

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1885.—Ordered to be printed.

Mr. DAWES, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany resolution of the Senate of July 4, 1884.]

The Committee on Indian Affairs of the Senate, who were instructed by resolution of the Senate of date July 4, 1884, "to inquire into the condition of the ——— Indians upon the several reservations in California, and that the said inquiry be directed particularly to the Round Valley Indian Reservation in said State; and that full investigation be made into the present and past management of said reservation, and of all abuses of the rights and interests of the Indians thereon," submit the following report:

The chairman, Mr. Cameron of Wisconsin, and Mr. Morgan, were appointed a subcommittee for the purpose of making an investigation required by said resolution, and met for that purpose at Chicago on the 9th of August, and from thence proceeded to the Round Valley Reservation, in California. They took testimony at San Francisco, at Ukiah, and at Eden Valley, and at Covolo, in Round Valley, and at the Round Valley Agency. They also, on their return, took the testimony of various witnesses at Los Angeles, in reference to the condition of the Mission Indians, in Southern California. All of this testimony accompanies this report, and is referred to for further information. The Round Valley Reservation consists of about 103,000 acres, all of which, with the exception of five or six thousand acres, is mountain or grazing land. The balance is a part of the valley which bears that name. Originally the reservation consisted of the entire valley called Round Valley, embracing about 25,000 acres of exceedingly fertile and productive land located in the midst of the hill country of Mendocino County, California, about 200 miles northerly of San Francisco.

In 1873, by an act of the 3d of March of that year, the boundaries of the reservation were changed, and the southern portion of the valley turned open to settlement, leaving only five or six thousand acres of it within the reservation.

The reservation was compensated for this valley country thus thrown open to settlement by enlarging its boundaries on the north, and included a large tract of grazing country in all, with a small balance of the valley land still remaining, in a reservation amounting to 102,000 or 103,000 acres, as has been stated. At the time of this change in the limits of the reservation there were about 1,000 Indians upon the reservation, made up of several bands belonging to different tribes, who, before that time, dwelt in small numbers in different parts of Northern

California. The committee found upon the reservation between five and six hundred Indians only. One or two hundred Indians belonging to the reservation were out temporarily at work in the hop-fields of the adjacent districts, but several hundred of the Indians had, within a few years, abandoned the reservation and taken up their residence at some distance from the reservation upon land they had obtained by purchase, and were taking care of themselves.

The committee found the greater part of the reservation in the possession of several white men, and occupied by them mostly with herds of sheep, their occupancy marked, that of each man, with well-defined limits consisting of fences and of natural boundaries. A map of the reservation, with the names of the occupants and the boundaries of the respective inclosures, accompanies this report. The names of those who occupy it, the number of acres occupied by each, and the number of sheep maintained by them upon their several portions of the reservation, are as follows :

No.	Occupied and grazed by—	No. sheep.	No. acres.
1	G. E. White.....	6,000	7,600
2	Henley Bros. and Gibson.....	7,000	28,000
3	Jacob Uptegraff.....	5,000	11,000
4	Frank Azbill.....	6,000	8,500
5	D. T. Johnson.....	5,000	12,000
6	J. G. Short.....	6,000	18,500
7	Foster Bros.....	4,000	5,500
8	Bourne and Johnson.....	2,500	3,200
9	Bourne and Johnson.....	2,500	3,200
		44,000	97,500
10	Occupied in part and grazed by Indian reservation.....		5,500
	Total.....		103,000

About 1,600 head of horses, cattle, and hogs are also grazed on the reservation.

These numbers are the estimates of intelligent witnesses who apparently were familiar with the ground, and with the manner in which it was occupied, and is approximately the actual condition of things. This exclusive occupation of 97,500 acres of this entire reservation by these white men here enumerated has been without compensation, and has continued nearly the entire time since the reservation was marked by its present limits by the act of March 3, 1873. The value of this occupancy cannot be determined with any accuracy, but is estimated by one intelligent witness to be in the aggregate \$34,125 a year. Taking the years together the committee are of the opinion that at least any one having the right to rent it, and the authority to require of those who occupy it a fair compensation, should easily have realized an annual income of \$30,000. The committee refer to the accompanying testimony for the evidence upon this subject. This is certain, that this occupancy has been a very valuable source of income to those who have occupied the land as sheep ranges, and the agency and the United States supporting these Indians have in this way been deprived of a very valuable source of revenue. The effect upon the prosperity of these Indians upon this reservation, of this exclusive occupancy of almost their entire reservation by white people without compensation to them, has been very marked.

The committee found the Indians confined in the use of their reservation to very narrow limits—about 3,000 acres of valley land, and about 1,000 or 2,000 acres of the upland, together with such use of the up-

land occupied by the white men as could be obtained by the stealthy and occasional occupation of it by the agency herd. The agency had at one time a herd of nearly 1,000 cattle, but this had been reduced from year to year, and crowded down upon narrow limits by the occupation of their grazing grounds by others, until the land left for the Indians supported with difficulty, at the time the committee were at the agency, about 400 head of cattle, and those in so scanty a manner that they were killed for beef before they were full grown and fattened, and furnished food for the Indians of an inferior quality. The agent, not being able to supply beef enough from this small herd, has been obliged to purchase from 50,000 to 60,000 pounds of beef each year. This beef had latterly been purchased of the very men who were enjoying the exclusive use of almost the entire reservation, as has been stated. The cattle were fattened free of all charge upon the lands of the reservation, and then sold to the agent to support the Indians. The evidence shows that were the Indians in the undisturbed enjoyment of their reservation, as defined by the act of March 3, 1873, they could without difficulty have maintained a herd numbering 5,000, one thousand of which would have been sufficient to supply from year to year all the beef necessary for the support of the Indians and the employés at the agency, without diminishing the number of cattle. Four thousand head of cattle would thus have been grazed upon the reservation for sale in the market, making an annual profit of many thousands of dollars. It was estimated by good judges that this reservation before the reduction, when it contained 25,000 acres of the valley, would, if properly managed, have been able to support all the Indians in California without charge to the Government; and the evidence satisfied the committee that the limits of the present reservation embrace land productive and well calculated for the production of everything necessary for the support of many more Indians than are now to be found in the State of California; yet, while men without authority and without paying anything to the Government have occupied from 90,000 to 95,000 acres of the 102,000, constituting the reservation for the last twelve or thirteen years, the Government has been obliged to pay during that time for the support of the few Indians upon the reservation since the year 1873 the sum of \$241,975.93, an average of \$20,165 a year. This statement itself is a sufficient commentary upon the folly which has marked the administration of this reservation during this time. In the mean time the agency buildings have rapidly deteriorated, and are now in a condition of decay and dilapidation. An outlay in addition to this annual cost is necessary for the repair and restoration of the agency buildings and appointments suitable for the maintenance of the agent and employés, and the comfort of the Indians that remain on the reservation. The committee are unable to find any excuse for this condition of things.

