to play an important part in shaping the future solution to the removal question. By 1883 there was a change in the Government's conception of the Ute Reservation. A Southern Ute Reservation was to be separate from the rest of the Ute Reservation.

—Bureau of American Ethnology Photo

Camp Scene — Southern Ute Reservation, Colorado.

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Failure continued to be the theme of the next eleven years of Congress’ attempt to answer the Ute question. During this time a number of bills for removal of the Utes from Colorado were introduced in Congress. All would fail to gain support. However, the discussion of these bills did help shape the eventual solution to the Ute question.

One of these bills was Senate Bill Number 242 introduced by Senator Hill. It provided for agricultural lands for the Southern Utes. There was Senate approval of the bill but the general disinterest of Congress prevailed and the bill failed in the House. This disinterest in Congress was not matched in Colorado. Colorado citizens still feared an Indian uprising, still trespassed on Ute lands and still wanted the Indians removed from the state. The Legislature of Colorado continued to pass resolutions asking Congress for removal.

One of the main causes of the trouble between the whites and the Indians was the antipathy between the cattle interests of the area and the Indians. With the coming of the railroad and the growth of settlements, the cattle industry had become an expanding business in southwest Colorado and northern New Mexico. By 1884 large cattle companies were grazing their herds in the valleys of La Plata County, Colorado and in San Juan County, Utah. The records of the military post, Fort Lewis, located just north of the reservation on the La Plata River, reported a number of conflicts between the cowboys and Indians. On June 8, 1885, the commander of Fort Lewis sent a telegram to his adjutant-general, reporting that:

... present troubles with the Utes were started by cowboys in vicinity of Dolores’ River, who have at last carried out their threats to shoot Utes on sight. They razed the walls of a tepee and murdered a family of six, and wounded one buck who escaped and is now on the Mancos [River]. The Indians then retaliated on the whites as reported. I get this from the Indian Police, who have been here with their agent and are now going to Major Perry’s Command.

In defense of their cowboys the cattlemen sent a dispatch to Congressman G. G. Symes stating the Utes were threatening their ranges and blocking the round-up of the cattle; consequently they were suffering large pecuniary losses with the possibility of a million dollar business ruined if the Government did not take action. It mattered little who was to blame in the incidents. It did matter that these incidents were disruptive nuisances and limited the grazing lands, so the cattlemen added their voices to the cry for Ute removal.

These voices were finally loud enough to warrant Congressional response. Senator Teller, who had returned to Congress upon completion of his term as Secretary of the Interior, picked up where he had left off and again pressed for removal.

2. Morgan to Secretary, op. cit., p. 6.
3. Ibid.
December 21, 1885, in the special session of Congress, he introduced Senate Bill Number 769 which provided for the removal of the Southern Ute Indians from Colorado.\(^7\) As was the usual procedure, the bill was read twice then referred to the Committee on Indian Affairs.\(^8\) Three other pieces of legislation asking for Ute removal were introduced in Congress. Senate Bill Number 1916, submitted by T. M. Bower on the 19th of March, asked that the Southern Utes be removed to the Territory of Utah.\(^9\) The first placed before that group, House Resolution Number 3869, submitted on the 18th of January, 1886, by G. G. Symes, simply asked that the Utes be moved from the State of Colorado.\(^10\) House Resolution Number 9315, also introduced by Representative Symes, asked that the Utes be removed to Utah. All bills failed to gain support.

However, Congress was responding to pressures from a new source, Ignacio and the Weeminuche people. This band of Southern Utes was most often involved in the continual conflicts with the cattlemen. They decided that they wanted to be moved to an area where they would not be bothered by the Anglos. A letter from the Agent, Charles Stollsteimer, to the Commissioner of Indian Affairs stated Ignacio's desire to be removed:

I have the honor to report as follows: Ignacio, principal Chief of the Southern Ute Indians, informed me that his people are dissatisfied with their present location and desire to select a new reservation in Utah; they will not consent to being consolidated with other tribes of Utes. His reasons for the disaffection among the Utes are: the ill shaped reserve upon which they are situated and the constant difficulties arising with the white settlers. Each new year is but a repetition of the old and his Indians are tired of the everlasting turmoil and wish to emigrate; Ignacio is firm in his desire and requested me to at once inform the Honorable Commissioner.\(^11\)

This addition of Ignacio's voice to those of the Colorado people and the cattlemen prompted Senator Bowen to write the Commissioner, J. D. C. Atkins, suggesting that a delegation of Utes be brought to Washington for the purposes of negotiating a new removal agreement. His letter read:

The removal of the Southern Utes from their present reservation in Southwestern Colorado seems—to all who understand the situation—an actual and present necessity. In view of the facts which you understand I suggest that the Agent, Mr. C. F. Stollsteimer whose P O address is Ignacio, Colorado be directed by your Department to come to Washington at once and to bring several (say three) of the headmen of that tribe with him to the end that such removal may be made without unnecessary friction.\(^12\)

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\(^8\) Ibid.


\(^11\) Charles Stollsteimer to the Commissioner of Indian Affairs, December 28, 1885, National Archives, Indian Records, Record Group 75, Washington, D.C.

\(^12\) Thomas M. Bowen to J. D. C. Atkins, Commissioner of Indian Affairs, January 14, 1886, National Archives, Indian Records, Record Group 75, Washington, D.C.
During the month of February, 1886, Ignacio, Buckskin Charley, and Tapoche did visit Washington with Stollsteimer and State Senator A. D. Archuleta,13 and conferred with the Interior Department and the Senate's Indian Committee on the possibility of removal. In March, an appearance was made before the Senate Committee. All three Utes expressed their views on the present situation and what they wanted. Buckskin Charley, in response to the Committee's questions, gave the following testimony:

Q. What do you come here for?
A. We come here to see if we cannot exchange our reservation for another.

Q. Where do you want the new reservation located?
A. We want to go west of the present reservation.

Q. Why is it better to go that way?
A. The present reservation is narrow and long, and we want to go west and see if we can't sell it.

Q. Would they want to become self-supporting?
A. We want to go west and get grass land and raise stock. Where we are we do not live comfortably. It snows so much in the winter that we are obliged to go some place else, and we would like to have some sheep and go west. Another reason why we want to go is that the other Indians, the Navajos, are west, and we want to get near them. We live too far from them and can't visit them without traveling very far.

Q. If you should go to a new reservation would you like to have a boarding school built for your children?
A. We are willing to send our children to school; but not away from home, because when they go away they die, and we cannot account for it.

Q. Have you ever been on the Uintah Reservation?
A. No.

Q. Do you live peaceably with the other Utes?
A. Yes.

Q. Wouldn't you want to go on the Uintah Reservation with the rest of the Utes?
A. No, because there is not room enough, and we want to have our own land by ourselves . . .

. . . Q. Do you come here now to get legislation?
A. We come here to present the desire of the Indians.

Q. Do you come to Washington with the idea that the Indian Bureau can do what you want?
A. We come expecting to get legislation.

Q. You hold title under statute?
A. Yes.

Q. So that the change must be made by another statute?
Senator Bowen: That is the condition of affairs, and it ought to be done at once.

Q. These Indians have lived on their reservation heretofore; why can't they live there now as well?
A. Because of the encroachments of the white men.

Q. Are they cattlemen or miners?
A. There is no mining in this country. It is the border thief and desperado that make the trouble, and they are in there.

Q. What makes the Indians think they will be safer from encroachment if they move farther west?
A. Because they will be farther from the settlers and nearer the rest of the Indians.

Chairman: The white man follows pretty fast.
A. Farther west there is not so much water, and the Indians don't think the white men would trouble them so much. They want to get grazing land and go into the sheep business.

