

REDUCTION OF ROUND VALLEY INDIAN RESERVATION.

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A communication from the Secretary of the Interior, submitting draught of a bill "to provide for the reduction of the Round Valley Indian Reservation, California, and for other purposes."*

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JANUARY 5, 1888.—Referred to the Committee on Indian Affairs and ordered to be printed.

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*To the Senate and House of Representatives :*

I transmit herewith a communication of 23d ultimo from the Secretary of the Interior, submitting a draught of a bill "to provide for the reduction of the Round Valley Indian Reservation, in the State of California, and for other purposes," with accompanying papers relating thereto.

The documents thus submitted exhibit extensive and entirely unjustifiable encroachments upon lands set apart for Indian occupancy, and disclose a disregard of Indian rights so long continued, that the Government can not further temporize without positive dishonor.

Efforts to dislodge trespassers upon these lands have in some cases been resisted, upon the ground that certain moneys due from the Government for improvements have not been paid. So far as this claim is well founded, the sum necessary to extinguish the same should be at once appropriated and paid.

In other cases the position of these intruders is one of simple and bare-faced wrong-doing, plainly questioning the inclination of the Government to protect its dependent Indian wards, and its ability to maintain itself in the guaranty of such protection.

These intruders should forthwith feel the weight of the Government's power.

I earnestly commend the situation and the wrongs of the Indians occupying the reservation named to the early attention of the Congress, and ask for the bill herewith transmitted careful and prompt consideration.

GROVER CLEVELAND.

EXECUTIVE MANSION,  
January 5, 1888.

DEPARTMENT OF THE INTERIOR,  
*Washington, December 23, 1887.*

The PRESIDENT :

I have the honor to submit herewith a report of the 14th instant from the Commissioner of Indian Affairs, inclosing, with accompanying papers, a draught of a bill prepared in his Office "To provide for the reduction of the Round Valley Indian Reservation, in the State of California, and for other purposes." The history of the Round Valley Reservation, extending back for a period of thirty years, contained in the report of the Commissioner and accompanying papers, fully sets forth the necessity for the proposed legislation.

In view of the state of affairs presented, I earnestly request that the matter may be presented for the early consideration and action of Congress.

I have the honor to be, very respectfully, your obedient servant,  
 L. Q. C. LAMAR,  
*Secretary.*

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DEPARTMENT OF THE INTERIOR,  
 OFFICE OF INDIAN AFFAIRS,  
*Washington, December 14, 1887.*

SIR: I have the honor to again call your attention to the state of affairs existing on the Round Valley Reservation, in the State of California.

This matter has heretofore formed the subject of many reports to the Department and to Congress, until it has become an "oft-told tale," but for convenience of reference the material facts are again presented.

Round Valley was first selected for Indian purposes by Superintendent Henley, in 1856.

In a letter addressed to him from this Office, dated November 18, 1858, he was, by order of the Secretary of the Interior, directed to give public notice that the entire valley was set apart and reserved for Indian purposes.

It has been claimed that Superintendent Henley did not make this order public, and that it was not proclaimed until 1860.

On the 28th of January, 1859, however, Superintendent Henley transmitted to this Office a remonstrance against the occupation of Round Valley for Indian purposes, signed by a number of settlers, dated January 18, 1859, in which they said :

Now we learn that a proclamation has been made by the Superintendent of Indian Affairs, by order of the Department, claiming the entire valley as an Indian reservation.

In a letter dated January 6, 1860, from this office to the General Land Office, reciting the facts in regard to the establishment of this reservation, it was stated that they were deemed sufficient to show that Round Valley had been duly set apart and recognized by the Department as an Indian reservation, and the Commissioner of the General Land Office was therefore requested to report the same upon the books of that office, and to notify the local officers accordingly.

May 3, 1860, the surveyor-general of California, acting under instructions from the General Land Office, reported a survey at the boundaries of said reservation.

In a communication dated June 21, 1860, the General Land Office inclosed to this office a plat of said survey, certified by the surveyor-

general of California, May 4, 1860, showing the reservation to be situated partly in townships 22 and 23 north of ranges 12 and 13 west of the Mount Diablo meridian, and to comprise 25,030.8 acres.

On the 27th of October, 1863, an appraisalment of the claims and improvements of settlers in the valley was reported by Superintendent Steele, the value of the same, including growing crops, being placed at \$50,000, and of their stock at \$25,000 additional.

By the act of Congress approved April 8, 1864 (13 Stats. L., 39), it was provided:

That there shall be set apart by the President, and at his discretion, not exceeding four tracts of land within the limits of said State (California), to be retained by the United States for the purpose of Indian reservations.

It was also provided that if it was found impracticable to establish the reservations contemplated, without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior might contract for the purchase of such improvements, but that no money should be paid until the valuation had been approved by Congress, and an appropriation made therefor.

It was further provided that such reservations might include any reservations theretofore established, in which case the same might be enlarged by the President.

In a report dated January 1, 1867, Special Commissioner Stevens gave the names of twenty-six settlers in the valley who had 9,990 acres of land (an average of 384 acres each) and stated that there were also fifteen or twenty persons with a small cabin and inclosure, each claiming a quarter section.

October 7, 1869, report was made to the Department, recommending that Superintendent McIntosh be instructed to report the reserve extended to the summits of the mountains surrounding the valley—to report an appraisalment of the improvements of settlers within said valley, and also to report a contract with the settlers for their purchase, in order that the same might be reported for the action of Congress, as provided in the act of April 8, 1864.

These recommendations were approved by the Department October 12, 1869, and Superintendent McIntosh was instructed accordingly on the 18th of the same month.

December 27, 1869, Superintendent McIntosh submitted his report, including an appraisalment of the improvements of settlers in the valley, amounting in the aggregate to \$109,555.

In many cases settlement and improvements had been made long after the survey of the reservation in 1860, and in others settlers had purchased, after that time, improvements which had been made before.

Some of the persons whose improvements were appraised had been officers and employés of the Indian Department at the time settlement was made or the improvements purchased.

The contracts for the purchase of improvements were not made because Superintendent McIntosh was in doubt as to the rights of these parties, and for other reasons.

March 4, 1870, this report was submitted to the Department, with request for the direction of the Secretary in the premises, in order that the superintendent might be properly instructed in the course he should pursue in making contracts for the improvements of settlers upon the reservation, and with recommendation that the President be requested to issue an executive order for the enlargement of the Round Valley Reservation.

On the 30th of March the President issued the executive order requested, and on April 1, 1870, the papers were returned without remark upon the request for instruction as to the settlers.

I am unable to find anything of record to show that this appraisal was ever presented to Congress, or that any further action was taken thereon by the Department.

From the first establishment of this reservation, in 1856, the settlers then there, re-enforced by those who came in afterward—some of them Government employes and others allowed to settle by the agents in charge—protested against the occupation of the valley for Indian purposes, and used every effort to defeat the intentions of the Department on the premises.

In August, 1862, a party of twenty settlers surprised a band of Indians, and murdered twenty-two of their number, of all ages and both sexes.

The intended attack was known to the employes (Short & Sons, who afterwards became "settlers" on the reservation), who not only took no steps to prevent the massacre, but kindly loaned their revolvers to the intending murderers.

The excuse for this act of barbarity was that the Indians had killed some of the stock belonging to the settlers.

Attempts were also made to pay the settlers and remove them from the reservation, but this was unsuccessful, undoubtedly owing to the influence of the interested parties, who preferred to retain their locations in the valley.

In November, 1862, a company of troops was posted on the reservation, and the officer in command instructed by General Wright to remove all persons then residing within its limits on the requisition of the supervisor in charge.

November 14, 1862, Superintendent Hanson reported to this office that as the season was advancing and he was not disposed to distress the settlers, he had given the supervisor instructions to permit them to remain in the valley until the weather was auspicious, and they could have time to dispose of their produce and look for other homes, provided they would give assurances not to molest the Indians or Government property.

I find nothing further relative to this attempt to dispossess the settlers by force.

In his annual report for 1869, Superintendent Whiting referred to Round Valley as the most desirable location for an Indian reservation in the State, and said:

The Government has about 5,000 acres only inclosed out of 25,000 reserved.

The settlers have appropriated the other 20,000, besides much more in the foot-hills. Possessory claims on reservation lands are selling for nearly as much as if the settlers had the fee simple. Large herds of cattle and sheep are also driven into the valley and in the foot-hills by persons having no pretense of claim to the land. This stock, belonging to strangers, is consuming much of the pasturage needed for reservation animals.

The Indian agent and Government employes are wholly unable to prevent these encroachments. (Annual Report Commissioner of Indian Affairs, 1869, p. 180.)