Notice of this occupancy by those who have no right to almost this entire reservation seems to have been brought more than once to the attention of the Government, and feeble attempts, at different times, have been made to recover portions of this reservation from the possession of white men. Several suits were commenced in the United States court at San Francisco for the possession, from different parties, of about 1,000 acres, more or less, of the reservation. The committee are unable to ascertain with what vigor or fidelity and thoroughness these suits were prosecuted. Judgment was rendered against the United States in these suits in the United States court in California some time since, and an appeal was taken to the Supreme Court at Washington. This

appeal was dismissed during the last session of the Supreme Court, for what reason, and whether with the knowledge and concurrence of the Interior Department, it is not known; nor were the committee able to determine, with any definiteness, how large a portion of the reservation was affected by the adverse judgment which necessarily followed a dismissal of this appeal.

The act of March 3, 1873, provided for the appointment of three commissioners who should, among other things, make an appraisal of all improvements of white persons who were at that time located upon the lands included within the present limits of the reservation, and it was further provided that out of the proceeds of the land thrown open by that act to settlement these improvements should be paid. And all settlers residing upon such new 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."

The commissioners appointed under that act proceeded, after having established the limits of the reservation, to appraise, according to the requirements of the statute, the improvements of such settlers as were found then upon the land. The report of those commissioners, and their appraisal of the improvements found by them upon the land, together with the sums paid by them to different occupants of the land, are found in House Ex. Doc. No. 118, Forty-third Congress, first session, which also accompanies this report. From that document it appears that twenty-seven men were found to be occupying some portions of this territory within the limits of the present reservation. Their improvements were appraised, in the aggregate, at \$32,669.78, and the amount paid to each individual accompanies that document also. The nine individuals and firms who now occupy some 95,000 acres, more or less, of this reservation, base their right of occupancy upon the claim that they were there themselves, or have become purchasers of the rights of individual settlers, whose improvements had been appraised by this commission, but who had not received compensation for such improvements; and they claim that by provision of this statute these settlers were not required to remove from this reservation until they had been paid or tendered the amount of the appraised value of their improvements. The provision of the statute upon which this claim is based has been already quoted, and is in the following words:

And all settlers now residing upon the tract herein described lying north of the south boundary of 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.

Previous to the act of 1873 no part of the present reservation had been open to settlement under the provisions of the land laws of the United States, but these persons had doubtless gone upon the same, and made the improvements alluded to in this act in good faith, with the intention to become settlers, and obtain title thereto whenever the land was put into the market under the land laws of the United States, but the committee do not know of any law by which any one of them could at that time, or since, have obtained by mere occupancy more than 160 acres of this land, either under the pre-emption homestead or other laws by which settlers obtain title to the public land, and they are unable to discover any method by which any one settler could have put improvements upon more than any one lot of 160 acres of land to which he could have set up any color of title under the term "settler." Therefore those of these nine persons who were numbered among the original settlers described in this statute, and

those of them who succeeded to the rights of other settlers, could at most have had improvements only upon 160 acres each, or nine times that amount, or 1,440 acres in all. It is impossible for the committee to discover how nine settlers, such as are described in the act of March 3, 1873, have been enabled to enlarge their occupancy until finally they have come to occupy exclusively, and in every respect as if they own the fee, the number of acres of land now occupied by each as described in the table of occupancy already embodied in this report, amounting in the aggregate to 97,500 acres. One of the parties now occupying this large portion of the reservation has described the nature of their claim to occupancy in the following manner:

They contend now that they have a right to remain until Congress appoints a commission to appraise the land properly; and pays the full value of their improvements.

Q. Are they willing to go then?—A. Well, I don't know; but they think they would have to go after that. If they don't have to go, they certainly won't go.

Q. They think when this is done they will have no further rights?—A. Yes, sir; I suppose so.

Q. Under what claim of right did they make the improvements in the beginning?—A. As settlers of public lands of the United States.

Q. Were these lands open to settlement at the time?—A. Yes, sir.

Q. Were they surveyed lands?—A. No, sir; unsurveyed.

Q. They were not in the market?—A. No, sir.

Q. What right has a settler before the land is opened for sale?—A. The way I understand it is that the United States invites settlers to settle whether the land is surveyed or unsurveyed. They can settle at any time. After the land is surveyed and the Government concludes that it wants the land it cannot take it without paying for the improvements.

Q. Why?—A. Because it has invited them to settle upon the land.

Q. How much land do you understand a settler can take?—A. One hundred and sixty for pre-emption or homestead.

Q. The improvements of how many settlers did Mr. Uptegraff purchase?—A. He purchased the improvements of only one settler.

Q. And that settler was only entitled to 160 acres?—A. Yes, sir.

Q. Did he make any improvements himself?—A. Oh, yes; a good many. He purchased somebody else's land, and added to it by adding other improvements in the same place.

Q. How could he enlarge it into 20,000 acres? Did he buy a right of these men to spread it?—A. Well, I don't know his opinion in regard to that.

Q. Take the Henley brothers, they bought somebody's improvements?—A. Yes, sir. They bought one-half of E. S. Gibson's. Really, George Henley bought the half of Gibson's place. Gibson had made the improvements before the land was included in the reservation.

Q. Gibson made an improvement as settler?—A. He made an improvement.

Q. Will you explain to me how the Gibson improvement got spread out into 16,000 acres?—A. By his using that much?

Q. Yes, sir.—A. Just the same as other settlers use 20,000 or 30,000 acres sometimes. Men can come into that area and take up claims. When unsurveyed and nobody wants to settle, the settler uses that much if he can.

Q. Of course that remark applies to all of them?—A. Certainly.

The present occupants of this Territory have added largely to the improvements that existed upon the land at the time of the passage of the act referred to, and after the appraised valuation was made under that act, and have by the erection of fences and other permanent structures treated it in all respects as if it were their own land, while the Government has been compelled to support the Indians upon this reservation out of its Treasury at a very large expense, and to make from time to time great outlays to maintain the necessary outfit of the agency; and during all this time the agency proper, and buildings occupied by such Indians as do not live in tents, and those necessary for the cultivation of the land in the immediate vicinity of the agency, have been, as has already been stated, becoming every year more and more dilapidated. An immediate outlay of a considerable sum of money will be required in order to

maintain them in any manner suitable for the comfort of the agent and employes and for the care of the Indians.

The valley land is exceedingly fertile, and capable of producing valuable crops of hops. There is a grist-mill upon the reservation capable of grinding not only all the grain necessary for consumption at the agency, but for all the white people of that vicinity, and capable of becoming a source of income to the agency. There is an abundance of timber in the vicinity of the saw-mill which could be made into lumber sufficient for the restoration of all the buildings, and the construction of new ones at the agency, and also for sale to the white people in the towns about, where there is great demand for such lumber. But in all such operations having a tendency to relieve the agency from being a charge upon the Treasury of the United States, and also calculated to bring the Indians into a condition of self-support, and of industrious habits, the agency is greatly crippled by the condition of things herein described. It is without funds to carry on the grist-mill and saw-mill, and the cultivation of the valley land, nor is it able to maintain its herd for want of grazing lands.