The Chairman: In case the Senators present would like to give the Indians the land west, they then desire to say they want a man to go out there and show them just what land is theirs, so there will be no mistake about it. Then they want it understood that no cattlemen should come on it.14

The second to testify was Ignacio. His comments were:
Q. What do you come here for?
A. We came here to see the Senators and see what they can do for us. We have stated what we want, and expect the Senators will do something for us.
Q. Do you agree with Chief Charley in what he has said?
A. Yes, that is all right. Whatever Charley has said is straight.
Q. Have you got any stock?
A. I have got some sheep.
Q. How many sheep?
A. Very few.
Q. How many?
A. About a hundred.
Q. What do you do with the wool?
A. I sell it.
Q. What do you do with the money when you get it?
A. I have got a mouth. I buy things to eat.
Q. What do you do in the summer?
A. I worked all summer in a ditch, but the water did not run through it.
Q. Have you got any children?
A. No, they died last summer.
Q. Do all the Indians of your tribe want to move west?
A. Yes.15

Tapoche, the third of the leaders to testify, agreed with Buckskin Charley and Ignacio that the Utes wanted to move west.

In his communiqué to the Senate Committee, the Commissioner, J. D. C. Atkins, wrote that it was:

... the decided opinion of this office that these Indians should be removed from Colorado. With some amendments, I think the bill introduced by Senator Bowen, (S. 1916) is altogether preferable to S. 769. The latter does not provide for obtaining the consent of the Indians, which we would be bound to do under an existing agreement with them [he is probably referring to the 1868 and 1880 agreements], nor for compensating the Indians for improvements owned by them on their present reservation, nor for the erecting of necessary agency buildings on the new reservation. All these things are provided for in the other bill — S. 1916.16

Senate Bill Number 1916 stated that the Utes were to be moved to southeast Utah since the Indians were against moving to the Uintah Basin. It defined the proposed boundary of the reservation as:

Beginning at the southeast corner of the Territory of Utah; running thence north along the eastern boundary line of said Terri-

15. Ibid.
16. Ibid., pp. 3-4.
tory of Utah 100 miles; thence west, true courses, to the center of
the channel of the Colorado River; thence southwesterly along the
center channel of said stream to the southern boundary of said
Territory of Utah; thence east along the southern boundary line
of the said Territory to the place of beginning; excepting, however,
such portion of the Territory above described lying south of the
San Juan River now constituting a portion of the Navajo Reser-
vation.\textsuperscript{17}

The Commissioner felt that this section of the bill would have to be amended
to settle the Utes in the Uintah Basin despite their desire not to be located in that
area. He opined against the San Juan area because four towns were located there,
and three of the towns were post-office towns which meant that there were a sizeable
number of settlers living within the proposed reservation site. Because the purpose in
moving the Indians was to reduce the pressure from the whites, he saw little differ­
ence between the two proposed locations.\textsuperscript{18}

The Commissioner suggested that if the Utes could not be persuaded to move
to the Uintah Basin area, a reservation just west of the one defined in the bill, but
still in San Juan County, should be established. Another alternative mentioned in his
report to the Senate was to move them to the area west of the Grand River (Colorado
River). With these recommendations the report was sent to the chairman of the
Senate Committee on Indian Affairs, H. L. Muldrow, on the 5th of April.\textsuperscript{19}

By April 22, Senate Bill Number 1916 had been amended in the Com­
mittee to include those suggestions of the Commissioner. It was reported to the
Senate,\textsuperscript{20} but was recommitted to the Committee on the same day to wait inspection
by the Utes of the land suggested in the bill.

The bill did not pass either House that year. However, the testimony of the
Indians and the view of the Interior Department were important and had an influence
on future negotiations with the Utes. Those views became the cornerstone of the
Government policy to try to remove the Utes in 1888.

The other bills introduced into both Houses during the 1885-86 session met the
same fate as did Senate Bill Number 1916. Six years had passed since the signing of
the 1880 agreement, and the Southern Utes were still left unsettled. They didn't
know when or where they were to be relocated.

The continued inaction of the Government caused the Weeminuche Band to
again request removal. They called a council of all their leaders to discuss the matter.
The outcome was an appeal to their agent, Stollsteimer, to get the Government to
remove the band from the present reservation. The agent replied that the Govern­
ment would not remove only a part of the tribe. If all consented to be moved, then
the Government would attempt to act.\textsuperscript{21}

\textsuperscript{17} Ibid. The northern area of the Navajo Reservation was added in 1884 as compensation
for lands taken from the southern portion of their reservation.

\textsuperscript{18} Ibid., p. 4. The Compendium of the Tenth Census of the United States indicated he
was right, for it stated that Bluff, the county seat of San Juan County, had a population of
107, with the rest of the county having 97 people and 31 farms. These figures were compiled
six years before the bill was being considered and the Commissioner assumed that they had
increased significantly since that time. The Rand McNally and Co.'s, \textit{Index Atlas of the World}
listed one of the other towns, La Sal, as having a population of 22 while the other two,
St. Elmo and Montezuma, were not listed.

\textsuperscript{19} Ibid., p. 1.

\textsuperscript{20} Ibid., p. 5.

\textsuperscript{21} Denver Tribune - Republican, February 20, 1886, n.p.
The leaders of the other two bands agreed to removal. The Department was notified, and responded by requesting the agent to once again bring to Washington a group of the leaders who would have the power to make an agreement with the Government. A party of Utes, Ignacio, Buckskin Charley, and Tapoche, who were again serving as spokesmen, their agent, an interpreter and State Senator A. D. Archuleta left Ignacio, Colorado, the site of the Southern Ute Agency on the Pine River, for Washington on February 20.

The result of this tour was that the authorities who controlled the future of the Indians, the Bureau of Indian Affairs and the Congressional Committees on Indian Affairs, decided that a full investigation of the situation was needed before agreements of removal were presented to the Indians and to Congress for approval.23

After returning from Washington both Buckskin Charley and Ignacio threatened to move their people even though no agreement had been reached.24 Buckskin Charley wanted to take his people to Ouray, Utah, where the other Lites now lived, and Ignacio was going to move his people to the Abajo Mountain area in southeast Utah.25

This threat forced Government action. The Commissioner of Indian Affairs decided to visit the Southern Ute Reservation, an unprecedented move, to see the conditions of the reservation and hear the attitudes of the Utes for himself.26 The Commissioner’s visit and discussions with the Indians seemed to have been a victory for the Government. The desire of Ignacio and Buckskin Charley to move their people was calmed. They seemed content to remain in southwest Colorado. The visit did not so pacify the Commissioner. His desire to remove the Utes remained strong.

Reassured that the Utes wanted to move and impressed by the Commissioner’s visit that the Government was interested in that move, the citizens of Colorado again applied great pressure on Congress for action. During the month of February, 1887, the General Assembly of the State twice petitioned Congress for removal. The petition of February 11 was addressed to both the Senate and the House. The Senate memorial, House Joint Memorial Number 1, submitted by Senator Teller asked:

That the remnant of the Southern Ute Indian tribe should, in the interest of humanity, receive early consideration at your hands and be removed to a suitable reservation beyond the boundaries of this State.

Your memorialists sets forth that these Indians continue in their predatory habits, that they continue to commit depredations upon the property and person of adjacent [sic] white settlers, insisting from time to time in placing themselves beyond control of their agent by leaving their reservation at will and devoting themselves to murder, intimidation, and theft; the destruction of dwellings, of timber, and grasses by fire; the wanton killing of cattle, and other arbitrary aggressive, and unlawful acts. Your memorialist would respectfully submit that the continued turbulent and unsettled condition of these Indians is chiefly due to the character of their reservation, being about 90 miles long, only 15 wide, inclosed by populated and well cultivated districts, lying directly across the

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22. Ibid.
24. Morgan to Secretary, op. cit., pp. 9-10.
25. Ibid.
26. Ibid., p. 10.
natural highway of a large and highly prosperous territory and
being entirely devoid of game or other natural sources of food
supply.

It is hopeless to expect progress or any improvement whatever
in the conditions of these Indians upon their present reservation.
The mechanical problem presented in irrigation precludes any
possibility of advancement towards settled or agricultural methods,
and it is respectfully submitted that there has been no such pro­
gress, but rather retrogression.