In his annual report for 1870 Superintendent McIntosh said:

In my supplementary report made last year I expressed the opinion that all persons who moved within the area of Round Valley, after public notice was given by the Government, through its proper agent, that it intended to hold the whole of Round Valley for Indian purposes, and forbidding any other persons from locating therein, were interlopers, and could make no just claim upon the Government for their improvements. I have not changed that opinion. It is for the Government to decide whether it will pay a premium to persons who deliberately violate its express

orders. The importance of having the whole of Round Valley for an Indian reservation, free from all outside influences, has been so many times represented to you by me during the past year that I forbear pressing the subject any further. (Annual Report Commissioner of Indian Affairs for 1870, p. 76.)

In a report made in 1871, Hon. John V. Farwell said:

There are at present about one hundred settlers in the valley, all of them squatters, knowing when they came that it was set aside for Indian occupancy, but the fact that no survey has been made has emboldened some of them to take up claims inside the reservation fences, under the swamp-land act. I rode over these swamp lands, and should consider them as valuable for cultivation as any in the valley. One large farm of 2,500 acres is claimed by a former superintendent, and I was informed that the work of fencing, etc., was all done by Indians. Timber claims and cattle ranges have been taken by these settlers upon the mountains until the reservation cattle have been driven from their accustomed places for feeding, and are shot at sight when found upon a range taken up by a white settler. On some of the timber claims thus made the claimants threaten to shoot any Indian sent there by the agent to get timber for fences or houses. (Annual Report of Commissioner of Indian Affairs for 1871, p. 155.)

In a report dated January 31, 1871, upon a bill for the restoration of a portion of the Round Valley Reservation, Commissioner Parker, after reciting the history of the reservation, said:

The effect of the bill, if it becomes a law, will be direct confliction with the policy of the Department, and if its provisions should be executed and the majority of this valley pass into the ownership and occupancy of whites, the usefulness of the remainder for Indian purposes would be virtually destroyed.

In office report dated October 17, 1871, it was recommended that the Attorney-General be requested to institute proceedings against all persons within Round Valley in all cases where he should be of the opinion that action for trespass could be maintained.

November 6, 1871, certified copies of the papers relating to the case were transmitted to Superintendent Whiting for use of the district attorney, with a full statement of facts, with directions to render the district attorney all facilities in the prosecution of cases arising under instructions given him by the Attorney-General in pursuance of the foregoing recommendation.

In office report dated January 29, 1872, Commissioner Walker opposed any reduction of the reservation, deeming it essential for the best interests of the Indian service and for the maintenance of the integrity of the reservation that the boundaries as extended by the executive order of March 30, 1870, should be preserved. (See also another report of same date, H. R. Ex. Doc. No. 224, Forty-second Congress, second session.)

In a report dated June 3, 1872, Superintendent Whiting reported that suit had been commenced against two of the trespassers, as test cases, but that on the 3d of April preceding, the district attorney had received a telegraphic dispatch and order from the Attorney-General to suspend proceedings against the settlers until further instructions.

Superintendent Whiting remarked that he was not surprised at this action, as he knew that an assessment had been levied upon the settlers to raise funds with which to send an attorney to Washington, and said:

So long as the settlers maintain a paid lobby in Washington it will require vigilance on behalf of the Indian Department to prevent further mischief and to keep what little possession we have left in Round Valley.

He also suggested an enlargement of the reservation.

January 27, 1873, this office, in reporting upon "a bill to provide for the sale to actual settlers of the surplus lands of the Round Valley Indian Reservation," stated that it was not in possession of any impor-

tant facts in addition to those set forth in office report of January 29, 1872.

On the 3d of March, 1873, Congress passed "An act to restore a part of the Round Valley Indian Reservation in California to the public lands, and for other purposes." (17 Stats., 633.)

It does not appear that any report was ever made by this office in relation to this act. Certainly no favorable recommendation was made.

The first section of the act provided:

That all that portion of the Indian reservation in Round Valley, California, which lies south of the township line running east and west between townships 22 and 23 north, of ranges 12 and 13 west of the Mount Diablo meridian be, and the same is hereby, restored to the public lands of the United States, and the Secretary of the Interior shall cause the same to be surveyed and offered for sale in legal subdivisions, at not less than \$1.25 per acre: *Provided*, That the improvements owned by persons on the lands hereby restored before the passage of this act shall be the sole property of such persons. \* \* \* *And provided further*, That the proceeds of the sale of the lands hereby restored, or so much thereof as may be necessary, shall be used to pay the improvements and claims of settlers now residing within the limits of the new reservation created under this act, and for improvements of Indians on lands hereby restored to the public lands, after such improvements shall have been appraised and the appraisement approved as hereinafter provided.

The second section defined the southern, eastern, and western boundaries of the reservation, and provided for the appointment of three commissioners to establish the northern boundary.

It also directed that these commissioners should make an appraisement of all improvements of white persons situated north of the southern boundary of the reservation, as established under the act, and authorized the Secretary of the Interior to pay for these improvements out of the money reserved for the purpose by the first section of the act.

The third section directed the President to cause to be withdrawn from sale or entry all the land lying within the boundaries described by the second section and the northern boundary as fixed by the commission, when approved, and required all settlers within the limits of the reservation to remove therefrom *as soon as they should be paid for or tendered the amount of the appraised value of their improvements*.

Under this act Hons. J. P. C. Shanks, Charles Marsh, and B. R. Cowen were designated a commission to make the appraisements and to fix the northern boundary.

On the 18th of November, 1873, the commission submitted a report of their appraisements of the improvements, with their recommendation as to the establishment of the northern boundary of the reservation (see H. R. Ex. Doc. No. 118, Forty-third Congress, first session), which was approved by the Department, August 4, 1874.

The total value of the improvements as appraised was \$32,669.78.

On the 18th of May, 1875, an Executive order was issued defining the reservation in accordance with the act of March 3, 1873, and the report of the commission.

By Executive order of July 26, 1876, the land embraced in the military reservation known as Camp Wright was reserved for the use and occupation of the Round Valley Indians, making the area of the reservation 162,118 acres.

(The outboundaries were surveyed in December, 1876, and January, 1877, and the survey approved January 17, 1877.)

The effect of the action taken under the act of March 3, 1873, was to restore some 12,000 acres of valley land to the public domain, and to add some 89,000 acres of mountain land to the reservation.

The commissioners, in their report, estimated the lands restored to be worth some \$51,400, and suggested an amendment to the act so as to authorize said lands to be appraised and offered for sale.

A draught of a bill for this purpose was submitted to the Department January 27, 1874, but it did not become a law.

The sum of \$17,934.37 was realized from the sale of the restored lands, and the sum of \$21,640 was paid in settlement of a portion of the claims of settlers within the new reservation.

In a letter dated February 27, 1875, Agent Burchard reported that news had just reached the valley that the Senate had defeated the amendment to the act of 1873, whereupon the work of "land-jumping," previously commenced, was intensified, it being done within the lines of the new reservation as well as within the lines established by the McIntosh survey and order of 1870.

On the 17th of March, 1875, Agent Burchard was instructed to notify all white persons who had established themselves within the boundaries of the Round Valley Reserve as created by the act of 1873, since the date of the act, that they must leave the reservation within thirty days or measures would be taken by the Government for their ejection.

As a result of this action, Agent Burchard took the bond of one party to remove his stock within twenty-four hours, and to comply with the rules and regulations of the reservation. He also notified seven other persons that they must leave the reservation.

In March, 1873, the United States brought suit in the circuit court for the district of California against Fred Bourne, administrator of C. H. Bourne and others, to recover possession of certain lands in the reservation claimed by these parties in part, by purchase from the State of California, by which they were claimed as "swamp and overflowed lands."

In a report dated April 30, 1875, Inspector Vandever referred to the reservation as follows:

These claimants occupy and claim nearly all the land and pasture outside of the reservation fences, to the exclusion of the Indians, and reservation cattle are allowed little or no participation in the range. Not one of these claimants but who located on the land he occupies with the full knowledge that he was within the reservation boundaries. \* \* \*

This act (1873) was passed at the solicitation of and in the interest of the settlers, as a final compromise and settlement of their supposed rights and claims. \* \* \* The amount realized from the sale of lands south of the designated line is not sufficient to pay the whole appraisement of claims and improvements situated north of the line, and Congress, at its last session, failed to provide for the deficiency. In consequence of this failure many of the settlers seem to infer that Congress never will appropriate money to extinguish their claims, and they freely express the hope that the reservation may be ultimately abandoned, and the land surveyed and opened to entry. \* \* \* It is very important that this question should be settled with the least possible delay, as efforts will be made to defer or finally defeat the payment altogether, and thus retain possession of the land.

June 21, 1875, Agent Burchard was directed—

To make payment to the settlers in accordance with previous instructions without further delay, at the same time giving them notice that they must leave the reserve on or before the 31st day of October next, and in case of their refusal to do so at that time you will call upon the military authority to assist you in removing them.