The agency is poor in everything pertaining to its management, consequent upon the fact that almost the entire value of the reservation goes annually into the pockets of the men who occupy its grazing lands in the manner herein described.

The committee were unable to find any reason for the continuance of this condition of things. Indeed, they are at a loss to understand how it came about at all. The men thus occupying the reservation, it was testified before the committee, had acquired large fortunes from this occupancy, and the evidence everywhere was concurrent that immense profits resulted from the use they were permitted to make of the reservation lands. There were men of large means, and responsible, who testified before the committee that they had offered to furnish bonds to the Government to support the Indians in a manner satisfactory to the Government, and free of charge, if they could be permitted to occupy the reservation in the manner these men occupy it without paying anything for it. There were others who testified before the committee that this reservation itself was capable of maintaining all the Indians in California free of charge to the Government if its resources were only husbanded in the manner in which prudent and enterprising men manage their own private affairs.

The committee are of opinion that this condition of things should no longer exist, and that the administration of the Indian Department should not only be clothed with power, but required, without delay, to take efficient measures to recover for the use of the United States all the lands within the limits of this reservation to which its title now remains good. The Army of the United States has been recently employed to drive from lands within the limits of other Indian reservations those who have gone upon them for purposes of settlement.

This committee can see no ground for distinction between the men thus driven off by force and those occupying almost the entire Round Valley Reservation in the manner herein described. If any of those thus occupying it have failed to have the improvements that they had at the time of the enactment of the law of 1873 upon these lands appraised or paid for according to the provisions of that act, measures should be taken at once to complete the appraisal and tender payment to them for their improvements which then existed upon the land.

The committee are of the opinion that they had no shadow of right to add to those improvements after the passage of the act of 1873, and

any improvements put upon these lands since the date of that act and the establishment of the boundaries of this reservation have been put upon the land without right, and the owner can make no claim upon the Government therefor. That act 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 each while waiting for the payment provided for in that act.

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 that the matter was considered and every claim of that kind satisfied. The committee are of opinion that the earliest measures should be taken to reduce the boundaries of this reservation to the present wants of these Indians. All that are upon it cannot amount to more than seven or eight hundred, men, women, and children. 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.

This land is so fertile and productive that, in the opinion of the committee, a much smaller amount than 160 acres is sufficient for all the wants of any head of a family, and would be all that he could be induced for many years to cultivate. The opinions of witnesses examined generally agree in the statement that about 40 acres would be all that is necessary for a head of a family. It may be wise to join to these allotments a portion of the upland for grazing purposes. At any rate, it is the duty of the Government to take these Indians and their reservation in hand, and, after having reduced the reservation to their present wants and prospective development and apportioned to each one all his necessities, require the balance of the reservation to be sold and the money put into the Treasury for the benefit of these or other Indians. Hardly any of the upland can be used for homestead purposes. It is almost exclusively grazing land, and therefore must be held in larger quantities than 160 acres.

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 shall 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 fast going to decay. These Indians are now so

far advanced that a little care and the proper disposition of them upon a portion of this land will result in making them not only self-supporting, but in time useful members of the community in which they live, while the funds derived from the sale of that portion of their reservation not needed for their support can be devoted to their civilization and education, and to that of other Indians in that vicinity, resulting in permanent good to the race. A longer continuance of the existing state of things will, on the other hand, result in a relapse of the Indians into barbarism, and a waste of a vast amount of Government property.

The condition in which the committee found the Indians in Southern California will be best understood by the testimony annexed to this report. They have been sadly neglected by the Government, and their condition is one that brings nothing but reproach upon those to whom they have been accustomed to look for the preservation of their rights. That condition has been so fully set forth in a recent report made by Mrs. Helen Jackson and Mr. Abbott Kinney to the Department, which is also made a part of the evidence in this case, that the committee do not deem it necessary to more than corroborate the condition of things as therein represented, and to approve of the recommendations made by that commission in reference to this unfortunate portion of the race residing in Southern California. The demand for the relief suggested in that report is pressing, and every day's delay enhances the difficulties and brings new hardships and suffering upon these Indians. There can be no excuse for a longer continuance of the condition of things now existing there, and which is so urgently pressed upon the consideration of the Government in the report already alluded to.

TESTIMONY
CONCERNING
CERTAIN INDIAN TRIBES.

SAN FRANCISCO, CAL.,
September 18, 1884.

Testimony of Paris H. Folsom.

PARIS H. FOLSOM examined.

By the CHAIRMAN:

Question. Mr. Folsom, will you give us your full name?—Answer. My name is Paris H. Folsom.

Q. What official position do you hold?—A. I am a special Indian agent.

Q. You have recently visited Round Valley Indian Reservation in this State?—A. Yes, sir.

Q. What was the object of that visit?—A. I was sent to Round Valley by the Department to inquire into the condition of the Indians there, what their relations were to their white neighbors, and to examine into the interests of the reservation and Government generally. I did not go into the legal question of the division of the land because that subject was not before me.

Q. State to us what you found to be the actual condition of things upon the reservation without regard to the legal questions involved.—A. I found the Indians very much cramped for space; and a great many said to me voluntarily that if they allowed their horses to go into the fields occupied by the agent's horses trouble resulted; and if their chickens went into the grounds of the agency there was trouble also. They complained that they did not have land enough—they wanted more space.

Q. What is the difficulty?—A. They complain that they have no rights, and that they are persecuted because they are considered as intruders upon the land by the whites, who consider themselves the sole possessors.

Q. Who did you find to be occupying the reservation, the Indians or somebody else?—A. I found that white men were in possession of a very large proportion of the reservation.

Q. What proportion was in possession of the Indians?—A. I do not think the Indians have one-twentieth part of the reservation to themselves.

Q. How many acres of land does the reservation contain?—A. The reservation contains in the neighborhood of 125,000 acres. I do not know the exact figures.

Q. Do these white men have cattle and sheep upon this land?—A. Yes, sir.

Q. Are there any Government cattle upon the reservation?—A. I saw very few cattle belonging to the Government—very few, indeed. I found droves of sheep upon the good land, but cattle were scarce. I do not believe I saw fifty head of cattle. These were in the woods and on the poor land. The Indian has no show at all. He is at a disadvantage at every point.

Q. Who is occupying and using the land?—A. It is occupied and used by white men who have made improvements upon it, or who have bought out original occupants who made improvements a great many years ago.

Q. The parties who now occupy the land have bought out the original parties?—A. Yes, sir, they have bought the land at a low figure for the purpose of grazing. It is a grand grazing country, a very rich grazing country. The advantages to these parties are very perceptible. They have gotten on this reservation without investing a dollar. They have none of the burdens of the citizen either with reference to the State or the United States Government. They are getting rich, and it is to their advantage to keep the Indians in the background.

Q. How many cattle and sheep are there on the reservation that do not belong to the Indians or to the agency?—A. I do not know, sir. I figured that out, but I do not remember the figures. [Here witness refers to the written report upon Round Valley.] Here I have it: "There are about 46,000 head of cattle, horses, and sheep upon the reservation being fed by the United States, I might say, gratuitously."