And it is further represented by your memorialist that the
retention of the Southern Ute Indians upon their present reserva­
tion in La Plata County, in the State of Colorado, is in direct
opposition to the declared wish of a majority of the individuals of
this tribe.27

The other memorial was presented by the President pro tempore of the Senate
as a communication from the Secretary of the State of Colorado. Known as Senate
Joint Memorial Number 4, it differed only slightly from the first. It read:

Your memorialists, the General Assembly of the State of Colorado,
respectfully represent that the Southern Ute Indians retained with­
in the boundaries of this State, and upon a strip of land more
than 100 miles long, and the entire length of the counties of La
Plata and Archuleta, roam in their natural and savage state,
subject to no laws of government, except the light control which
a local Indian agent is able to exercise. Experience has shown that
such a tribe of Indians under no more restraint than that imposed
by an ordinary white man, acting in behalf of his own private
interests, are likely to become turbulent and commit depreda­
tions upon the persons and property of their white neighbors at
any time. And your memorialists further represent that the inter­
position of savages among an enlightened and law-abiding people is
a system repugnant to the recognized ideas and practices of civilized
government, and likely in the near future to bring on a conflict
between the races which can be suppressed only at a great cost of
life and property.

That, in fact, the southwestern part of Colorado and the
northwestern portion of New Mexico are being so rapidly settled,
and the white people are becoming so restless under their many
unmitigated wrongs, that they threaten to rely upon themselves
for that protection which the Government has failed to afford
them. So that in the very nature of things some new and perhaps
slight provocation will precipitate the inevitable conflict. And
your memorialists respectfully submit, in view of the fact that
Colorado is fast becoming a densely populated State, and especially
as there are a number of Territories sparsely [sic] settled, under
the sole control of the General Government, that the Southern Ute
tribe of Indians ought to be removed from within the State
boundaries; that the speedy removal of said tribe from the long and
narrow strip they now occupy and which crosses all the natural
outlets of La Plata and Archuleta Counties, would be a measure
of safety to them and of peace and safety to the white people who
reside upon the borders of their reservation; it would at the same
time open up a large acreage of agricultural land to settlement,

27. U.S., Congress, Senate, Mr. Teller Presents House Joint Memorial No. 1, Congres­
and permit the people of Colorado and New Mexico to have that safe intercommunication to which they are entitled.28

Stronger expression of the whites' antipathy towards the Indians than were contained in these two petitions was in the local press. The Aspen Weekly Times editorialized that:

There should be no backdown. The Indians should either leave the state or be cleaned out. They say they will make it warm for the militia. We will now see how much backbone Governor Adams [Governor of Colorado] has.29

In response to these expressions two more removal bills were introduced during the first session of the 50th Congress. Both asked again for Ute removal to Utah. The first, Senate Bill Number 104, called for the appointment of a commission which would be authorized to negotiate with the Indians for removal to the Uintah Valley area.30 The second bill, House Bill Number 1265, introduced on January 4, 1888, asked that the Secretary of the Interior be authorized to remove the Indians from Colorado to the Territory of Utah.31

Commissioner Atkins responded to these bills in his report to the Committee on Indian Affairs. He repeated what he had said in 1886 and stated that he found no significant change in affairs at the reservation which would alter his past views.32 He did note, though, that during the interim period he had visited the reservation and found "more than half of the tribe expressed, through their representatives, the strongest objections to removal from their reservation, which would seem to indicate that some of the Indians had undergone a change of feeling since the date of the [his] letter of April 5, 1886.33 Even with this apparent change of attitude the Department was still of the opinion that the Utes should be moved.

Where to remove the Utes continued as the vital question. Atkins seriously questioned in his report the value of moving the Indians to the Uintah Reservation. He did not think there was enough agricultural land to support the people already there without the addition of the Southern Utes.34 Because Senate Bill Number 104 asked for the removal of the Utes to this area, Atkins thought it best not to support that particular bill but rather to support the one asking that the Secretary of the Interior be given the responsibility of negotiating with the Indians on the point of removal. If the Indians then wanted to go to the Uintah Valley that question could be negotiated with the commission. The Commissioners would then approach the Indians already settled in that area for their approval to have the Southern Utes relocated near or with them.35 The question of the availability of agricultural land had to be answered before removal could take place.

Neither the Senate bill nor the House bill were enacted, but were rather, once again, allowed to die in committee without action. However, this time, the removal problem was not allowed to die completely as an issue in the halls of Congress. In

32. Ibid., p. 11.
34. Ibid.
35. Ibid., p. 9.
A commission named to initiate the negotiations for removal consisted of the Honorable J. Montgomery Smith of Wisconsin, the Reverend Thomas S. Childs of the District of Columbia and a Mr. R. B. Weaver of Arkansas. This group received its instructions from the Secretary of the Interior on the 18th of July and on the 25th met in Kansas City, Missouri to organize themselves. The group received its instructions from the Secretary of the Interior on the 18th of July and on the 25th met in Kansas City, Missouri to organize themselves. By the 4th of August the group had arrived at the Southern Ute Agency and had established headquarters for the accomplishment of the assigned task.

The difficulty of this task was soon made apparent to the commission. In the first council on August 8 a strong voice against removal was heard. However, after the council had adjourned, some stated their desire to move and requested that the commission stay and "talk." The commission did, and for the next two and one-half weeks a series of councils were held. However, the headmen of the three bands retained their positions as spokesmen and did not allow the others to speak. The leaders were against removal.

When the councils ended in a stalemate, the commission decided it would be best to inspect the areas being discussed and ascertain for themselves the condition of the land and the Indians. This survey lasted until September 11. During that time most of the reservation was examined as well as areas lying outside its borders. Their findings indicate why the split between the leaders and the others had occurred:

... we found that in former treaties the chiefs and leading men, to the number of thirty-two, had been well provided for: they were living in comfortable houses built for them by the Government, on ranches that had been fenced and irrigated by the Government. These ranches they rent to Mexicans on shares, and the rent they receive, added to the money, rations, and supplies furnished them by the Government, make them so well provided for that it is doubtful whether they would be benefited by a change. These chiefs, also for a consideration, permit favored white men to cut hay and to pasture stock on the reservation.

After a careful examination we became satisfied that this tract of land is no longer a suitable home for the Indians, owing to its peculiar shape—120 miles in length by 15 miles in width—and location, with the only railroad in this part of the State running more than one-half the length of the reservation, with seven stations. It is impossible, with the means usually at the disposal of an Indian agent, to keep the whites from traveling at will forth and back across it. In fact, highways for the convenience of settlers have already been constructed by La Plata County, some of them at considerable expense, across the reservation. The constant traveling over these highways and railroad, and the great amount of cattle and sheep owned by white men pasturing upon the reservation tend to drive all game off the land, and to so diminish the crop of grass that those Indians who are not farming but lead a pastoral life find it difficult and almost impossible to live on the reservation, and, in fact, do not live upon it, but roam all over the unoccupied lands in Colorado, Utah, and New Mexico. They are


40. Ibid., p. 12.

41. Ibid.
satisfied that the mass of the Indians want a new home, where the climate is milder, the grass and the game more abundant, and where they can be more secluded and not so much interfered with by white settlers.