July 2, 1875, Agent Burchard recommended and asked for authority to notify such parties as had been tendered the appraised value of their improvements to vacate or leave the reservation on or before the 30th day of September, 1875, and on July 17, 1875, he was authorized to issue such notices.

On the 11th of September, 1875, he was again directed to carry out the instructions theretofore given. September 25, 1875, Hon. A. C.

Barstow, a member of the board of Indian commissioners, was requested to visit the Round Valley Reservation, to make a thorough investigation of the grounds upon which the settlers refused to accept compensation for their improvements, and to advise with Agent Burchard as to the best course to be pursued in securing their removal from the reservation, and submit a full and complete statement in regard to the reserve, the claimants remaining upon it, and the character of their claims.

He was also requested to have his report embrace such information as would enable the office to fully understand the state of affairs on the reserve and take intelligent action relative thereto, and, if he found that military force would be required, to confer with General Schofield upon the subject, in order that when the force should be requested by this Department the commander of the military division might have a full understanding of the subject.

October 27, 1875, he submitted his report, in which, after referring to the manner in which Commissioners Shanks, Owen, and Marsh had discharged their duties, he stated :

The case is so clear, the needs of the reservation so great, and delay from one cause and another so full of danger, that I recommend the ejection by military force under the command of a wise and prudent officer.

On the same day the Commissioner of Indian Affairs requested that he be authorized to cause the removal from the reservation of all settlers who had received or been tendered the amount of the appraised value of their improvements, and that the Secretary of War be requested to give directions to the proper military officer to furnish such force as might be necessary to enable the agent to effect such removal.

On the next day, October 28, 1875, the Secretary granted authority, and made request of the War Department as recommended. On the same day Agent Burchard was informed of the action taken and instructed to carry the purpose of the office into effect.

Inspector Vandever was also instructed on the same day to proceed to the Round Valley Reservation and render Agent Burchard all the co-operative assistance in his power in accomplishing the object of his instructions.

Under date of November 20, 1875, Inspector Vandever forwarded to this office an opinion of the United States district attorney for California, to the effect that, in view of the act of March 3, 1873, the facts to justify a forcible removal must first be judicially ascertained, and that the inspector would not be justified in invoking the aid of the military in the first instance.

November 22, 1875, Inspector Vandever, referring to the opinion of the district attorney, said :

Three of the settlers—Thompson, Eberle, and Bowen—have accepted the tender, put the money in their pockets, and refuse to remove. Frank Asbel, Pierce Asbel, and Gibson refuse the tender and remain. The three last named, whose improvements are of little value, hold a range of many thousand acres, comprising the best pasture lands on the reservation. In utter disregard of law and equity, the six men above named defy the Government and retain possession. Their presence is undeniably detrimental to the peace and welfare of the Indians, and I recommend that specific orders be made, under section 2149 of the Revised Statutes of the United States, directing their removal. \* \* \* A combination has been formed by a few unscrupulous men to dispossess the Indians of the Round Valley Reservation.

The act of March 3, 1873, was intended as a division of the old reservation between the settlers and the Indians. The combination took its part under that act, and now the men comprising it are endeavoring to filch the balance.



November 30, 1875, the matter was again presented to the Department, as follows :

The Department and the Government is suffering great discredit at the present time for failure to insist upon keeping lands for the use of the Mission Indians in 1871.

The sorrows of those Indians and the public disgrace attaching to their ill-treatment has arisen from the yielding to the demands of white men who were determined to prevent them from securing permanent homes on the reservation set apart for them. I trust no such record will be found hereafter relating to the Round Valley Reserve. The agent has been instructed, under date of October 28, to eject these settlers; but he is unable to do so without the aid of the military.

I respectfully request that steps be taken to secure positive directions through the War Department to act immediately on the request of Inspector Vandever or of Agent Burchard.

Under date of December 2, 1875, the Secretary replied that as the power to employ the military forces to remove the settlers from Round Valley appeared to be doubtful, legal proceedings should be taken for their removal by the civil authorities.

Thus ended the first attempt after the passage of the act of 1873 to remove the settlers by force.

December 7, 1875, Agent Burchard was instructed to confer with the district attorney with a view to instituting legal proceedings for ejectment of settlers.

During the years 1876, 1877, and 1878, frequent reports were made by this office urging speedy action of the district attorney, and giving its views at length on the legal aspect of the cases against the settlers.

On the 31st of May, 1880, the circuit court rendered judgment confirming Eberle, Thompson, and Bowen in the occupation and ownership of the "swamp lands" purchased of the State, and also confirming the right of Frank Asbill, Pierce Asbill, and E. S. Gibson, to occupy large tracts of lands described by metes and bounds in the judgment of the court.

As to the last three persons the court found as follows :

That as to defendants Gibson, Frank M. Asbill, and Pierce Asbill, who entered upon the lands possessed by them before said lands were included in said reservation, the act of Congress, entitled "An Act to restore a part of the Round Valley Indian Reservation in California to the public lands, and for other purposes," approved March 3, 1878, under which this proceeding is had, recognizes their rights, respectively, to retain possession of the lands in their several possessions, being the lands specifically described in their several answers, until an appraisement and payment or tender to them, by the plaintiff, of appraised value of all their improvements, and as the Commissioners refused to examine or to appraise the larger part of their several improvements, and no payment or tender of the appraised value was made therefor, the Conditions prescribed by said act, precedent to the right of said plaintiff to take or recover possession of said lands for the purposes of said act, have not been performed by plaintiff, and the plaintiff is not yet entitled under said act to recover of said defendants the possession of said lands so described in the respective answers of said last-named defendants.

Gibson's improvements had been appraised at \$1,000. The court found that he had other improvements to the value of \$1,100.

Gibson occupied from 10,000 to 12,000 acres of land, the possession of which was awarded him by the court, and, with his partners, he now occupies some 28,000 acres.

As to the failure of the Commission to appraise all his improvements, Commissioner Barstow, in his report of October 27, 1875, says :

E. S. Gibson, who is occupying 10,000 to 12,000 acres of mountain land for a sheep ranch, complains that the Commissioners did not allow him for eight cabius used by his herders, which are scattered over this large tract.

The Commissioners wisely refused to allow for improvements made upon more land than a settler would have a right to pre-empt when opened by survey.

Gibson was formerly an employé of the Indian Department. His

name does not appear in the appraisalment made by General McIntosh, but the improvements of Henley Brothers, his present partners, sons of Superintendent Henley, who settled in 1857, were appraised at \$11,000.

Pierce Asbill's improvements were appraised at \$580. The court found that he had other improvements valued at \$725.

The note-book of the Commissioners contains the following entry relative to this case:

His house, barn, etc., are south of the township line, and therefore not appraised.

Inspector Vandever says:

Pierce Asbill lives south of the line, and the law provides that only those *residing* north of the line shall be allowed for improvements.

Frank Asbill's improvements were appraised at \$304.78. The court found that he had other improvements valued at \$1,000.

The Asbills now occupy 8,500 acres. They settled in the reservation some years after it was set aside.

As to the "swamp lands," it may be remarked that by the act of May 14, 1862, the legislature of the State of California granted all lands belonging to the State, and within any reservation, to the United States. (State Statutes, 1850 to 1864, page 617.)

Certificates of purchase were not issued to the defendants until after the passage of said act, and the State, by the subsequent act of April 27, 1863, section 19 (*ibid.*, 613), provided that in case of any of the lands sold by the State proved to be within the boundaries of a grant, or otherwise not the property of the State, the holder or assignee of the certificate of purchase or patent should be entitled to receive in exchange therefor a certificate from the register of the State land office that such amount had been paid, which certificate should be received in payment for any other lands of the same class.

June 24, 1880, report was made recommending that the Attorney-General be requested to instruct the proper district attorney to move for a new trial in these cases, and, if necessary, to appeal to the Supreme Court of the United States.

Appeal was subsequently taken to the Supreme Court, which appeal was dismissed, on the authority of the Attorney-General, on the 8th of January, 1884, this office being wholly ignorant of this contemplated action.

Subsequently the State applied to have the lands certified to her, and this office, in report dated February 26, 1884, suggested whether the Department would not be justified in instructing the General Land Office not to certify these lands to the State, leaving the question to be further tested by mandamus, should the State desire to avail herself of that remedy. The list was, however, shortly afterwards certified as requested.

Thus ends the first chapter of the attempt to dispossess the settlers in Round Valley by proceedings in the courts.

Subsequently this office repeatedly asked for an appropriation to pay the balance of the claims, but without favorable result.

In the summer of 1884 a subcommittee of the Senate Committee on Indian Affairs visited the reservation, to investigate the "present and past management of said reservation, and of all abuses of the rights and interests of the Indians thereon."