Q. You need not read from your report, but just state the number as near as you can.—A. There are about 46,000 head of cattle.

Q. These are all that are upon the reservation?—A. Yes, sir.

Q. How many of these belong to the Indians?—A. Not one.

Q. The Indians have no cattle, then?—A. No, sir; except possibly a hog or two, and Mr. Sheldon told them they must not keep hogs.

Q. What reason did he give for this?—A. He gave no satisfactory reasons.

Q. Mr. Sheldon, is there now, I believe—we shall find him there?—A. Yes, sir.

Q. Did the agent (Sheldon) discourage the Indians in keeping cattle?—A. Yes, sir; as they represented it to me.

Q. Did you mingle with the Indians and get your information from them?—A. Yes, sir; that was my purpose in going there, and then to report to the Commissioner of Indians what I saw there. I associated with the Indians and got my evidence from them.

Q. Are the Indians desirous of occupying more land with their own cattle?—A. Yes, sir.

Q. Are they pretty well advanced in civilization?—A. Yes, sir; they are far above any other Indians with whom I have come in contact.

Q. Are they blanket Indians?—A. No, sir; they dress in citizens' clothes.

Q. Do they speak English?—Yes, sir; they converse in English, and are very intelligent Indians.

Q. Do they understand what to do to support themselves?—A. Yes, sir; some of them have market-gardens, and are very thrifty. In a few years, after they have had more experience with their crops, all under forty years of age would be able to support themselves. The old, the weak, and decrepit could not earn 5 cents a month.

Q. How many Indians are there on the reservation?—A. Five or six

hundred. There some Indians in the neighborhood of Ukiah who left the reservation because they did not like the agent, Mr. Sheldon. They say they want to come back if the agent should be removed.

Q. Did it appear that this late agent was in the interest of the stockmen?—A. I would not dare to say that; but I do want to say that matters there ought to be corrected in some way, and I give the information I got myself.

Q. Hops are raised on the reservation?—A. Yes, sir.

Q. To any great extent?—A. I found the crop of hops was about 10,000 or 15,000 thousand pounds for this year.

Q. Do the Indians have hops of their own?—A. Some of them have.

Q. Do the Indians cultivate the reservation hops—were they managing the whole thing themselves?—A. The hops are under their own individual direction. The hops are dried in the hop house, and then disposed of for the benefit of the Indians, and the money goes into the hands of the assistant United States treasurer at San Francisco, and is used for the benefit of the Indians instead of the Government appropriating so much money. The agent manages this matter, and I found that Mr. Sheldon had sold a crop of hops for a sum in the neighborhood of \$10,000, through a commission house in San Francisco. It was his duty the same day to put the money into the hands of the assistant treasurer. There is no doubt about that at all. I found that Mr. Sheldon did not draw the money from the hands of the commission merchants.

Q. He could not tell the day the hops were sold?—A. Hops are just like gold or wheat here. Mr. Sheldon could not give me a bill of sale, and did not know anything about it. I found that he had been drawing on the commission merchants here, and a part of the money was in the hands of those merchants for nearly a year afterward. He drew as he needed the money. You can draw your own inference. Mr. Sheldon represents that he did not do anything with the saw-mill because he had no money to run it with. Well, he has run it very seldom, and it needs some attention. It is an industry which really ought to be brought forth. That mill ought to be put to the same use as the ground that raises hops. The saw-mill ought to be run in the same way. There is no mill within 40 miles except this one. Every one wants lumber. There would be no private individuals to cry against it.

Q. You mean that the Indians could take their own timber and convert it into lumber, and sell it to advantage.—A. Yes, sir; with a white leader. But there was a disposition on the part of the agent whenever an opportunity offered to put in a white man or white boy. Bright, intelligent Indians, capable of rendering assistance have been crowded out. They should be given these places so that they can learn the business, and then instruct others. The agent had an assistant as a clerk employed in the office, Saula Wilse, who is an Indian, and the only one employed there. They have too many white employés at the mill. Their logger is a white man.

Q. How many years has Mr. Sheldon been there?—A. Unfortunately he has been there six years.

Q. Their interests have been waning all that time?—A. Yes, sir.

Q. Has the agent built houses for the Indians?—A. He has built some houses, but not near so many as he ought to have built. The sanitary conditions are bad; I saw no privies, and asked the Indians where they were, and they replied that they went into the timber. They said the agent would not give them any lumber. Some of these Indians can read and write and have a good idea of business. John O.

Henan is a thoughtful young man, and he asked me a great many questions about the rights of the people, and about the land. They are withal intelligent, progressive Indians.

Q. Do you think the Indians generally are so far advanced that they could be set up with land in severalty?—A. No, sir; not generally.

Q. Could many of them be set up in severalty, do you think?—A. Yes, sir; a good many of them. I suppose there are less than 100 who could take and manage a farm for themselves.

Q. A hundred heads of families, you mean?—A. Yes, sir.

Q. A hundred could be set up on land in severalty, and could understand what it meant?—A. Yes, sir; including those Indians who have left the reservation; not those on the reservation. You will probably find 50 heads of families there, but a great many have left the reservation and are earning their own bread.

Q. If the reservation was clear of white people could the Indians be gathered there?—A. If all the wandering Indians could be gathered there there would be 1,000.

Q. Would they be willing to return?—A. Yes, sir; I think so; but I am not fully informed upon the subject. My orders were to proceed to a certain place, for a certain purpose.

Q. State generally how the agent has been able to keep his accounts up.—A. I found, for instance, that whenever a ticket came in for 10 yards of calico he instructed the clerk and this Indian I spoke of in such cases to give only 8 yards.

Q. He instructed them to give only 8 yards for 10?—A. Yes, sir.

Q. The Indian would be entitled to 10 yards of calico?—A. Yes, sir; but he would get only 8, and 10 or 11 yards would be charged.

Q. This would be charged to the Indian?—A. Yes, sir; he would be charged with the amount of the ticket, but receive 2 yards less.

Q. Did this run through other articles?—A. That runs through the calico, flannel, sugar, and rice.

Q. So he should have property on hand?—A. Yes, sir; he ought to have a great deal of property on hand.

Q. Did he convert that to his own use?—A. He was accused of doing so, but I could not prove it absolutely; that is the reason I did not speak of it. He has the benefit of the doubt. I believe he lived off these little things.

Q. Would it be advisable, with the saw-mill and lumber, to put up houses for the Indians?—A. Oh, yes; houses ought to be built, and those now standing ought to be improved.

Q. Would the Indian take hold and help?—A. Yes, sir; there is no doubt of it. I hope you will see these Indians and have them come before you yourselves and talk to you, and not have them represented by somebody else; you will find that they can talk intelligently.

Q. Will the present agent enter into the work with ardor?—A. Yes, sir; I think so. I met him in Washington before he took charge of the agency, and he was very particular in his questions about the condition of these Indians. He kept me for an hour or two talking the matter over.