Then, again, this reservation, traversed as it is by the following rivers, to wit, the Navajo, San Juan, Blanco, Piedra, Pine, Florida, Animas, La Plata, and Mancos, besides other smaller streams, and containing about 350,000 acres of rich farming land, which can be irrigated from the above rivers at but little expense, is so essential to the prosperity and development of this part of Colorado that it is beyond human reason to believe it will long be permitted to remain under the control of a people who only cultivate at most 600 acres, and do most of that by renting their farms to Mexicans on shares.\textsuperscript{42}

Upon returning from the survey Ignacio asked that another council be held on the 26th, which was granted. In this the Indians asked for an inspection tour of the proposed San Juan County Reservation. They asked that three members of each band be allowed to tour with the commission. The commission agreed, and the group left the agency on October 10. When the group reached the Dolores River at the Big Bend, the Utes refused to go any farther claiming that the east line of the proposed reservation should run north and south through the bend. The commission stated the line was to parallel the Utah-Colorado boundary line. In the heated discussion among themselves of whether to go on and tour the proposed reservation or not, one Ute shot a Capote Ute and killed him. The other Capotes in the camp refused to go on with the tour. By the time the group had reached the Carlisle Ranch near the north-east base of the Abajo mountains the Indians felt they had seen enough and refused to go any farther fearing the commission might be taking them to the Uintah Reservation. The Utes agreed that the San Juan County would make a good home for their people and returned to the agency pleased with what they had seen.\textsuperscript{43}

The commission, after traveling to Salt Lake City to review the titles of the settlers in the San Juan area, returned to the agency to find the Indians very friendly and willing to negotiate the new agreement. The terms of this new proposal were drawn and signed by all the male Indians who were at the agency at that time. By November 14, 274 signatures were obtained — well over the necessary 242 estimated as three quarters of the adult male population.\textsuperscript{44}

The agreement called for a reservation to be established in San Juan County, Utah, with its boundaries:

Commencing on the north bank of the San Juan River where said river crosses the line between Colorado and Utah; thence running north on said line 75 miles; thence running due west to the Colorado River; thence running southwardly along the east bank of Colorado River to the San Juan River where it empties into the Colorado River; thence running easterly along the north bank of the San Juan River to the place of beginning.\textsuperscript{45}

The proposed reservation covered about 2,912,000 acres, nearly 2,000,000 acres more than the Utes had held in Colorado. In addition to the new land the Indians were to receive $50,000 in ten annual installments, $20,000 worth of sheep, a new agency, and permission to hunt on and around the unoccupied lands of the La Sal Mountains.\textsuperscript{46}

\textsuperscript{42} Ibid.
\textsuperscript{43} Ibid., pp. 12-13.
\textsuperscript{44} Ibid.
\textsuperscript{45} Ibid., p. 5; RCIA, 1889, op. cit., pp. 66-76.
\textsuperscript{46} Ibid., pp. 5-6; RCIA, 1889, op. cit., p. 77.
After their surveys the commissioners decided that the area was available for Ute relocation. The commissioners thought that the area did not include the surveyed land in San Juan County. They felt that the Mormon squatters would relocate after being reimbursed for their improvements on the land. They anticipated greater resistance from the cattlemen, especially with the English-owned Carlisle Cattle Company whose claims, made under the Desert Land Act, were pronounced valid after an inspection of the records in the Salt Lake City Land Office. But the commissioners felt that the claims of the cattle companies could be quieted. What the commissioners did not anticipate were the mining claims along the San Juan River. It was these claims that obstructed Ute relocation.

A report of the commission with the signed agreement was presented to Congress on January 11, 1889. Accompanying the report was the opinion of the acting Commissioner of Indian Affairs, John J. Enright. He favored ratifying the agreement because:

... it will open to white settlement a very considerable area of country heretofore completely locked up, the free and unrestricted possession of which is absolutely necessary to the development of the vast mineral and agricultural resources of that region, as is manifest from a mere glance at the map to the Indians, (it will be favorable) because they have found by experience that they cannot live in peace where they are, under the conditions as now existing; that it would be next to impossible to close up the numerous throughfares already established across the reservation or to prevent the opening of others to meet the natural wants of the large and constantly increasing population on either side of the reservation with the inevitable result of crowding them to the wall, by so circumscribing their limits as to render their chief occupation, cattle and sheep raising, utterly impossible, and by keeping them in a constant state of turmoil and conflict with the whites.

The bill, Senate Bill Number 3894, was introduced into the Senate by Senator Bowen on February 1. By the 26th of that month it had passed the Senate and was waiting for the approval of the House. The House, however, failed to report the bill out of committee. The forces opposing removal managed to hold it in its committee until there was no longer time for the House's Committee of the Whole to consider it. The Ute removal bill suffered defeat in that session.

Those people wanting removal were disappointed, for they had pushed hard to gain Congressional support for their cause. Their arguments were a repeat of those used during the negotiations of 1878 and 1880. It was felt that the removal of the Indians from their reservation was vital to the commercial and industrial interests of the people of southwest Colorado and to the state as a whole. Although a survey revealed that only about 600 acres were under cultivation by the Indians these lands were assumed valuable — only needing the more capable farming techniques of whites. The people also explained that the Ute people were natural herdsmen, and not farmers; thus, land should be given to them which would allow such acti-

47. RCIA, 1889, op. cit., p. 73.
48. Morgan to Secretary, op. cit., p. 18.
50. Morgan to Secretary, op. cit., p. 18.
52. Morgan to Secretary, op. cit., p. 18; Report to the Secretary of the Interior, 1890, op. cit., p. 127.
The proposed reservation contained almost three million acres of land that could be used for this activity, while the present reservation had only 1.3 million acres and was surrounded by white settlers who became very angry when the cattle and sheep of the Indians wandered off the reservation. It was suggested that the Indians would be happier where this constant conflict with the whites were less apt to develop.

Many people justified removal by claiming that the continual conflict between the groups was actually slowing the civilization process of the Indians. It made it impossible for them to turn their attention to those activities which would allow them to enter the mainstream of Colorado's economic life. The whites rationalized that it would be better for the Utes if they were moved where they could turn more of their attention towards farming and ranching.

Those fighting for the removal of the Utes noted that the amount of game available for hunting was nearly depleted on the reservation, but that it was quite plentiful on the proposed reservation in Utah. The relocation would allow them more and better hunting areas.

Finally, the Colorado residents argued that the Indians wanted to move to the proposed reservation and had indicated this intent by signing the negotiated agreement of 1888. They argued that had the Indians not wanted to move they would not have agreed to the proposal presented to them by the commissioners.

There were groups who argued against removal. One of the most eloquent and aggressive of these groups was the Indian Rights Association. Organized on December 15, 1882, the Association attempted to advance the civilization of the Indian race by bringing to the attention of the American public what was happening to the Indian, and offering a means of altering those Government policies and programs that were considered detrimental to the Indian's well-being. An agency was established in Washington, D.C., for the purpose of lobbying in the halls of Congress. The main office was located in Philadelphia. Within a few years after its organization the Association's influence on Indian affairs in Congress and in the Executive Branch of Government was considerable. In fact, money, capable administration and a strong lobbying effort enabled them to change the course of Ute removal policy in 1889.

The arguments of the Association against the Colorado delegation were persuasive. They held that if the Indians were given allotments in their present location the land now held as a reservation would become part of Colorado's land and lose its special status. By ending this status, travel between northern New Mexico and southwestern Colorado could then proceed normally. This contact with the white community surrounding the reservation would help to increase and speed the civilization process, while removal to a more isolated location would hinder its development. The Association also noted that the hunting grounds in the proposed reservation were located off the reservation and that this would once again lead to the same conflict with whites now being felt by the Utes. The move would not help the Indians obtain better hunting grounds. The Association doubted that the Indians could contain their herds of sheep and cattle any better in Utah than in Colorado, or prevent the herds of cattle from the local cattle companies from straying onto the proposed reservation. Finally, the Association disputed the claim that the Utes were failures as farmers. The Association noted that during the last several years more Indians had been turning towards agricultural pursuits and every indication was that

this trend would continue. Since many of the necessary irrigation ditches needed for the farming of the land had already been started, it would be a waste of time and money to move the Indians to a new location and start all over.56

The Indian Rights Association had its own people inspect both the old and the proposed reservation and found the latter to be lacking in many requirements. Although the proposed reservation was three times the size of the present, it would not adequately support the nearly one thousand Utes because of lack of water. Although the inspection group found that there were a number of small streams on the slopes of the Abajos, these streams usually ran dry during the hot summer months.57 The inspectors decided the use of water storage and irrigating techniques during these summer months were very limited at best and very expensive. The other streams located on the reservation were reported to have the same problem during the summer months. The inspectors concluded that not enough water was available to support the tribe, certainly not if the tribe were to attempt any agricultural pursuits.

Besides the water issue, the Association found other problems with the proposed reservation. Three communities, largely Mormon in population, and numerous ranches were located within the proposed boundaries. The Association felt that removal and compensation for land and improvement to the land would be too expensive. It was estimated by the two investigators that $150,000 would be needed to compensate the settlers for their claims,58 and there were also the claims of the miners in the region. It was not known to what extent these claims existed, but there was every indication that a number had been filed on the land just north of the San Juan River and east of the Colorado River.59 The settling of these claims was seen as a most difficult matter and not worth the expense or effort.