During the last week of the session, February 27, 1885, the committee submitted its report (Senate Rep. No. 1522, 48th Cong., 2d sess.).

The committee found, what had been well known to this office for ten years, that some 97,000 acres of the 102,000 in the reservation, was oc-

cupied by trespassers, and that 44,000 sheep and 1,600 head of horses, cattle, and hogs were grazed upon the reservation by these men.

They also stated that the Government for the last twelve or thirteen years had been obliged to pay during that time for the support of the few Indians upon the reservation the sum of \$241,975.93, an average of \$20,165 per year, while the reservation contains land well calculated for the support of many more Indians than are to be found in the State of California.

The committee in their report say that the act of 1873 "provided for all such improvements as then existed upon the land put there by men who went there as settlers, and these should be paid for; but it furnishes no ground for the claim of other persons but those who were then the owners of improvements upon the land and their erecting new improvements or maintaining any possession of the land whatever while waiting for the United States to pay the original settlers for the improvements they then had. In the opinion of the committee all persons except those who had actually erected improvements upon this land prior to that act are trespassers, and that those persons who were then occupants and have never been tendered the appraised value of their improvements can at most claim the occupancy of but 160 acres while waiting for the payment provided for in the act."

This had been the opinion of this office since 1873, but unfortunately the courts of the United States held a different opinion, and decided that one person might occupy 10,000 acres of land until a few corrals, shocks, and cabins had been appraised and paid for.

In conclusion the committee said:

The present condition of things ought not longer to continue. If these occupants have any claim upon the Government growing out of the failure on its part to comply with the statute of 1873 it is quite time the matter was considered and every claim of that kind satisfied. (This office had been trying to have this done for ten years, but Congress had turned a deaf ear to its appeals.)

The committee are of the opinion that the earliest measures should be taken to reduce the boundaries of this reservation to the present wants of the Indians. \* \* \* A few thousand acres of valley land, with perhaps a small portion of upland for grazing purposes, is all that can be utilized for their benefit.

To these needs the limits of the reservation should be reduced, and all Indians capable of taking care of themselves should be put upon a sufficient amount of this valley land, each in severalty, and in quantity sufficient for his support. \* \* \* The committee think that a commission should be appointed to appraise this land in quantities of not more than 640 acres, and that it should thereafter be sold at auction to the highest bidder above said appraisal, and the proceeds, after defraying the expenses of the sale and reduction, should be held by the United States in trust for these Indians, or such other Indians as justice and equity may require.

The necessity of making some such disposition as this of the reservation is very pressing, and a longer continuance of the present state of things is a waste of large resources, and is suffering the Indians to drift away into useless as well as spasmodic efforts to sustain themselves, while the Government property is going to decay.

The committee submitted no measure to enable the Department to carry out its suggestions.

Under date of December 16, 1885, I had the honor to submit, for presentation to Congress, the draught of a bill, embodying in the main the suggestions contained in the committee's report, accompanied by a full statement of the facts and the necessity for legislation upon the subject. (See H. R. Ex. Doc. No. 21, Forty-ninth Congress, first session.) The bill passed the Senate, but failed in the House of Representatives.

After the final adjournment of the Forty-ninth Congress I determined to make one more effort to secure to the Round Valley Indians some portion at least of the 96,000 acres in the possession of white men, although I had but little hope that anything would be accomplished.

Accordingly, on the 2d of April, 1887, I recommended that authority be granted for the removal from the reservation of all parties found to be unlawfully thereon, and for the employment of the necessary military force. Authority was granted, and on the 25th of May last the agent was instructed to notify all parties unlawfully upon the reservation to remove therefrom, with all of their stock and personal effects, on or before the 1st day of August, 1887, and that in the event of their failure to remove their ejection would be effected by a sufficient military force.

From this order there were excepted the persons and lands covered by the judgment of the United States circuit court rendered May 31, 1880, all persons occupying land the title to which had passed out of the United States, as shown by an abstract furnished by the General Land Office, and parties who had improvements within the reservation on the 3d of March, 1873, to whom payment or tender of payment had not been made. All of these parties were to be confined to the lands actually covered by the exception, and the latter class were to be confined to 160 acres each.

September 30, 1887, Agent Yates telegraphed that he was proceeding to eject settlers by military force as directed, when he was served with an order to show cause before the superior court of Sonoma County why he should not be restrained.

October 1, 1887, report was made recommending that the matter be referred to the Attorney-General, with request that the district attorney be instructed by telegraph to represent the interests of the United States in the case, and to use all proper efforts to defeat the contemplated injunction, which request was complied with by the Department of Justice, which Department had previously directed the institution of proceedings against parties upon Round Valley under section 2117, Revised Statutes, upon the request of the Department of the Interior.

October 27, 1887, General Howard telegraphed the War Department to the effect that Captain Shaw's company of artillery had been sent to evict trespassers on Round Valley; that an injunction had been served on him which he refused to obey, and that he refused to surrender, when an attachment was issued for him. General Howard asked for instructions.

October 28, 1887, the Secretary of War informed the Department of the Interior that the commanding general had been instructed to desist from declining to obey the writ until the question of jurisdiction should be determined by the Federal courts.

October 29, 1887, the Secretary of War inclosed a telegram from General Howard, asking whether he should leave Captain Shaw to be arrested and imprisoned at the call of the trespassers, who have no rights whatever, in obedience to the orders of the local courts, and also asking that he and Captain Shaw be sustained.

The Secretary of War requested advice as to what action was then needed to be taken by this Department.

November 4, 1887, report was made upon the foregoing facts, in which the following conclusion was reached:

In the present aspect of the case I do not see that any further action on the part of this Department is practicable, at least until the injunction has been dissolved, and I therefore have the honor to recommend that copies of the papers be submitted to the Attorney-General with the request that they be forwarded to the district attorney, with instructions to use every possible legal remedy to oust these parties and correct the extraordinary and disgraceful state of affairs at Round Valley, which has so long been a reproach upon all who are responsible for its continuance.

November 19, 1887, the Secretary of War transmitted a telegram from General Howard, stating that injunctions against Captain Shaw and himself had been transferred to the United States circuit court, and suggesting that as there was likely to be long delay before a decision would be had, the troops be withdrawn until next spring.

November 29, 1887, report was made that in view of the fact that the matter was pending in the United States courts, and that the agent had been instructed by the district attorney to stay all proceedings, it was not seen how the military could accomplish any good by remaining on the reservation.

Thus ends the second attempt to regain possession of the reservation by military force.

The second attempt through the courts seems likely to result in a similar failure.

In a report dated November 15, 1887, District Attorney Carey states that he has had the several cases removed from the local courts to the United States circuit court, and says:

I am fearful of the result of the cases in the circuit court, owing to the decision of that court in the case of the United States *vs.* Chas. H. Eberle, which was appealed to the Supreme Court of the United States and affirmed.

The case of Handy and Johnson will not come within the rule of the decision of the case above cited, because whatever rights they may have were acquired as purchasers subsequent to the act of Congress passed March 3, 1873; but as to the other plaintiffs, I am informed that they were settlers upon and had improved public lands brought within the reservation by the provisions of said act of Congress prior to the passage of that act. Should the decisions of the court be adverse to the Government in this effort of eviction, there is but one clear way out of the difficulty, and it ought to be speedily resorted to, and that is to make the necessary appropriation, have the improvements appraised, and the appraised value tendered therefor, as required by the provisions of the act hereinbefore cited.

The present condition of affairs, and that have existed so long, is a farce, and ought not to be tolerated longer.

Previous to the foregoing correspondence relative to the injunction proceedings, General O. O. Howard had, on the 14th of September, 1887, forwarded, through the War Department, a report on "the extraordinary and disgraceful state of affairs at the Round Valley Reservation," in which he reviewed the history of the reservation, the legislation in regard to it, the decisions of the courts, and the rights of the parties, and said:

These defendants and others, some of them without even the flimsy pretext of an assigned pre-emption or homestead claim, hold the whole or about 100,000 acres of grazing land. Certainly the court did not so intend, neither did the Supreme Court mean to aid and abet this iniquity. Feeble efforts have been made from time to time to restrict and expel these trespassers, but they have always resulted in a complete failure, and why? One of the chief claimants, himself not an original settler, but one by purchase [his interest was acquired by inheritance], is an ex-member of Congress, and wealthy, and he has to aid him shrewder counsel than the friends of the Indians have had.

Except three persons, none of the occupants actually reside upon the reservation.

Most of the intruders have grown rich, arrogant, and insolent in their high-handed encroachments upon the land set apart for the exclusive use and benefit of the Indians. Congressional legislation looking towards a settlement has been defeated in committee.