Q. What is their condition now as compared with what it was five or six years ago? Have they improved?—A. No, sir; they have been almost at a standstill.

Q. What is the reason for this?—A. No reason, except a lack of proper management.

Q. Have they retrograded?—A. They are about at a standstill, as I said before.

Q. Have they increased in numbers?—A. No, sir; they are decreasing.

Q. Do the whites crowd in upon them?—A. Yes, sir.

Q. Do they acquiesce in what the whites do?—A. No, sir; they resent it, but have been hampered by the whites and the agent. They complained that they could not have their own hogs, and wanted the privilege of shooting the wild hogs. (These are hogs that have strayed and have no mark.) They said that if the whites shoot these hogs there is no complaint, but if an Indian shot them it was otherwise. He did assert the rights of the Indians on paper, and was very loud in his family prayers, but they have found the facts the opposite.

Q. He maintained family prayers at home along with the policy you have already indicated?—A. Yes, sir.

By Mr. MORGAN:

Q. Mr. Folsom we would like to know whether we cannot get those Indians together without having to travel all over the reservation?—A. Oh, yes, sir. I am sorry I cannot go with you, but I am very busy getting in Indian supplies. I am at my warehouse at 7.30 every morning. If it did not take so long I should like to go, because there are little things I could attend to very nicely indeed, that would aid you.

Q. How long were you there?—A. I was there six weeks.

Q. I suppose your careful examination has relieved us of a great deal of work?—A. I think, so far as the Indian's welfare goes, the Commissioner of Indian Affairs is pretty well satisfied.

Q. Do you think we will alter the facts from your statement?—A. No, sir; not a particle.

Q. If so, what is the reason of doing it at all?—A. That is for you gentlemen to say. I have worked very hard, and have aimed to get at the bottom of the thing.

Q. What is the date of your report?—A. It is dated June 2.

Q. June 2 of this present year?—A. Yes, sir.

Q. Was the report made here?—A. No, sir; I was in Washington when I made it.

By the CHAIRMAN:

Q. Have the cattle-men erected fences upon this reservation?—A. Yes, sir; they have erected fences that are sheep-proof.

Q. Are they wire fences?—A. Partly wire and partly staves.

By Mr. MORGAN:

Q. What road is it that runs in that direction?—A. The San Francisco and Northern Pacific Railroad. The grave questions which will sooner or later come before you, gentlemen, are whether it is good policy to hold this land for the Indians, and how much of it to hold, and the matter of settlement with these white people now upon the reservation. It all boils down to that.

Q. These men have no patents for their lands, have they?—A. On the reservation all the claim they make is for their improvements. I do not know the legal status of the lands in the matter of the swamp and overflowed lands.

Q. I suppose the country is mainly well timbered?—A. Yes, sir; it is a wonderful country. There is a great deal of timber, and hundreds of acres entirely clear—a beautiful country for sheep and stock, but it is now being overstocked by the whites.

Q. Is there a plenty of water?—A. Yes, sir; it is well watered, and is a charming and delightful place. I think it would be an elegant

place in which to gather the scattered bands. There is a plenty of water, and the greatest quantity of salmon. The salmon run up the Eel River from the sea; that is, up the branches of the Eel River. I found several Indians working in the grist mill who had been there for several years, and understand milling just as well as any one. They are very faithful workmen. There are numbers of Indians in Round Valley who are temperate in their habits. It is said an Indian is indolent, but there are lots of them who are struggling to get along, and they ask for more house room.

Q. What tribe is it?—A. There are several tribes.

By the CHAIRMAN :

Q. Do you think of anything else that will be of use to us?—A. Well, in regard to the condition of those Indians, I would suggest that you send for the Indians themselves to come before you. Sam Rowe, John Brown, John C. Henay, George Burchard, Jim Healey, and Mrs. Fulwilder can give you useful information. In regard to the white men there who are interested, senator, I think Mr. Uptegraff you will find will give you valuable information. I see he is one of the men set down in this report (referring to Senate Ex. Doc. 22 Forty eighth Congress, first session). He is a successful German farmer, and a very fine man indeed. You will get at the facts from him.

Q. His claim is on the reservation?—A. Yes, sir; but he will give you a fair statement of it. There is also Mr. Whitcombe Henley, who keeps a store in Round Valley, at Covelo. He is a brother of Congressman Henley.

Q. Have these Henleys any land claims?—A. They have in the valley.

Q. Not upon the reservation?—A. They have a mixed claim.

WITNESS. Is it your purpose to go to the Indian Territory from here?

The CHAIRMAN. No, sir; not until after the elections.

WITNESS. There are one or two things I would like to mention in connection with that Territory?

The CHAIRMAN. Perhaps you had better put it in writing?

WITNESS. Yes, sir; I shall do so.

The CHAIRMAN. Then we can carry it with us.

UKIAH, MENDOCINO COUNTY, CALIFORNIA,
Sept. 21, 1884.

Testimony of Charles H. Eberle.

CHARLES H. EBERLE sworn and examined.

By the CHAIRMAN :

Question. Mr. Eberle, will you give us your full name?—Answer. Charles H. Eberle.

Q. Do you reside in this county?—A. Yes, sir.

Q. How old are you?—A. I am fifty-one years of age.

Q. Did you ever reside at Round Valley?—A. Yes, sir; I resided at the Round Valley Indian Reservation from its earliest establishment up to within three years.

Q. In what capacity were you there?—A. Most of the time as farmer.

Q. Were you employed by the Government in the capacity of farmer?—

A. I was not employed for the reservation, but on my own account.

Q. Have you been in the employ of the United States Government there at all?—A. I was employed a portion of the year 1858 by the Government. I had charge of the Government pack train. That was the spring of 1858.

Q. Did you own land there?—A. Yes, sir.

Q. How much land had you?—A. I had 440 acres.

Q. How did you cultivate your land?—A. Well, in the ordinary method.

Q. Did you use it for stock or grain?—A. I used it partly for stock and partly for grain and vegetables.

Q. How near was it to the reservation?—A. It was right close to it until the passage of the act of March 3, 1873. By that act my farm was embraced in the reservation limits.

Q. Before that act was passed it was just close to the reservation?—A. Yes, sir.

Q. When the boundaries of the reservation were changed by the act of the 3d of March, 1873, this land fell within the established limits?—A. Yes, sir.

Q. Did the Government buy the land of you?—A. Yes, sir.

Q. Then you went away?—A. Yes, sir; I went to the southern portion of the State, and afterwards returned.

Q. Did you return to Round Valley?—A. No, sir; to the county.

Q. Since March 3, 1873, how much have you known about the Round Valley Reservation? Have you known much about it?—A. Yes, sir; I have.

Q. How often have you been there?—A. Continually from that time until the fall of 1880.

Q. Since 1880 where have you been?—A. In the southern portion of the county.

Q. Have you been there frequently since 1880?—A. No, sir; not since 1880.

Q. Do you know the extent of the present reservation?—A. Yes, sir; I have been over it hundreds of times.

Q. What proportion of the whole reservation, as it was established by the act of March, 1873, do the Indians actually occupy now?—A. I could, with a little time, tell within a few acres.