In the final analysis, the Association felt that the relocation of the Utes would be too expensive for Government consideration and would not bring about the desired civilization of the Ute people, a long established goal of Government policy toward the American Indians.

Three groups added their support to that of the Indian Rights Association in fighting against removal: the Territorial Government of Utah, the settlers of San Juan County, and the large cattle companies that ran herds in the area of the proposed reservation. The Territorial Assembly felt that Utah already had too many Indians within the boundaries of the Territory and should not have to be subjected to the increased burden of more Indians, especially when Colorado, by the removal of the Utes, would no longer have any Indians inside its boundaries.

The residents of the area, as would be expected, did not want to move. Many had been sent to colonize the area by the Mormon church and felt obligated to remain. While some saw the possibility of selling their land claims at a profit to the Government and were willing to leave, the number of petitions from the citizens of the area to Congress indicated most settlers were against moving.60

The cattle companies, did not want the Indians moved into the region for fear of losing their grazing lands — a very costly loss. There were also the fears among the companies, particularly the Pittsburg Cattle Company, that having the Indians close

58. Ibid., p.27.
60. Morgan to Secretary, op. cit., p. 24.
to the summer and winter grazing lands would only cause increased conflict between Indians and cowboys.61 The president of the Pittsburg Cattle Company wrote:

It [Ute Indian removal to Utah] is bad for the Indians, as it removes him from the civilizing influence of his contact with the white race. It is promoting his savagery to place him in the wild and rugged mountainous country to which it is proposed to put him. It is a bad bargain for the Government, as it will be expensive for police regulations, and the Indian will be in a country, when in the event of trouble, which is sure to come, the Geronimo experience will be repeated, as the country is full of trails and mountain passes, from which it would be very difficult to dislodge hostile Indians.

The Durango people in whose interest this legislation is demanded, settled there, knowing that the Indians were there, and now propose to put them on the innocent settlers of eastern Utah and western Colorado, who never expected to have them for neighbors with the privilege of hunting at will over the land they own in fee simple.62

Besides the arguments of these groups for and against removal, Congress had to consider the view of the Commissioner of Indian Affairs. Although the view was subject to change from time to time, it, for many interested persons, was the most important. The current view was well expressed in the conclusion of a lengthy letter from the Commissioner, Thomas J. Morgan, to the Secretary of the Interior, John W. Noble. He wrote:

As showing something of the present condition of the Indians I quote the following from the annual report of their agent for the year 1889:

The Southern Ute Indians, who but a few years ago were leading the original life of a savage, have made great progress toward a more civilized life. The comparatively small assistance they have received from the government has borne good fruit. They have now under cultivation about 600 acres of land, and have raised thereon during the last season about 400,000 pounds of oats, wheat, and barley, besides a large quantity of vegetables and some corn. They have learned in a measure the art of irrigation, and would no doubt become in the near future self-supporting by their agricultural labor if further and more extensive assistance were given them by the Government. In this climate agriculture is the only employment which can be successfully carried on by the Indians. The rich lands in their possession should be brought under a system of irrigation by constructing large irrigating canals and thus utilize the abundance of water in the streams and the splendid soil of this reservation.

The conduct of these Utes has been exemplary. They have abandoned many of their former obnoxious habits, as begging, etc.

When I began the investigation of the case I knew little of its merits and had no definite, preconceived notions as to what ought to be done. But as a result of my investigations I feel constrained to say that I cannot approve the ratification for the proposed agreement, for the following reasons:

61. Ibid., p. 25.
First. From an examination of the records of the various councils held with the Indians by the Commissioners, it does not seem to me that the agreements reached fairly represents the real wishes of the Utes; stress of such considerations as appealed strongly to their fears and very largely to their prejudices against a civilized life.

Second. The progress already made by these Indians in civilization will be rudely interrupted by the removal, and they will be placed amid surroundings much more hostile to their progress in learning the white man’s ways, than those amidst which they are now situated.

Third. It will be exceedingly difficult if not impossible for the government to carry out the agreement made with these Indians to protect them from the intrusions of white men on the new reservation.

Fourth. The proposed removal under the stipulated conditions is at variance with the general policy which the Government is now applying to the solution to the Indian problem. Instead of allotting to these Indians their land, and teaching them how to utilize their allotments, the proposed plan would place them upon a reservation three times as large as the present one, and encourage them in the idea that they may continue for an indefinite period in that uneducated, uncivilized, semi-savage state in which they are now.

Fifth. The difficulties of administration, if anything is to be accomplished in the way of the civilizations of this little band, will be vastly greater on the proposed reservation than they are on the present.

Sixth. No proper effort has ever been made by the Government looking towards their civilization. It is my firm conviction that under proper efforts these Indians can, at no distant day, become self-supporting, intelligent citizens of the State of Colorado.

Seventh. This little band constitutes the last remnant of the Indians in the great State of Colorado, and in comparison with the number of Indians in other states, South Dakota, Montana, Nebraska, California, &c., is very small indeed. Removal merely shifts the burden of their presence from Colorado to Utah and delays their final civilization.63

In the final analysis, the debate over Ute removal was represented on one side by the Colorado citizens who wanted to have the Indians removed from their state, and on the other side by eastern groups, represented by the Indian Rights Association, who felt that removal was detrimental to the Indians, and by the residents of Utah and the financial backers of the cattle companies who felt relocation was detrimental to their property.

In the early stages of the debate those forces opposing removal submitted an alternative plan for the settlement of the Indians. After a rather lengthy political and legislative battle had been fought in and out of the halls of Congress, it was this plan that ultimately won the support of the Government. The plan, mentioned in the letter of Morgan above, asked that the Dawes Severalty Act be applied to the Utes and that the lands they presently occupied be allotted to them. The purpose for the allotment was to allow them the opportunity to become farmers and, consequently, civilized. As mentioned in Painter’s arguments against removal, this plan would eliminate the problem of traveling and communication between northern New Mexico and southwest Colorado. The lands left over after the allotment could then be opened for white settlement which would satisfy the economic desires of the residents of Colorado by giving them what they really wanted, the reportedly rich farming land located within the boundaries of the reservation.

63. Ibid., pp. 31-34.
The Colorado group was successful in postponing for years the enactment of this allotment plan. They saw the alternative plan to removal, at best, as a compromise, and fought hard to have the original removal bills passed by Congress. Two bills calling for the confirmation of the Ute Agreement were introduced in Congress before the end of 1889, the first by Senator Teller, Senate Bill Number 1323, and the second by Representative Townsend, House Resolution Number 156. Both bills failed to pass either House of Congress although Townsend’s bill was reported favorably from the committee to the floor of the House.

In each of the next two years bills were also introduced calling for Ute removal. Teller introduced the bill, Senate Bill Number 3632, on April 23, and Senator Wolcott introduced the bill, Senate Bill Number 362, on December 10. But, as before both bills failed to receive the needed action by the Committee on Indian Affairs. This failure could have been, in part, in response to the Indian Bureau’s opposition to removal.

The Colorado delegation refused to give up. Representative Townsend once again introduced a bill in the 52nd Congress to confirm and ratify the 1888 agreement. The bill, House Resolution Number 67, was introduced on January 5, 1892, and immediately sent to the Committee on Indian Affairs. The Committee reported the bill to the Committee of the Whole of the House on April 26, 1892, with the request that the bill be passed. The members of the House failed to approve the recommendations, and the bill died without action being taken on it.

The Southern Ute removal continued to be stymied by Congressional and Executive indecision. The Secretary of the Interior noted in his annual report for the year 1893 the state of the Southern Utes:

> It has been nearly five years since this agreement was concluded, and the interest of the Indians render it very important that some definite action in regard to their status be taken at an early date. The unsettled condition of mind consequent upon this inaction naturally has an unfavorable effect upon the Indians, and is doing more to retard their advancement than any other known disinclination to agricultural pursuits or home making, except of the most temporary character.