They want no settlement so long as they can have matters remain as they are, and why should they when such quasi-legal occupancy is vastly more remunerative than actual ownership? They graze annually some 30,000 head of sheep upon the reservation, besides several thousand head of horses, cattle, and hogs.

Their grazing land is stocked with all the animals it will maintain.

The agency cattle are driven off and the agency herder forbidden to "work" his cattle on their (?) ranges. The Government calves are boldly stolen and branded. One man has brazenly boasted to my aide-de-camp that he has stolen 12 calves a month from the agency, and this for years; and yet he is one of the smallest opera-

tors. \* \* \* It is openly boasted that they have stolen the Government calves, raised and fattened them upon the reservation, and sold them to the Government to supply the Indians with beef. \* \* \*

The iniquity perpetrated on this reservation is so glaring, so public, that it is demoralizing in its effects upon a large community.

It is imputed first to Congress, second to the courts, third to the Interior Department. \* \* \* I recommend new legislation, and that in it some other method be taken to compensate claimants and intruders than by continuing them and their herds within the boundaries of the reservation.

This report is corroborative of statements made in a letter from C. H. Eberle dated September 18, 1887.

Mr. Eberle was one of the original settlers who obtained title to certain swamp lands and was paid for his improvements. He is not wholly free from the odium attaching to the early settlers in the valley, and for that reason his testing is the more valuable. He is no longer an occupant of lands within the reservation.

He refers to certain parties who, under a technicality of law, are permitted, and may be for years to come, to enjoy a valuable franchise or monopoly, and to pile riches upon wealth, consequent upon an entire exemption from taxation or money invested in the property used, simply because they have not been paid for a few paltry improvements scattered over a wide range of territory, and says :

The action of the Government is looked forward to with a great deal of interest, in regard to this whole matter. The Indian reservation in Round Valley has since its establishment been under the control of a corrupt ring of speculators, who have grown fabulously rich on the spoils. The Indian agents have been virtually *owned* by these men. \* \* \* The plan of these parties has worked well thus far. They obtained title to the valley lands by the thousands of acres for a mere song. They have used nearly all of the reservation for fifteen years without a dollar's rent, and when a favorable opportunity offers, *the last act of a well-matured plan will be consummated* by getting an act passed by Congress similar to the act of March 3, 1873, curtailing the reservation to a few hundred acres, restoring the balance to the public domain, with the provision that occupants be permitted to enter 640 acres each as grazing lands at a nominal sum and, *as before, secure title to all of their vast possessions by fraudulent entries through the dummies in their employ.*

In the name of justice, in the name of thousands of worthy citizens who own no land, I emphatically and earnestly protest against the continuance of this gigantic monopoly of the Indian reservation by these parties. \* \* \*

The action of President Cleveland and his Cabinet in regard to the wrongful occupation of the public domain and the Indian reservations is a guaranty that such abuses will be no longer tolerated, and that all wrongs will be righted when properly understood.

In a report dated October 7, 1887, District Attorney Carey refers to the injunction proceedings and says :

It is simply disgraceful that the condition of affairs at that reservation has not been broken up and stopped long ago. The authority of the Government is defied and the rights of the Indians absolutely ignored.

It is true there are complications about the matter, and legal impediments in the way of ejecting some of the trespassers, perhaps a number of them, and were they bona-fide settlers who settled for the purpose, and with the view of purchasing the lands under the public land laws of the United States, it would be quite another matter; but the fact is, and well known and understood to be, that they had no other purpose in view than to usurp dominion over large tracts of public domain with the object of grazing their stock, and to maintain their dominion build a corral or cabin here and there.

The attempt of the act of March 3, 1873, to extend the boundaries of this reservation, has been absolutely defeated by the course of these intruders, and I am informed not only resulted in the trespassers continuing in possession, but they infringe upon the limits of the old reservation and commit frequent depredations by way of killing the stock belonging to the reservation, and branding and virtually stealing the larger per cent. of the increase from the reservation cattle.

Thus the struggle to secure the Indians in the possession of lands, some of which were set apart for their use in 1856, has gone on for

thirty years, with the results above depicted. The blame for the present condition of affairs has been cast upon this office and the Department, not only by the Senate committee but by others.

I submit, however, that a careful examination of the foregoing record will convince any disinterested person that this office, since the passage of the act of 1873, at least, has omitted no opportunity and left no means untried to rid the reservation of all white settlers not having absolute right and title therein.

The courts, however, have interfered and by surprising decisions have thwarted any attempts that gave promise of success.

Congress has failed to respond to repeated calls for necessary legislation, and the War Department has apparently been intimidated by county courts and sheriffs.

From District Attorney Carey's report, first referred to, it would seem that even the slow process of the courts will grant little, if any, relief.

The legislation of 1873 was most unfortunate, in that it permitted occupants of the reservation, whether with or without legal or equitable rights, to remain until their improvements had been appraised and paid for.

Under the decision of the courts these occupants had the right to determine whether their improvements had all been appraised, and the tender made must be kept good until the case had been determined in court, which, under the Government system of accounting, is impracticable.

Without further legislation nothing will be accomplished, and the present "extraordinary and disgraceful state of affairs" will be continued for another generation.

The agent reports that already the trespassers have gathered new courage and are preparing to attack the reservation to its full extent, which will necessitate the feeding of all the agency herd and horses through the winter or allowing them to starve.

As he had only about one-tenth enough feed, it is probable that the latter result will ensue.

The temptation to these men to continue their occupation and to others to follow their example is great.

Enough money to build a cabin and buy a branding-iron appears to be all the capital necessary to enable an occupant of the reservation to become wealthy.

The wonderful fecundity of the stock of these occupants has been a subject of remark by special agents and others. It is not uncommon for their ewes and cows to drop duplicates and triplicates, while large numbers of the agency stock are barren.

It is for the interests of these men to defeat all legislation looking to the payment of their paltry improvements, originally valued at some \$32,000, of which sum \$21,000 has been paid, while the occupancy of the reservation is estimated by an intelligent witness before the Senate committee to be worth \$34,125 per annum.

Whatever may be the result of the suits now pending, it is clear that the occupants of the lands covered by the former judgment of the court can not be dispossessed until they have been paid for all of their improvements, and that any successful attempt to eject the occupants of other lands will result in the first parties increasing their holdings and themselves occupying all the reservation.

I have therefore prepared the draught of a bill, intended to accomplish the end sought for unsuccessfully during the last fifteen years.

I desire that this bill may have the careful and earnest consideration

of the committees of both houses of Congress, and that if they are able to discover any loop-hole of escape for the trespassers they will devise such bill or amendment as will make the legislation more swift and sure in accomplishing the object designed.

The bill prepared is similar to that presented to the last Congress, the first section being modified so as to adapt it to the provisions of the severalty act.

I inclose two copies each of the following papers:

General Howard's report, District Attorney Carey's report, Mr. Eberle's letter, draught of bill, and this report.

Very respectfully, your obedient servant,

J. D. C. ATKINS,  
*Commissioner.*

THE SECRETARY OF THE INTERIOR.

A BILL to provide for the reduction of the Round Valley Indian Reservation, in the State of California, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he hereby is, authorized and directed to cause the agricultural lands in the Round Valley Indian Reservation, in the State of California, to be surveyed into 10-acre tracts, and to allot the same in severalty to the Indians belonging thereon, under the provisions of the act of Congress approved February 8, 1857, entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes:" *Provided,* That he may cause said agricultural lands to be allotted in such quantities and to such classes as he may deem expedient and for the best interests of said Indians: *And provided further,* That a sufficient quantity of said agricultural lands shall be reserved for agency, school, and mission purposes.

In addition to the allotments of agricultural lands to said Indians in severalty, there shall be reserved a reasonable amount of grazing and timber lands for their use, to be used by said Indians in common, or the President may at any time, in his discretion, cause the same to be allotted in severalty under the provisions of said act of February 8, 1857. Said grazing and timber lands shall be selected by a commission of three disinterested persons, to be selected by the President.

SEC. 2. That said commission shall appraise the value of any and all tracts of agricultural lands within the Round Valley Indian Reservation, with the improvements thereon, which have become the property of individuals by purchase from the State of California or from persons deriving title from said State, and shall also appraise the value of all improvements made by private persons or firms before the 3d day of March, 1873, upon any of the lands included in the reservation as established under the act of Congress approved March 3, 1873, other than those actually disposed of by said State of California, and within the lands selected and retained for the Indians under the provisions of this act, and shall report the same to the Secretary of the Interior, who shall cause payment to be made for such appraised lands and the improvements thereon, and also for such improvements as may be located upon the lands selected for the Indians in common, or upon any of the unappraised agricultural lands within the reservation as hereby established, to the proper owners thereof, out of the money hereinafter appropriated. Upon payment of the appraised value of such appraised lands and improvements, or upon tender of payment, the title to said lands shall become vested in the United States, and all persons to whom such payment or tender of payment shall be made, and all persons claiming through or under them, shall immediately remove from the reservation as herein established, and upon failure to remove within a period of sixty days after said payment or tender of payment the military forces of the United States, if necessary, may be employed to effect their removal.