Q. Could you tell more accurately by referring to the map which you have?—A. Yes, sir.

Q. Why do the Indians not occupy the whole reservation? Is it because somebody else occupies it?—A. Well, it is occupied by other parties—by some five or six white men.

Q. Tell us about these Indians. Are you acquainted with other Indians in the country, or are these the only ones?—A. Well, I have been in this State since 1849.

Q. Are these blanket Indians?—A. They are not now blanket Indians. All of them are clothed. It was different when I came here.

Q. They wear citizen's clothes?—A. Yes, sir; and many of them are intelligent, and quite a number can read and write.

Q. Have they a school?—A. They have had a school for a few years past. Their building was burned a few years ago, but I presume they have kept up the school.

Q. They have not rebuilt that building?—A. No, sir.

Q. Do they have any appropriation from Congress, or do they depend upon their own labor for subsistence?—A. They have a yearly appropriation, and have always had.

Q. Do you know how much it is?—A. It differs. It is generally about \$70,000 or \$75,000 a year.

Q. This amount is appropriated for the Round Valley Reservation?—A. Yes, sir.

Q. Is it appropriated in money or in provisions and clothing?—A. It is a money appropriation with certain specified objects.

Q. What is the condition of these Indians now as compared with five years ago; are they better off?—A. I think not, sir; I think they are not as well off.

Q. If they had some one to direct them could they support themselves?—A. The best answer to that question is this: A number of them were not satisfied with the reservation, and left it, and bought land and are running farms like white people.

Q. How did they get the money to pay for this land?—A. They worked for it; they are good workers. They went off of the reservation and worked. All the money they get is made off of the reservation.

Q. Do you mean outside of the reservation?—A. Yes, sir; outside of the reservation.

Q. When they go to work for wages do they save their money or spend it for whisky?—A. We have Indians in this neighborhood owning tracts of land, and they have money in bank. There are some living below here who have a hop ranch, and others above, owning tracts of land, and the land is paid for.

Q. Are these Indians who have gone away from the reservation a fair average of the Indians, or are they the best of them?—A. Well, they are about a fair average.

Q. Do you mean by this illustration to say that those Indians on the reservation could do as well as these with the same opportunity?—A. Yes, sir.

Q. What is the character of the land included within the limits of the reservation?—A. The finest land in the State is within the boundaries of the Round Valley Reservation.

Q. Is the whole reservation good or is only a small part of it?—A. The greater portion of it is in the surrounding hills, although those hills are as good for cultivation, and even better, than the lands below here.

Q. The reservation is made up of the uplands and the valley?—A. Yes, sir; and the larger portion of hill country or uplands.

Q. What portion of this whole reservation is of the valley proper?—A. Probably in the neighborhood of 3,500 acres. I could tell by a little figuring.

Q. The most of it is hill country?—A. Yes, sir.

Q. For what purpose is the hill country best adapted? Is it best adapted for pasturage?—A. Yes, sir; it is now best adapted for pasturage. If it were nearer market it could be used for farming. If it were nearer San Francisco it could be cultivated. It is capable of the highest cultivation.

Q. Is it capable of cultivation to the extent of supporting all of the Indians on the reservation?—A. It is capable of supporting not only all those on the reservation but those off of it too. That reservation, properly managed, could support nearly all the Indians in California.

Q. Do you know anything about the Indians in Lake County?—A. Yes, sir.

Q. Do they belong to the same race as the Indians here? Are they a distinct tribe?—A. Yes, sir; they are a distinct tribe. There were originally in this county fifteen or twenty distinct tribes. There are fragments of tribes all over the State. They all have a different dialect.

Q. Is it a practicable thing to gather these Indians on this reservation?—A. I think now that they have become so nearly civilized they would not be satisfied to be taken to any reservation. They would prefer to support themselves, and be their own masters. The reservation system is a system of slavery. The labor with them is forced.

Q. Are those on the reservation contented?—A. I should say they were. In fact, the Indians now do as they please. That is, they are not afraid to go off the reservation if they want to. There was a time when they had no more say than a negro.

Q. You mean to say that the agent has little control over them?—A. Those who desire to go would now go, agent or no agent.

Q. Are they such people as could take care of herds of cattle if they had the opportunity? Could they go into the herding business?—A. It would hardly be practicable.

Q. Why?—A. I could give the reasons why.

Q. Well, give them.—A. An Indian is a person who does not wish to be tied down. A herd requires constant attendance, and you cannot get an Indian to devote himself to it—he wants to have a holiday often.

Q. How could they best be employed to make them self-supporting?—A. Their idea, from what I can see and know of them, I think is to have a place of their own.

Q. Each individual Indian?—A. Yes, sir; individuals or families.

Q. How many Indians are there so far advanced that if they were told to go and pick out 160 acres to have as their own could do it?—A. In the first place 160 acres would be too much.

Q. How much, then?—A. A head of a family with 20 acres would be as much as they would care to bother with. It would be ample.

Q. He could not keep stock on such a small piece of land?—A. He could keep a pony or two. They do not take favorably to cows because they have to be milked night and morning.

Q. Is it not difficult to make good citizens of Indians as long as they have ponies? Is not that the trouble in civilizing Indians, because they will be riding around most of the time?—A. Well, that is the way they will do, but the young ones are not accustomed to riding.

Q. How much of a successful farmer can you make of a man who prefers to ride his pony around the country?—A. There are Indians here who have bought land and have hops; they are making money and doing well.

Q. Are the Indians upon the reservation so far advanced as to be able to manage a hop field?—A. Yes, sir; they are doing it now. They also raise corn, vegetables, &c., as well as you or I could do it.

Q. Are all their wants supplied; have they been well taken care of?—A. For a number of years labor has been in demand, and they have always had money.

Q. How is the agency supplied with beef?—A. They have a herd, but do not manage to get much beef.

Q. How large a herd is it?—A. For a few years there has been about 500 head.

Q. Is it on the increase or decrease?—A. It is on the decrease, to my knowledge.

Q. What has been the reason for its being on the decrease?—A. Because all the grazing land is occupied by settlers, and sheep and cattle do not take kindly to the same land. All the grazing land is occupied by sheep men.

Q. If the agency had as large a range as it wanted would it be prac-

licable to enlarge its herd?—A. Yes, sir; there is ample land to raise all the beef required.

Q. Do these stockmen stock the land with sheep or cattle?—A. With sheep; the main business is sheep raising, with a few cattle.

Q. Do they occupy the land to the exclusion of the Government herd?—A. Yes, sir; the sheep crowd the cattle and horses off.

Q. That is the case on this reservation; the sheep have crowded the cattle off?—A. Yes, sir.

Q. Is that the reason the herd has not increased?—A. Well, they could not keep a much larger herd with the scarcity of grass.