During the two years, 1893 and 1894, two more Congressional attempts were made to have the Indians removed from their Colorado location. Both failed. The first attempt was made by Representative J. C. Bell of Montrose, Colorado. His bill, House Resolution Number 1984, was introduced into the House on September 9, 1893. The second attempt was made one year later, January 30, 1894, by Senator
Wolcott when he introduced Senate Bill Number 1532 into the halls of the Senate.\footnote{72} Although receiving, once again, the favorable support of the Senate's Committee on Indian Affairs, the bill failed to reach the calendar of the Senate and died.\footnote{73}

The next bill introduced into the Halls of Congress changed the direction of Ute policy. Instead of asking that the Indians be relocated, it asked that they remain on their present reservation which would then be divided into allotments for the purposes of their farming the land. The fifteen year effort of the citizens of Colorado, through their delegation in Washington, to have the Indians moved out of their state had failed. They did not take their failure lightly, but within the next year the Government was to establish the policy that Indians would remain in the area, and the whites were forced to accept the decision of Congress and the Executive Branch.

For the Ute people the fifteen year period had been one of constant turmoil and confusion. They did not know if they were to be moved, when they were to be moved, and if so, under what conditions. Their whole life style had been disrupted by this turmoil, and, unfortunately, not easily redirected by the changes that had taken place on their reservation. They considered the land as part of their culture. Their life-style had been completely upset by what had happened. Their land had been reduced to a narrow strip not well suited to their past style of life. They had been forced to become wards of the Government. The change had created, and would continue to create, many hardships and difficult times for the Southern Utes.

—Bureau of American Ethnology Photo


\footnote{73} U.S. Congress, Senate, Senate Res. No. 279, 53d Cong., 2d Sess., Ser No. 3179, March 22, 1894.
CHAPTER VI

THE SOLUTION, 1894 - 1899

The alternative plan for removal had been discussed briefly during the five year struggle for removal following the negotiations of the 1888 agreement. However, it met a great deal of criticism since it failed to accomplish the basic objective of the residents of Colorado, removal of the Indians from the state. Instead it called for the Indians to remain on a portion of the land they now occupied, and be assigned lands-in-severalty, or allotments. The remaining portions of the reservation could then be opened for white settlement.

At the same time the last removal bill was being considered, and rejected by Congress, such an allotment proposal, an act called the Hunter Bill, was being formulated and presented to Congress. The origins of the Hunter Bill are somewhat confusing but it appears to have originated in the House of Representatives Committee on Indian Affairs after that committee had spent considerable time reviewing and rejecting removal proposals. Andrew J. Hunter, a Representative-at-Large from Illinois and a member of the Indian Affairs Committee, was responsible for its introduction.1 Read for the first time on April 23, 1894, the bill was immediately referred back to the Indian Affairs Committee for additional review.2 After only five days the bill received the support of the committee and was forwarded to the general assembly for further consideration.3 With this reversal by the Indian Affairs Committee, the people who had fought Ute removal now rallied to support the Hunter bill. This immediate and strong recommendation for the bill would seem to indicate a compromise must have been struck with the Colorado delegation.

The bill, House Resolution Number 6792, written:

... to disapprove the treaty heretofore made with the Southern Ute Indians to be removed to the Territory of Utah, and providing for settling them down in severalty where they may so elect and are qualified, and to settle all those not electing to take lands in severalty on the West forty miles of present reservation and in portions of New Mexico, and for other purposes, and to carry out the provisions of the treaty with said Indians on June 15, 1880,...4

moved through the House rapidly. By June 18, 1894, it was being introduced to the Senate for consideration.5

The Senate, however, failed to match the favorable enthusiasm of the House, and the bill came under attack from several of its members as being unrealistic and unethical. Senator William F. Vilas, former Secretary of the Interior at the time of the negotiating of the 1888 agreement, felt that the Colorado delegation was once again trying to move the Indians onto unproductive land, the western portion of the present reservation, in hopes of opening the eastern and more arable section to white

settlement. The Senate agreed with Vilas and amended the bill to allow the Indians to take allotments anywhere within the boundaries of the 1879 reservation. This partially blocked the attempts of the Colorado people to gain full access to the eastern portion of the reservation for settlement purposes. However, the amendment did insulate Ute agreement to the bill since the Capote and Muache bands did not want to leave the eastern part of the reservation.

In its final form the Hunter bill gave the Southern Utes the right to choose land in allotment anywhere on their old reservation or land in common on the western forty miles. It passed the Senate on January 28, 1895, and was sent back to the House for concurring consideration. By February 11 both Houses had agreed to the bill as amended and President Grover Cleveland's signature proclaimed the Hunter bill as law. Congress and the President had finally acted to settle the Ute question.

The implementation procedure of the law stated that a commission of one would go to the Ute Reservation, consult with the Indians and put the bill to a vote. If the bill were approved then the commissioner was to aid the Utes in choosing their allotments, and to relocate to the western reserve those Indians who didn't take allotments. The commissioner named for these duties was Meredith H. Kidd, who had just retired from service on the Dawes Commission.

Kidd established his office in Durango during the month of May, 1895, and began to record Indian opinions of the Hunter bill. However, he was soon joined by the Assistant Commissioner of Indian Affairs, Thomas P. Smith, who aided him. Later a third member, Agent David F. Day, was added to the commission.

The document presented by this commission to the Utes was an abbreviation of the bill passed by Congress, but it did indicate the basics of the agreement. It read:

Whereas, it is provided in Section Six, of an act of Congress, entitled, 'An act to disapprove the treaty heretofore made with the Southern Ute Indians, to be removed to the Territory, where they may so elect and are qualified, and to settle all those not electing to take lands in severalty, on the west forty miles of present reservation, and in portions of New Mexico, and for other purposes, and to carry out the provisions of the treaty with said Indians, of June fifteenth, Eighteen hundred eighty.' approved February twentieth, Eighteen hundred ninety-five, that the provisions of said act should take effect only upon the acceptance thereof and consent thereto by a majority of all the male adult Indians, now located or residing upon the reservation, and such acceptance should be at once obtained under such regulations as the Secretary of the Interior might prescribe; And whereas the Secretary of the Interior, on the thirteenth day of April, Eighteen hundred ninety-five, appointed Meredith H. Kidd, a commissioner, to explain and lay before the male adult Indians, located or residing upon the reservation of the Southern Ute Indians, in Colorado, the provisions of said act, and to obtain their acceptance there of, by a majority vote of said male Indians, and whereas, said commissioner has fully and explicitly
made known and explained the provisions of said Act to the male Indians, located or residing upon said reservation; therefore, be it resolved, that the provisions of said Act of Congress approved and consented to by the undersigned, and we hereby evidence our vote therefore, by affixing our mark to our names hereto signed. We the undersigned, members of the tribe of Southern Ute Indians, in Colorado elect and agree, for ourselves and families, to take land in severality, under and pursuant to an Act of Congress, approved February twentieth, Eighteen hundred ninetyfive, and ask the Secretary of the Interior to have the same alloted to us under the provisions of said Act.

Major Kidd records in a letter to D. W. Browning, the Commissioner of Indian Affairs, the Indian's responses to the Act:

Upon my arrival here I obtained an interview with Ignacio, Chief of the Southern Ute Indians, and requested that he convene the tribe at the Agency, for the purpose of hearing an explanation of the Act of Congress, under which we are proceeding.

He expressed a willingness to meet me in council, at the south end of Ute Mountain, the the western part of the reservation, but positively refused to attend any council at the Agency. Thereupon I arranged to meet the Mohuaches (sic) and Capotes at the Agency on the 8th inst., and the Weeminuches at the south end of Ute Mountain on the 15th inst.

I met the former bands at the Agency as agreed, and after explaining matters to them, asked for an expression of opinion. They declined to give any until the Weeminuches had spoken, but I learned from statement to third parties, that they were very favorably impressed with the offer of the Government, and anxious to take land in severalty and begin farming.