SEC. 3. That the remainder of the grazing and timber lands included in the reservation as at present existing shall be surveyed into tracts of 640 acres each, and the boundary lines of the reserved lands shall be run and properly marked. Upon the completion of said surveys, the said remainder of the grazing and timber lands shall be appraised in tracts of 640 acres each, by a commission of three disinterested persons to be appointed by the President, which commission shall also appraise all im-



provements placed upon said tracts before the 3d day of March, 1873, and determine the ownership thereof. The said appraisements shall be subject to approval by the Secretary of the Interior.

The said lands, when surveyed and appraised, shall be sold at the proper land office of the United States, by the register thereof, at public sale, after due notice, to the highest bidder, at a price not less than the appraised value, and not less than \$1.25 per acre. Each purchaser at such sale shall pay the full purchase price at time of purchase.

Any person or persons having appraised improvements upon any of said tracts shall have preference right to purchase the tract or tracts upon which said improvements are located at the appraised value thereof. Upon failure of any such person or persons to purchase a tract upon which his or their improvements are located, said tract and improvements shall be sold at not less than the appraised value, and an amount equal to the appraised value of the improvements shall be paid to the owner or owners of such improvements.

SEC. 4. That the funds arising from the sale of said reservation lands, after paying the expenses of survey, appraisement, and sale, and reimbursing the United States for payment of lands and improvements, as provided in section 2 of this act, shall be placed in the Treasury of the United States to the credit of said Indians, and the same shall draw such rate of interest as is now or may be hereafter provided by law, which income shall be annually expended for the benefit of said Indians, under the direction of the Secretary of the Interior: *Provided*, That an amount not exceeding one-tenth of the principal sum may be also expended for their benefit during any fiscal year, if deemed necessary by the Secretary of the Interior.

SEC. 5. That the sum of \$25,000, or so much thereof as may be necessary, be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of the expenses of the survey, appraisement, and sale of said lands, and for the appraisement of lands and improvements and payment of the same.

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

DEPARTMENT OF THE INTERIOR,  
*Washington, July 29, 1887.*

SIR: I have the honor to inclose herewith copies of certain correspondence relating to intruders upon the Round Valley Indian Reservation in California, and showing the action taken by this Department to secure their removal, and to restrict those having rights to lands within the boundaries of the reservation to the limits of the quantity of land to which their claims attach under the laws and decisions of the courts on the subject.

It appears that the few parties holding claims to land within the reservation, together with the intruders who have no right thereon, are occupying some 97,000 acres of this reservation of 103,000 acres.

The accompanying papers show the action taken by this Department to remove the intruders from the reservation and preserve the land for the use and occupation of the Indians; also, the difficulties likely to be encountered in the attempt to accomplish this purpose.

As a further measure for enforcing the general laws on the subject, and also the regulations of this Department relating to this reservation, I have the honor to request that the proper United States district attorney be instructed to institute proceedings under section 2117 of the Revised Statutes of the United States against any and all persons guilty of violation of the provisions thereof in connection with the lands of the said reservation by driving or otherwise conveying any stock of horses, mules, or cattle to range or feed thereon.

These Indians are reported to be in condition to take their lands in severalty, and it is the earnest desire of this Department that all obstacles and embarrassments in the way of the application of the provisions of the general allotment act on this reservation may be speedily removed.

It is believed that the measures herein suggested, together with the further action of the Department in the matter, if vigorously prosecuted, will result in the clearing of the reservation of intruders and their cattle, and maintain it for the undisturbed use and occupancy of the Indians residing thereon; and to this end I earnestly request the co-operation of your Department.

I have the honor to be, very respectfully,

L. Q. C. LAMAR,  
*Secretary.*

The ATTORNEY-GENERAL.

H. Ex. 33—2

DEPARTMENT OF THE INTERIOR,  
Washington, July 29, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of 28th ultimo, with inclosure from the commanding general of the Department of California, in reply to letter of this Department of 5th of April last, upon the subject of the removal of intruders from the Round Valley Indian Reservation in California, wherein you invite attention to the report of General Howard upon the subject, who states that there are but two intruders upon the reservation in addition to certain parties excepted by a judgment of the United States circuit court, and to his suggestion, that if this Department decides to expel occupants from the reservation or restrict them to small limits, that an inspector in the confidence of the Department, with full powers, be sent to Round Valley, to remain there till the work be accomplished.

In reply, I inclose herewith copy of a letter of 23d instant from the Commissioner of Indian Affairs, to whom the correspondence was referred, who incloses a copy of the instructions issued to the United States Indian agent of the Round Valley Agency concerning the removal of the intruders from said reservation.

As these instructions are very full and explicit, it appears that the agent is well informed as to the scope and character of the duty to be performed by him, as to who are to be considered as intruders, and to be removed as such, it does not appear to this Department that the presence of an inspector would be of any special service or advantage in this case, if one could be spared at this time for such service.

In view of the possibility that the agent, with the aid of the small military force which was requested in Department letter of 5th April last to remain upon the reservation for a reasonable time, may not be able to keep off the intruders with their cattle, and to restrict those parties holding claims to land within the boundaries of the reservation to the limit of the quantity to which they may be entitled under the laws and decisions relating thereto, the Department of Justice has been this day requested to direct the proper United States district attorney to institute proceedings under section 2117 of the Revised Statutes of the United States to recover the penalty prescribed thereunder against all persons who are found driving or otherwise conveying any stock of horses, mules, or cattle to range and feed upon the lands of this reservation without the consent of the Indians.

It is believed that these measures, if vigorously prosecuted, will result in clearing the reservation of the intruders and their cattle, and maintain it for the undisturbed use and occupation of the Indians residing thereon. These Indians are reported to be in condition to take their land in severalty, and it is the earnest desire of this Department that all obstacles and embarrassments in the way of the application of the provisions of the general allotment act on this reservation may be speedily removed.

I have the honor to be, very respectfully,

L. Q. C. LAMAR,  
*Secretary.*

THE SECRETARY OF WAR.

HEADQUARTERS DEPARTMENT OF CALIFORNIA,  
San Francisco, Cal., September 14, 1887.

SIR: The extraordinary and disgraceful state of affairs at the Round Valley Indian Reservation, in my judgment, calls for a special report.

To make the subject clear, it will be necessary briefly to review their history. From 1858 to 1870, the reserve existed informally by an order of the Secretary of the Interior, comprising Round Valley proper, a fertile tract of some 20,000 acres.

March 30, 1870, the entire valley was set apart by a formal order of President Grant; but, prior to this order, a large part of the reservation was already occupied by white settlers and intruders. Three years later, March 3, 1873, by act of Congress, nine-tenths of the valley was opened to settlement, and the boundaries of the reservation so changed as to include within its limits about a hundred thousand acres of mountain land fit only for grazing. This last increase inclosed the improvements of sheepmen, that is to say, their fences, corrals, shanties, and some few acres of tillable land. By the same act of Congress a commission was instituted to appraise the improvements, viz, those of Indians south of the boundary line and those of whites to the north which were included in the new limits.

The act also provided for the payment of the appraised value of the improvements from the proceeds of sales of land restored to settlement. It was further provided "that all settlers now residing upon the tract herein described, lying north of the south boundary of the said reservation, shall be required to remove therefrom as soon as they shall be paid for, or tendered the amount of the appraised value of their improvements." It is plain that none of these settlers at the time of the passage of the act could have had legal claim to more than 160 acres of land each, and to such improvements as they had already made upon said tract. Yet a liberal construction of the act

has given them the value of improvements on much in excess of those upon the 160 acres. Appraisement was made and in some cases payment tendered and accepted; in others, refused on plea that all the improvements were not appraised. In other cases the appraisements were satisfactory, but no payment has ever been tendered. The claimants were originally twenty-eight in number, and the value of their improvements as appraised by the commission was \$32,519.78. The amount available from the sales of land for the payment of these claims was not sufficient to pay all the claimants, so that the improvements of fourteen of them, amounting to \$10,879.78, have never been paid for, nor has payment therefor been tendered. Hence the complications and glaring abuses which to the disgrace of humanity exist now, and have existed for years upon this reservation. These claims are now held by some nine parties, only four of whom are original settlers, the others holding by assignment. As the Government does not recognize the assignment of a homestead or pre-emption claim and never did, it follows that there are at present only four legal claims, and those to 160 acres. By the very broadest interpretation of the law and the act in question, these should be restricted to the land inclosed by the improvements (fences) as they existed March 3, 1873. These inclosures were then and are now insignificant in extent, although most of the fencing has been done since the passage of the act. The entire area wholly inclosed by fencing by these people to-day does not exceed 2,000 acres, *i. e.*, the whole of the grazing land. Therefore it is hard to see just by what process of reasoning a United States circuit court could give undisputed possession to at least half of the grazing land of the reservation to the three defendants. (See judgment of the United States circuit court, page 195, Senate Report No. 1522, Forty-eighth Congress, second session.)