Q. The grass left by the sheep you mean?—A. Yes, sir.

Q. With the grass left for the Indians by the sheep-men, have they as large a herd as they can have?—A. I think they have more than will do well.

Q. Does the agent have to buy beef?—A. The agency has bought beef from the cattle-men for a number of years.

Q. What proportion of the beef used has been bought?—A. Probably two-thirds.

Q. Beef has been bought for a number of years?—A. Yes, sir.

Q. If the agent could have entire control of the reservation could he raise all the beef he required?—A. If the agent had entire control of it there is no reason why he could not raise all the beef, and more, too, than is needed.

Q. Is there anything else bought off of the reservation which might be raised there without trouble, beside beef?—A. They have generally been able to raise enough of everything, grain, vegetables, &c., for their own use, and have been selling for years more or less; and they have a flouring mill where they have also been doing the grinding of the citizens of the valley.

Q. Does it bring in a revenue to the agency?—A. Yes, sir.

Q. Do you know of their purchasing flour off from the agency?—A. It has been a good many years since it was done. They have sold instead of purchasing.

Q. We were told so on the way up here.—A. What they have been doing in the last year or so I don't know; but there is certainly no need of going off the reservation for flour. There is ground enough to raise wheat, and a mill to grind it in.

Q. Now, you say sheep-men are occupying a large portion of this reservation?—A. All the land upon the reservation, with the exception of a small piece in the valley of about 2,000 acres, is used by settlers.

Q. All the rest is occupied by sheep-men?—A. Yes, sir.

By Mr. CAMERON:

Q. Will you give the names of each one?—A. I have a map with me giving the different divisions of the land, with the names of the occupants.

Q. Well, you can use your map.

The CHAIRMAN. Oh, certainly.

A. If you will look at the map, gentlemen [referring to map], you can see the lines. Here in the southeast part is the valley.

Q. This is a map of the Round Valley Indian Reservation?—A. Yes, sir.

Q. It is your own work?—A. Yes, sir; it is my own work.

Q. Were you familiar enough with the region of country to draw a correct map of it?—A. This map is taken from the official map. All

except the northern line was traced from the official map. I was, of course, familiar with the location of the creeks and rivers.

Q. Will you make this map a part of your testimony?—A. You can suit yourselves about that, gentlemen.

Q. What do the figures 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 represent?—A. They represent the ranges claimed and occupied by the different parties occupying the reservation.

Q. What does No. 1 represent?—A. This is the range occupied by Mr. White.

Q. Please state what White it is?—A. George E. White.

Q. He occupies that portion of the reservation which is delineated by the figure 1?—A. Yes, sir; that portion represented by No. 1.

Q. How much of the reservation does he occupy?—A. Well, I had a memorandum by which any one could see for himself.

(The chairman hands witness the memorandum.)

He occupies 7,600 acres of the reservation. This land on the south side of the reservation was restored to the public domain, and White purchased or entered land on the south side, and, of course, the sheep can run at will back and forth on the reservation or on to his own land. The north line of No. 1 represents the dividing line between Mr. White and his neighbors, Henley Bros. and Gibson.

By Mr. CAMERON :

Q. How many sheep has Mr. White on the land occupied by him?—A. Mr. White keeps about 6,000 sheep.

Q. He has incorporated into his own range what is represented by No. 1 on this map?—A. Yes, sir.

Q. His sheep run back and forth?—A. Yes, sir.

By the CHAIRMAN :

Q. How long has Mr. White occupied it?—A. He has occupied it ever since the establishment of the reservation by the act of March 3, 1873, and he occupied it several years prior thereto.

Q. What does No. 2 represent?—A. That represents the portion of the reservation occupied by Henley Bros. and Gibson.

Q. Who are these men?—A. Hon. Barclay Henley is one of the brothers, and Whitcombe and Thomas Henley are the other two. There was another Henley who died, but I believe his interest fell to Barclay Henley; the other party is E. S. Gibson.

Q. They occupy that portion of the reservation represented by No. 2?—A. Yes, sir.

Q. How many acres does No. 2 contain?—A. It contains not far from 28,000 acres.

Q. How long have they occupied it?—A. About the same time that Mr. White has occupied his portion.

Q. Is that also occupied in connection with land outside of the reservation?—A. No, sir; that is all on the reservation.

Q. Is that stocked with sheep to the extent of its capacity?—A. Yes, sir; it is stocked to its full capacity.

Q. Is that true of Mr. White's portion, too?—A. Every sheep that can possibly make a living there is kept.

By Mr. CAMERON :

Q. How many sheep have the Henley Bros.?—A. They have about 7,000 head. They may take off some wethers, but the increase of lambs makes up the number.

Q. Is Mr. White's lambs separated from the rest by a fence?—A. They have dividing lines between their ranges.

Q. Are there fences between the lands occupied by the Henleys and those occupied by White?—A. Yes, sir; they have fences to keep the stock from going back and forth.

By the CHAIRMAN:

Q. What kind of fences do they build?—A. in places where there is open ground there are picket fences, and in rough places the fences are made of brush.

Q. Are there any barbed-wire fences?—A. I understand that barbed wire has been used within a year or two, but I do not know this to be so.

Q. Is the Henley tract fenced?—A. They have a fence between themselves and their northern neighbor. Now, this fence between the Henleys and their northern neighbor has been built since I was there, but the fences on the east and on the south were built then. The Eel River forms the western boundary of the Henley and Gibson ranges.

Q. What does No. 3 represent?—A. That represents the sheep range occupied by Jacob Uptegraff.

Q. How much land is in that range?—A. That contains about 11,000 acres.

Q. Is that stocked with sheep?—A. Yes, sir.

Q. How many are there?—A. It is occupied generally by a band of nearly 5,000 sheep.

Q. Is that exclusively on the reservation?—A. Yes, sir. It does not touch any land outside.

Q. That is separated from No. 2, you understand now by a fence?—A. Yes, sir; and the north fork of Eel River is its northern boundary.

Q. Is it separated from No. 4 by a fence?—A. There is a rough cañon which is almost a natural fence between 3 and 4.

Q. How long has No. 3 been occupied in this way?—A. The sheep were all brought into the country about the same year.

Q. What does No. 4 represent?—A. No. 4 represents Mr. Frank Azbell's range.

Q. How much land does that contain?—A. It contains about 8,500 acres, and there is quite a valley there called Summit Valley, containing two or three hundred acres of very good land.

Q. What does Mr. Azbell do with this land?—A. He has sheep, horses, and cattle, and he cultivates the valley land.

Q. What does he raise—wheat?—A. Not so much, principally hay and vegetables.

Q. Does he stock it to its full capacity?—A. Yes, sir; to its full capacity.

Q. Is that land occupied with land off of the reservation?—A. The Azbells join outside land across Hull's Creek, on the north. They owned some land across Hull's Creek. I believe that land was entered up, and Commissioner Smith had the patents all canceled.

Q. Did that embrace any of the reservation?—A. Yes, sir; the north-west portion. Notwithstanding the cancellation of these patents, Azbell occupies the land now as much as if the patents had not been canceled.