On the 15th inst., I met the Weeminuches as agreed, and there were present about five hundred, including one hundred one, from a band that has been at Blue Mountain, Utah, ever since the Meeker massacre, and only a few of whom have been enrolled in the census.

I counceled with them for four days and found them, without exception, anxious to accept the proposition of the Government, but they unanimously refused to consider the question of allotment, saying they were going to live on the reservation west of the Mancos River. I submitted to them a paper to be signed, of which the enclosed is a copy. All present, to the number of One hundred fifty, signed with eagerness. Many of them expressed a strong desire to locate on the reservation, build houses and commence farming. This was notable among the leaders of those from Blue Mountain, in Utah. When I explained to them the earnest desire of the department to build school houses and have their children attend schools so they could all be educated and the children live at home, Ignacio, the chief, exclaimed, 'Bueno, good, good,' and there was general approval of the idea.

Mancos Jim and Red Rock, chiefs of the Blue Mountain band insisted I should point out where they could have their farms, as they were anxious to commence building their houses. This band

has not drawn rations or clothing, and are very destitute. Their poverty has evidently convinced them that they must commence farming and support themselves. This band has been sometimes designated as Pi-Utes: they are not Pi-Utes but are Pah-Utes—which signifies Runaway or Renegade Utes. They are in fact a part of the Southern Utes, of Colorado, and are entitled to be enrolled, rationed and clothed, and enjoy all the rights of Southern Utes in the reservation, and under the treaties. At least this is my conclusion from all the facts I have been able to gather. These Indians should be cared for and attached to some tribe, and I am not able to learn that they have any rights with any other tribe. In common humanity they ought to receive the aid of the Government, and unless there are facts and conditions, of which I am ignorant, they ought to be incorporated into the Southern Ute Tribe and treated as a part of the Weeminuche band, and this the Weeminuches are anxious shall be done. All the men present, to the number of twenty, and whose names did not appear on the census rolls, signed the acceptance of the provisions of the act of Congress.

There were about forty Weeminuche men, who were not present, and whose signatures were not procured, but I am told they are in accord in their wishes with the rest of the band, and that their signatures may be procured hereafter. If their names are added to the paper with the others, they will constitute a majority of the male adult Utes. Following the precedent of the Childs' Commission, I have treated as adults all over the age of eighteen years . . .

. . . At the first conference with the Mohuaches [sic] and Capotes, they agreed to meet me on the 22nd inst.

I accordingly met them yesterday, and had a protracted inter[sic] with them, again repeating the provisions of the Act of Congress in detail. The chiefs and head men declared themselves opposed to any change, tho' I am told many of the common Indians desire to accept the proposition of the Government and sign the paper.

I did not press the matter upon them, believing it wise to give them time for discussion and deliberation.

At this point in writing my letter I received a telegram for the Agency, saying two prominent Indians desired me to come there and have a talk. I accordingly went and met about forty of them. Buckskin Charlie and Washington are opposed to their taking any action, and insist on their remaining in their present condition, but the great majority of them are anxious to take their lands and commence farming, — the Capotes are especially so, and it is believed they will override the resistance of Buckskin Charlie among the Mohuaches [sic].

From checks presented by Charlie at the trading store, Mr. Day thinks he has been paid to make opposition, by those who wish to retain the reservation as a grazing ground, and the meadows for hay.

Many of them asked me to return on Monday and they would vote for acceptance at that time. If it should appear that a majority have voted for a change, I will present and have signed the paper, of which the enclosed is a copy, and as they now view the matter, I think we can safely count on nearly all of these bands accepting lands in severalty; the Weeminuches are so fully determined on
remaining on the west side of the Mancos, that it seems almost useless to talk to them about land in severalty now, though I have observed my instructions, by urging them, and shall continue to do so.\textsuperscript{12}

The document was then signed by those Utes who agreed to the act and by those who wanted the allotments. Of the 301 male adults eligible to vote only 153 supported the Hunter Bill. The vote against the proposal was 148.\textsuperscript{13} The margin of difference was only five votes, but the Secretary of the Interior decided the tribe truly favored the allotment act and gave his approval to proceed with the enrolling of the Utes.\textsuperscript{14} To handle the allotment a new commission of three people was named. It included Major Kidd and Agent Day of the enrolling committee, and Julius Schutze of Texas.\textsuperscript{15} Schutze was named chairman. By September 15, 1895, this commission had given out a number of allotments, most located along the Pine River, but a few located along the San Juan and Piedra rivers.\textsuperscript{16}

The comments of the Agent, David Day, on the allotment proceedings elucidate the unusual problems the committee faced during this phase of gaining support for the Hunter Bill:

The work of allotting lands in accord with the provisions of the act of February 20, 1895, has been progressing since the early part of August; 356 have expressed desire and been enrolled for allotment, and, notwithstanding the declaration of Commissioner Meredith H. Kidd that 'allotment rolls are closed' more will be added. So far the work has been confined to those who have farms on Pine River north and south of the agency. All allotments have been made in accord with section and subdivision lines, with two exceptions — cases where both the parties had erected houses on the same 40-acre tract. There were some objections at the start, but when it was shown that those nearest the agency had acquired large tracts of agency land by survey they readily consented to give and take. The allotments are compact and there will be no room for whites on either side of Pine River. Similar conditions will prevail on the San Juan and Piedra rivers, where lands are easily irrigated and the flow of water ample for all purposes.

Commissioner Kidd has, as is evidenced by the commission's journal, protested against the Indians selecting their allotments and rendered himself very general repulsive to his colleagues, antagonistic to instructions, and adverse to treating the Indians with that spirit of honor and fairness they are entitled to and have every right to expect from those to whom the honorable Secretary of the Interior has delegated power to carry out the provisions of the enactment providing for allotment. However, Hon. Julius Schutze, chairman of the commission, is honest, patient, and fair in all things, and as the agent constitutes the balance of power those Indians of an age competent to select for themselves will get just what they desire, while the agent, who is guardian for the orphans,
will not overlook any choice tract until the list is exhausted. Of the methods and practices that have been utilized to defeat allotment and corral the deserving Indians upon a diminished reserve with the stronger and more turbulent majority the Department is advised, and repetition would be superfluous in face of proceeding investigations.

The effect of allotment so far is gratifying, as pride of ownership seems to have actuated the able-bodied — even the squaws — in getting out posts and preparing to fence a part of their holdings. They are interested in seeing each and every corner and anxious as to wagons, wire and implements. Families have very generally been allotted together, as they so desired, as so far all are pleased, despite the fact that the very worst side of citizenship is being pictured to them daily by an element who labor to deceive and betray. Their qualifications for citizenship are being very generally commented upon by many who can neither read nor write, by others who advocate open violation of law, and by some who have been arraigned for cattle stealing; but as the records of this office show four years without a crime greater than theft of a saddle the belief is naturally forced that there is an element of whites and Mexicans in this section who will be improved by contact with the allotted Utes.17

Despite the problems between Kidd and the rest of the commission, they allotted, by April 14, 1896, 72,811.15 acres of land to 371 allottees. These allotments were approved by the Department of Indian Affairs on the 12th of June, and the Commissioner of the General Land Office was ordered to issue the patents to title at that time.18

For those Indians who did not want to take allotments the bill provided that the western portion of the reservation was to be retained as lands held in common. As the above comments indicate, this was necessary because of the reluctance of Ignacio and the Weeminuche people to accept allotments or to move onto the eastern portion of the reservation. Their traditional lands were more closely related to the western portion of the reservation, and it is there that they wanted to be settled.

To accommodate these desires an agency was established, in 1896, at Navajo Springs in Montezuma County.19 Its purpose was to supply the Indians located on the western end of the reservation with their Government rations. Established in 1897, most of the needed buildings were not completed until 1899 when the reservation was opened to settlement.

Because it was a long distance from the eastern allotments to the newly created agency at Navajo Springs, it was necessary for sub-agencies to be located close to the allotted Southern Utes. These Indians could not be expected to become self-sufficient immediately after receiving the allotted land — access to food and clothing supplies was a problem. Time was needed for them to adapt to their new status as land owners. The sub-agencies were located at the site of the old agency on the Pine River and at Arboles, Colorado, located on the Piedra River near the New Mexico-
Colorado state boundary. With this creation of the two sub-agencies on the eastern portion of the old reservation along with the agency on the western sector, the Southern Utes now received better service from the Government than they had at any time in the past.