These defendants and others, some of them without even the flimsy pretext of an assigned pre-emption or homestead claim, hold the whole or about 100,000 acres of grazing land. Certainly the court did not so intend, neither did the Supreme Court mean to aid and abet this iniquity. Feeble efforts have been made from time to time to restrict and expel these trespassers, but they have always resulted in a complete failure, and why? One of the chief claimants, himself not an original settler, but one by purchase, is an ex-member of Congress, and wealthy, and he has had to aid him shrewder counsel than the friends of the Indians have had. Except three persons, none of the occupants actually reside upon the reservation. Most of these intruders have grown rich, arrogant, and insolent, in their high-handed encroachments upon the lands set apart for the exclusive use and benefit of the Indians. Congressional legislation looking toward a settlement has been defeated in committee. They want no settlement so long as they can have matters remain as they are, and why should they when such quasi legal occupancy is vastly more remunerative than actual ownership. They graze annually some 30,000 head of sheep upon the reservation, besides several thousand head of horses, cattle, and hogs. Their grazing land is stocked with all the animals it will maintain. The agency cattle are driven off and the agency herder forbidden to "work" his cattle on their (?) ranges. The Government calves are boldly stolen and branded. One man has brazenly boasted to my aide-de-camp that he has stolen 12 calves a month from the agency, and this for years; and yet he is one of the smallest operators. Such has been the thieving of some of these men that, although the agency herd of cattle has numbered 500 to 700 head, mostly she cattle, the agency has heretofore barely secured 100 head of the increase yearly.

It is openly boasted of that they have stolen the Government calves, raised and fattened them upon the reservation, and sold them to the Government to supply the Indians with beef. The recent order from the Interior Department protects a part of the stockmen and gives them practically half of the reservation. The others concerned are indignant, and ask, "will the United States troops protect these men in their occupancy?" These declare that they will move their herds to that side of the reservation which is not to be cleared. There are no natural barriers between the princely possessions of those exempted under the order and those less favored, and the fences, most of which have been erected since 1873, are not arranged so as to effect such a separation. As a matter of fact, all stock upon the reservation intermingle. It follows that after the reservation is cleared of stock belonging to those who are deemed unlawfully upon it, it would only have the effect of allowing those remaining to double or treble their herds, which they will undoubtedly do. Matters would then be as bad for the Indians as before. It would take a hundred mounted men patrolling day and night to restrict those exempted to the boundaries which were erroneously, I think, set forth in the judgment of the court. The judge must have been deceived as to the enormous amount of land covered in his decision.

The iniquity perpetrated on this reservation is so glaring, so public, that it is demoralizing in its effects upon a large community. It is imputed, first, to Congress; second, to the courts; third, to the Interior Department. Now of course the military arm is called in and forced in spite of itself to continue the crime.

A Congressional committee's report, February 27, 1885, contains the facts. An inspector of the Interior Department, General Heth, in a report dated February 9, 1887,

has again set forth the manner in which the Government and the Indians have been robbed and outraged.

I recommend new legislation, and that in it some other method be taken to compensate claimants and intruders than by continuing them and their herds within the boundaries of the reservation.

Very respectfully, your obedient servant,

O. O. HOWARD,  
*Major-General, Commanding.*

The ADJUTANT-GENERAL OF THE ARMY,  
*Washington, D. C.*

SANTA CRUZ, CAL., *September 18, 1887.*

DEAR SIR: I learn from the San Francisco papers that the United States troops are now on their way to execute an order for the removal of settlers on the Round Valley Indian Reservation in this State, and that several of the parties thereon will be permitted to remain with their stock, among whom are the Henley Brothers and Gibson.

On the mere technicality of law these men have since the passage of the act of Congress of March 3, 1873, occupied about 28,000 acres of the finest grazing, farming, fruit, and vine land in this State, a principality enjoyed under the protection of the Government, a monopoly shielded from the intrusion or molestation of all others by the Government.

The United States circuit court in the case of *The United States vs. Eberle et al.* decided (see Senator Dawes' Senate Report No. 1522, Forty-eighth Congress, second session, page 193) "that the plaintiff is not entitled under said act to recover of said defendants the possession of said lands so described in the respective answers of said defendants (Henley Brothers and Gibson)."

The fraudulent entry (see page 160 of said report) of a large tract of the restored reservation lands by G. W. Henley, at the nominal sum of \$1.25 per acre, worth at the time of his entry from \$40 to \$50 per acre, deprived the Government of the money that ought to and would have paid every settler entitled to receive compensation then on the reservation. It was never intended by those who engineered the bill through Congress, Col. Thomas J. Henley, father of the Henley Brothers, and others who are now enjoying this monopoly, that their improvements should be paid for by the Government; and as they planned it, so it has been. They still retain possession, and, if the papers speak authoritatively, they will continue so to do for years to come.

The technicality of law which is here referred to is that, not being paid for a few improvements in the shape of poorly-constructed sheep corrals and delapidated cabins, scattered over a wide range of territory, they are, have been, and may possibly be for years to come, permitted to enjoy this valuable franchise, or monopoly, and continue to pile riches upon wealth, consequent upon an entire exemption from taxation or money investment in the property so used.

If they are permitted to remain until their improvements are paid for, their occupation of lands until that time should be restricted to the use of 160 acres, and no more. Other citizens have no greater privileges. Why, then, should they have the use of so many thousands of acres?

The action of the Government is looked forward to with a great deal of interest in regard to this whole matter. The Indian reservation in Round Valley has, since its establishment, been under the control of a corrupt ring of speculators, who have grown fabulously rich on the spoils. The Indian agents have been virtually owned by these men. These men have been the official bondsmen of the agents, and the agents have been compelled to do their bidding.

I know these things. I (until recently) have been a resident of Round Valley from its earliest settlement, and know whereof I speak.

The plan of these parties has worked well thus far. They obtained titles to the valley lands by the thousands of acres for a mere song. They have used nearly all of the reservation for fifteen years without a dollar's rent, and, when a favorable opportunity offers, the last act of a well-matured plan will be consummated by getting an act passed by Congress similar to the act of Congress of March 3, 1873, curtailing the reservation to a few hundred acres, restoring the balance to the public domain, with the provision that occupants be permitted to enter 640 acres, each, as grazing lands, at a nominal sum, and, as before, secure title to all of their vast possessions by fraudulent entries through the dummies in their employ.

In the name of justice, in the name of the thousands of worthy citizens who own no land, I emphatically and earnestly protest against the continuance of this gigantic monopoly of the Indian reservation by these parties.

Henley Brothers & Gibson have no right upon the Round Valley Reservation.

They have no right to the land fraudulently entered by them on the restored domain, of every acre of which, so entered, the patent should be canceled and the land resold for the benefit of the Indian service, as contemplated by law. The report of Special Agent Wilson T. Smith furnishes abundant proof for procedure.

The Asbill Brothers are entitled to some consideration. They were wholly outside of the reservation at the time of its extension.

Philo Handy is an intruder and trespasser, entitled to no consideration whatever. When my sheep were driven off during the litigation by Indian Agent Sheldon, assisted by Handy, an employé on the reservation at the time, said Handy was permitted and did drive immediately upon the range occupied by me on the reservation a band of sheep of his own. And he has occupied the same until now.

Bourne & Bermudas, now residing on the reservation, were permitted by Agent Sheldon to enter the premises and take possession of the improvements surrendered by me to the Government, for which I received pay, and they have continued to occupy the same until now without compensation to the Government.

Bourne & Johnson are not entitled to occupy any portion of the reservation.

Joseph Rea is also an intruder, having entered upon the reservation quite recently.

David Johnson, in collusion with Agent Sheldon, was permitted to drive sheep upon the reservation long after its boundary extension.

I am familiar with every foot of the reservation lands; it is all rich and productive land.

The amount not susceptible to cultivation is very small; the greater part is open land, ready for the plow, very rich, with plenty of timber in the ravines, not as steep as are thousands of acres in cultivation in other parts of this State, with abundance of water, and adapted to the profitable production of all kinds of grain, fruits, vines, and vegetables. Such lands in this county bring readily from \$50 to \$100 per acre.

Such is the character of the lands that are now being monopolized by the thousands of acres by the ring, and from which every one of them should be driven with their stock immediately.

This communication is made solely to call your attention to the fact that, while it is presumed that all citizens are entitled to equal privileges and rights on the Government domain and upon the Indian reservation, also a few men with the aid and in business connection with men in high official positions—for instance, the Hon. Barclay Henley, a member of Congress from this State—are and have been permitted to grow immediately wealthy by the usurpation of the property of the Government, and, through their power and influential positions, defy even the Government itself to dislodge them.

This has been amply manifested in the past by the success of the elder Henley, the Hon. Thomas J., and succeeded by the son, the Hon. Barclay Henley. These men have used the Department of Indian Affairs for years as a cat's paw for their private aggrandizement, and through postponements, delays, rehearings, and new committees have managed to maintain their possession of the reservation until now.

The action of President Cleveland and his Cabinet in regard to the wrongful occupation of the public domain and the Indian reservations is a guarantee that such abuses will be no longer tolerated, and that all wrongs will be righted when properly understood.

For this purpose this communication is earnestly submitted.

Respectfully, yours,

C. H. EBERLE.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR.

Washington, October 3, 1887.

SIR: I have the honor to inclose herewith copy of a letter of 1st instant, from the Commissioner of Indian Affairs, with inclosed copy of telegram noted therein, received from United States Indian Agent Yates, of Round Valley Agency, California, to the effect that he has been served with an order to appear before the supreme court of Sonoma County, Cal., on 10th instant, and show cause why he should not be restrained from removing certain intruders from Round Valley Reservation under orders from this Department.

Concurring in the recommendation set forth in the letter of the Commissioner of Indian Affairs, I respectfully recommend that the proper United States district attorney be instructed by telegraph to represent the interests of the United States in this case, and use all proper efforts to defeat the contemplated injunction.

The Commissioner reports that the agent will be instructed to confer with the district attorney upon the subject.

In this connection attention is respectfully invited to letter of this Department, of 20th July last, requesting the institution of proceedings against parties upon the Round Valley Reservation, under section 2117, Revised Statutes, and to the action taken by the Department of Justice thereunder.

I have the honor to be, very respectfully,

H. L. MULDROW,  
*Acting Secretary.*

The ATTORNEY-GENERAL.

DEPARTMENT OF THE INTERIOR,  
*Washington, November 5, 1887.*

SIR: I have the honor to inclose herewith copy of a letter of 4th instant from the Commissioner of Indian Affairs, with accompanying copies of papers noted therein, upon the subject of intruders in the Round Valley Indian Reservation in California, the removal of whom has been enjoined by the superior court of Sonoma County, Cal.

The Commissioner, in forwarding the inclosed papers, observes that, "in the present aspect of the case," he does not see that any further action on the part of this Department is practicable, at least until the injunction shall have been dissolved.

Concurring in the recommendation set forth in his letter, I respectfully request that the inclosed papers may be forwarded to the proper United States district attorney, with instructions to use every possible legal remedy to effect the removal of the parties (before requested) "and correct 'the extraordinary and disgraceful state of affairs' at Round Valley, which has so long been a reproach upon all who are responsible for its continuance."

I have the honor to be, very respectfully,

D. L. HAWKINS,  
*Acting Secretary.*

The ATTORNEY-GENERAL.

SAN FRANCISCO, *November 15, 1887.*

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, initials "N. T. N. R.," file number 1437, 1884, together with its inclosures relative to intruders upon the Round Valley Indian Reservation in this State. Mr. Yates, the Indian agent at said reservation, in pursuance of orders issued from his Department, aided by a military force furnished by General Howard under orders from the Department of War on the request of the Secretary of the Interior, was proceeding to evict the intruders not excepted in a letter from the Commissioner of Indian Affairs bearing date May 2, 1887, when two of them, viz, Philo Handy and D. T. Johnson, sued out a writ of injunction in the superior court of Sonoma County, this State. This suit was instituted against Yates, the agent, alone. I advised Yates to desist from further action until the jurisdiction of the court could be judicially determined and the answer to the rule to show cause why the injunction should not be made perpetual could be heard. He followed this counsel and directed the military commander in charge of the military force assisting him, the writ running against the agent, his agents and employés, but the commander, Captain Shaw, declined to obey him and continued in the work of ejecting intruders. Thereupon, the same parties, Philo Handy and D. T. Johnson, and a number of other intruders directed to be ejected, brought suit in the superior court of Mendocino County against General O. O. Howard and Capt. R. G. Shaw, immediately in command of the military force on the reservation. The sheriff served the process upon Shaw, and he declined to obey and informed the sheriff he would make respectful return to the writ, but should continue the eviction in obedience to the orders of the superior officer. He did so continue the eviction, and upon a showing made, a warrant of arrest was issued for him. The sheriff proceeded to make service of the warrant, whereupon Captain Shaw resisted and declined to surrender. The sheriff returned to the county seat and there telegraphed to me the facts and said he would raise a posse and take Captain Shaw, and requested me to advise General Howard to order Captain Shaw to desist and surrender until the matter could be heard in court. I thereupon advised General Howard to desist and to direct Captain Shaw to make return to the court denying its jurisdiction in the premises, and submit to a judicial determination of the questions involved. This he declined to do without orders to that effect from the Department of War, which was the occasion of my telegram to you under date of 27th ultimo. In the first case mentioned, that pending in Sonoma County, I at once took proper steps to remove the whole matter to our circuit court and succeeded in doing so, but have not been able to bring the matter on to hearing at the present time. I also took the proper

steps to remove the cases commenced in Mendocino County to the circuit court and succeeded in staying all proceedings in the State court, and at once ordered a transcript of the record to be sent to be entered and filed in our United States circuit court. The record in these cases has not yet been filed, not yet having been received. As soon as I have gotten all the cases in the circuit court, I shall bring the matter on for speedy hearing. The transfer of the cases from Mendocino County I contended, and the court finally concluded, carried with it the contempt proceedings against Captain Shaw; so that the whole matter will be submitted to and determined by our United States circuit court. I am satisfied the temperament of the State courts, for reasons that I need not state, is adverse to the proceedings, and again, I am fearful of the result of the cases in the circuit court, owing to the decision of that court in the case of *The United States vs. Chas. H. Eberlee*, which was appealed to the Supreme Court of the United States and affirmed. The case of *Handy and Johnson* will not come within the rule of the decision of the case above cited, because whatever rights they may have were acquired as purchasers subsequent to the act of Congress passed March 3, 1873; but as to the other plaintiffs, I am informed that they were settlers upon and had improved public lands brought within the reservation by the provisions of said act of Congress prior to the passage of that act. Should the decisions of the court be adverse to the Government in this effort of eviction, there is but one clear way out of the difficulty, and it ought to be speedily resorted to; and that is, to make the necessary appropriation, have the improvements appraised, and the appraised value tendered therefor as required by the provisions of the act hereinbefore cited. The present condition of affairs, and that have existed so long, is a farce and ought not to be tolerated longer. I will use my utmost endeavors to secure a favorable decision and this with every dispatch consistent with other official duty and the business of the court. It may not be out of place to state that General Howard has received orders, the exact nature of which, I am informed, but they had the effect to prevent a collision between the civil authorities and the military, and further proceedings by the military have been temporarily suspended; but the troops have not been withdrawn and will not be, as I am informed, until after a final determination of the matter in court. I will report further progress.

Very respectfully, yours,

JOHN T. CAREY,  
*United States Attorney.*

The ATTORNEY-GENERAL,  
*Washington, D. C.*

DEPARTMENT OF THE INTERIOR,  
*Washington, November 30, 1887.*

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant, inclosing copy of a telegram from the commanding general of the Division of the Pacific, suggesting, for reasons stated, that the United States troops in Round Valley be withdrawn until next spring, with recommendation from the Lieutenant-General for favorable action upon the suggestion of General Howard, concerning which you request to be favored with the views of this Department upon the subject.

I also acknowledge the receipt of your Department letter of 26th instant, referring to the previous correspondence upon the subject, and requesting to be favored with an early reply.

The letter of the 19th instant having been referred to the Commissioner of Indian Affairs, I have the honor to inclose herewith copy of his reply of 28th instant, with accompanying copy of letter of 3d instant from Agent Yates, of Round Valley Agency, noted therein, concerning action taken for the removal of intruders from the Round Valley Reservation, and the results flowing from the injunction obtained in the courts.

The Commissioner expresses the opinion that, "in view of the fact that the matter is now pending in the United States court, and that the agent has been instructed by the district attorney to stay all proceedings, he does not see that the military can accomplish any good by remaining longer on the reservation."

The views of the Commissioner have the concurrence of the Department, and I therefore recommend, for the reasons given, that the troops be not required to remain longer on the reservation at this time.

I have the honor to be, very respectfully,

H. L. MULDROW,  
*Acting Secretary.*

The SECRETARY OF WAR.