After the allotting period had ended and the new agencies had been established, the surplus land left from the old reservation was ready to be opened to white settlement—or so the white community of southwest Colorado thought. There was, however, one problem with the eastern boundary of the reservation. The Utes felt that the boundary was five miles too far west and they brought this to the attention of their agent. They based their claim on what they had been told in earlier negotiations and the agreements they had signed. Although the records were unclear on the matter the agent agreed with the Utes. The matter was finally settled in 1898 by several Government surveys.

Finally, the Reservation was ready for opening to white settlement. The anticipation of President William McKinley's proclamation opening the reservation was great. The local papers, The Durango Herald and The Durango Evening Herald, regaled their readers with the numbers of people expected to take part in the land rush. One article quoted an "Oklahoma Rush Line Expert" as estimating there would be an influx of fifty thousand people taking part in the land grab, and that the farming population of La Plata County would double in twelve months. The whole event was seen by the local residents as being a tremendous boom to the southwest area of Colorado.

The actual opening of the land on May 4, 1899, was a disappointment to many. The land rush was hardly equal to that of Oklahoma; the good agricultural land had already been taken by the Utes. However, over a period of several months a number of claims in the area were registered with the land office in Durango.

The opening of the reservation, the allotting of the lands to the Indians and the creation of the smaller reservation marked the end of a period of Ute history. The Southern Utes, the politicians, the Government officials and the settlers had finally agreed on a location that could be called the Southern Ute Reservation.

22. Durango Herald, June 9, 1897, p. 2.
CHAPTER VII

THE SOUTHERN UTE LANDS IN PERSPECTIVE

The Southern Ute experience from 1848 to 1899 was dictated by the land hunger which was so much a force in the history of the American West. As with most Indian tribal lands west of the Mississippi, the Ute lands were greatly reduced by Anglo seizures for mineral and agricultural wealth. In the short period of fifty-one years the Ute domain was reduced from many millions of acres extending over four states to less than one million acres contained within one state. The area occupied by the Southern Ute people changed from an isolated, unsurveyed expanse to an area of mining, farming and supportive activities.

This wholesale land grab by the Anglos was propelled by physical and psychological forces. The 1849 gold rush in California brought immigrants into the Ute lands who were on their way to the California gold fields. Some stayed. The 1859 Colorado gold rush, and later rushes for gold and silver there, brought even more people into the area. Post-Civil War industrialization intensified the demand for these minerals. The miners rationalized that the Indians were not exploiting their lands, and that they, not the Indians, deserved possession of that wealth. The farmers and ranchers who moved into the area thought they too could better use the Indian lands. Coupled with this rationalization was the concept of Manifest Destiny. The whites felt it was their God-given right to claim the Ute lands and requested that the Government extend sovereignty over both the land and the people.

Southwestern Colorado was an area in which these forces operated to disrupt the Utes. Miners came to search for the minerals of the San Juan Mountains. Farmers came to exploit the small areas of rich soil of the Animas, Mancos and Dolores river valleys. Railroad builders, merchants, and politicians came to provide supportive services in communities like Durango and Pagosa Springs. These people occupied Ute lands. The Utes, once a semi-isolated group of Indians, accustomed only to occasional contact with the Spanish and Mexicans, found themselves nearly surrounded by Anglos. These Anglos began demanding that the Utes be removed from the area.

Their demands became more effective when Colorado was granted statehood in 1876. The citizens were then represented in Congress by voting delegates who could influence Government policy. This gave the Colorado citizens power supported by money and political acumen. This power belies the typical image of the West as being politically impotent. The Utes were never able to equal this power. Thus they were unable to retain more than a fraction of their land base, an inability wrought with profound consequences.

The massive land reduction altered the basic lifestyle of the Utes. Hunting, fishing and trading had been the mainstays of their economic and social existence. But these were not "civilized" activities, so the whites encouraged the Indians to abandon these skills and become farmers. Their few attempts at farming and ranching were inadequate substitutes for their traditional life-style. By 1880 the Government was the principal source of food, clothing and needed wares. The Southern Utes were no longer self-sufficient. Agents' reports and the Indians' own testimonies indicate that their self-confidence in dealing with the life around them was greatly altered, perhaps even shattered. It was not until well into the twentieth century that they began to adapt to the change of life-style by the dramatic reduction of their land base.

The greed of the land-hungry whites created in the Utes what it had created in the other western Indian tribes—distrust. Time and again the whites entered the Ute lands to mine, farm and build. The Ute people soon learned they could not rely on the invaders to respect the Government's treaties and agreements, to say nothing of the rights of the Indians. Where there was valuable land there came the whites, and

—57—
the Government could not or would not, stop the trespassers. The history of the San Juan Cession (1874) is indicative of the Utes' mistaken trust of the Government to enforce the treaty of 1868. The failure to do so produced the subsequent distrust the Utes had toward future negotiations.

The reduction of the land base had another effect on the Southern Utes—the fragmentation of leadership, and with it the separation of the Ute communities. As a result of disagreement among the bands over the Government's attempt to remove them to Utah, Ignacio and his followers moved to the western portion of the Reservation. Ignacio wanted to be relocated in Utah, an area well known by his band. The other leaders, Buckskin Charley, Tapoche and Severo, did not favor removal. The result was a split among the three bands. The Weeminuches refused allotment and occupied the commonly held land. The Capotes and the Muaches remained on the eastern portion of the old reservation and took allotments. This fragmentation of the leadership deeply affected the Southern Utes and the Government's relation to them. (Three agencies—one agency and two sub-agencies, had to be established to care for their needs.) The Southern Ute people were no longer considered as one group but rather as two, the allotted Utes and the reservation Utes. This effectively reduced their power base for dealing with the Government.

There were several groups who came to the aid of the Indians. This support was part of the national reform movement of the 1880's and 1890's, the struggle for better government, better leadership and more effective administration of government policy; a struggle which was able to gain public support. One of the areas attacked in this movement was Indian administration. The coincidence of the reform movement, shaped in part by Helen Hunt Jackson and her book A Century of Dishonor, with the Ute removal issue made the issue a cause celebre for these reformers. The Indian Rights Association led the battle for recognition of Ute Rights. Eastern money, an effective political lobbying force and highly placed, sympathetic Government personnel enabled the Association to have an impact on Government Indian policy. The fight was well directed, well supported and successful in achieving their goal—Ute allotments on the old reservation lands.

The Government was the one force that stood between the Utes and the pressures of the Colorado delegation and the Indian Rights Association. The administration of Indian policy was the responsibility of the Department of the Interior and the Bureau of Indian Affairs. Yet, only occasionally was the policy formulated in that branch of the Government. Delegates in Congress and the lobbying of outside groups influenced this policy. The Bureau had the responsibility of administering that policy. Because Congress was constantly being influenced by these forces, a considerable length of time was spent before the Ute question was answered. Opposing forces often made Government policy inaccurate and ineffective. Not even such people as Carl Schurz with his tremendous skill and influence could find a solution to the Ute problem. Eventually a compromise was worked out, but not before considerable time and effort had been expended.

In the final analysis the Southern Utes were the victims. They were the victims of the concept of the effective and exploitive use of Western lands. They were affected by the industrialization of the United States following the Civil War and the need for wealth in gold and silver. They were the victims of ineffective, inaccurate and, at times, corrupt actions by Government representatives towards the American Indians in general and the Southern Utes in particular.

Despite these pressures, the Southern Utes managed to retain land in Colorado when the other Utes did not. Had they resorted to armed conflict and rebellion as some Indian tribes did during this period, the Southern Utes too would have been moved out of the state, probably to land more isolated and desolate. Only endurance and wise leadership allowed them to remain in southwest Colorado.
TAPUCHE — Son of Sobita, a principal chief of the Capote band of Utes. Born 1832.
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