Q. No. 5 represents what?—A. No. 5 represents land occupied by Johnson and Eldred. They will tell you they own it.

Q. How much land is in No. 5?—A. There are about 12,000 acres. That comes right into the valley. It extends from the northern boundary clear into the valley. Their sheep run into the valley.

Q. Have they occupied that land as long as the others?—A. No, sir; they have come on since the last agent, Mr. Sheldon, came there.

Q. When was that?—A. They have been on the reservation since 1878. There is a fine valley, called Hull's Valley, of two or three hundred acres, which Mr. Johnson uses for hay and pasturage. Previous to 1878 there was a man who had a few acres fenced and resided there with his family. He left, and I think these men bought what interest he had there.

Q. How much land did he occupy there?—A. Only a hundred acres or so.

Q. What does No. 6 represent?

Q. Have you stated the number of acres in No. 5?—A. Yes, sir; about 12,000 acres.

Q. How many sheep are there on No. 5?—A. I stated it to be about 5,000.

Q. Now explain what No. 6 represents.—A. It represents land occupied by J. G. Short.

Q. How much land is there in No. 6?—A. About 18,500 acres, and there is a valley called William's Valley.

Q. How many sheep do they maintain on that range?—A. Short did have about 6,000 head about three years ago, but whether he has that number now I do not know. I do not think he has.

Q. How long has he occupied it?—A. He only bought that some three years ago from the former owner.

Q. Who was the former owner?—A. A man named Martin Corbet.

Q. Did he occupy the whole?—A. Yes, sir.

Q. In the same way Short does?—A. Short succeeded him.

Q. What does No. 7 represent?—A. It represents a piece of land the Foster brothers claim. I think that has changed hands. They had a range and a few sheep.

Q. About how many acres are there?—A. Something over 5,000 acres; about 5,500.

Q. How many sheep had they?—A. They had something like 4,000 head of sheep.

Q. How long had the range been occupied by them?—A. They used that range since about 1873; probably before that time.

Q. What does No. 8 represent?—A. It represents the range occupied by Bourne and Johnson. It is on the eastern line of the reservation. They occupy that, and have also come down below and occupy that portion of the reservation represented by No. 9.

Q. How much land is there in No. 8?—A. About 3,200 acres.

Q. How many sheep have they?—A. About 2,500. Both pieces of land contain about the same number of acres, and they run about 2,500 sheep on each. There are several valleys in this portion of the reservation which are very rich. They have, within a few years, built a very substantial fence on the north line of No. 9, separating it from No. 6.

Q. Is No. 8, which you mentioned as being occupied by Bourne and Johnson, separated from No. 7 by a fence?—A. Yes, sir; there is a very rough cañon there on the west of No. 8 which is used as a natural fence. They burst it in where there are passes and crossings.

Q. What does No. 10 represent?—A. No. 10 represents the land in the valley and a little in the hills, and it also represents what is left for the Indians, except that part of it which is occupied by the whites.

Q. The Indians occupy only a portion of No. 10?—A. Yes, sir.

Q. Who occupies the balance of No. 10?—A. On the west there is a piece of land containing some 220 acres, which is occupied by a man

named Thompson. There is also a man named Bowen who occupies a piece of land in sections 25 and 30.

Q. About how much land has he?—A. Well, Bowen has pretty much the run of the reservation. He is living now in a house built out of reservation material, on reservation land, and occupying a barn bought with reservation money.

Q. Is he an employé of the reservation?—A. No, sir; he is not an employé.

Q. How much land has he appropriated exclusively to his own use?—A. He is a cattle-man, and his cattle wander all over the reservation.

Q. Are there any other white men who have any portion of No. 10?—A. Well, there is a piece of land there in litigation, which has been decided against the United States, and containing 440 acres. It is not occupied, but is lying idle.

Q. Well, No. 10 is all that is left for the Indians, and these two white men you named have a portion of that. Is that so?—A. Bowen is residing there, and keeps his stock—hogs and cattle—right in the valley.

Q. How much is left in No. 10 for the Indians?—A. I can get at it closely with a little time.

By Mr. CAMERON :

Q. Let him make a calculation. He has time enough.

By the CHAIRMAN :

Q. Well, make the calculation.—A. Do you wish me to calculate how much land there is in No. 10?

By Mr. CAMERON :

Q. Yes; and then subtract from that amount what is occupied by the whites. We would like to see how much land is left for the Indians.

Q. There is very little left.
(Witness examines map.)

By the CHAIRMAN :

Q. Find out how many acres there are in No. 10, and then subtract what you think is occupied by white men; then we will see what is left for the Indians.

WITNESS. No. 10 contains something over 5,000 acres.

Q. And the Indians are excluded from all the reservation except No. 10, by the actual occupation of the land?—A. Yes, sir.

Q. And in No. 10 about how much is occupied by white people?—A. Well, about 1,200 acres.

Q. About 1,200 acres of No. 10 is occupied by white people.—A. Well, there would really be more, because the outside fencing of the sheep ranges comes right down to the hills.

Q. There would then be about 4,000 acres left for the Indians?—A. Three thousand five hundred would be a better estimate.

Q. Have you prepared a table showing the amount of land as near as you can in each of the divisions of the reservation?—A. I have.

Q. Will you make that table a part of your testimony?—A. Yes, sir; but understand me, this is only an approximation.

Q. It is as near as can be gotten without an actual survey?—A. Yes, sir; it is near as can be ascertained without an actual survey. If I could have gotten an official land office map at San Francisco, I could have been accurate.

Q. I would like to have you draw a line under the figures you have

given and sum them up, giving the total, and then get the amount of land left to the Indians?—A. I will do so.

Q. Now, you say these people have crowded the Indians into No. 10; what effect has it upon the ability of the Indians to support themselves on the reservation? Is there still land enough for their use and for their support?—A. It has had the effect to crowd them off of the reservation; many of them have left.

Q. What effect has it had upon them generally?—A. Well, the Government is bound to buy beef when there is ample room to raise their own.

Q. Then it has compelled the Government, instead of being able to raise enough cattle to supply them, and more too, to buy beef for the reservation.—A. That is exactly the result.

Q. Is this the case in any other respect than in connection with the supply of beef?—A. The Government could have maintained as many sheep as these settlers.

Q. The land could have been a source of revenue?—A. It has been a fortune to the present occupants. It has been a source of great revenue to the sheep men. All of them have become wealthy.

Q. Is there any reason why that wealth could not have been gathered for the reservation if the land had been used for the reservation exclusively?—A. With competent employés and care they could raise just as much as the men who are occupying it now.

Q. Has it also deprived the Indians of the opportunity of going out and scattering and locating themselves on the reservation?—A. Yes, sir; certainly. They have not been permitted to do so because of the exclusive occupation of the settlers. There was one Indian who attempted to raise sheep, but he said he could not do it.

Q. Why?—A. He said the herds got mixed, and then there was trouble. He had a place up there—a little valley which was a very fruitful spot, containing 50 or 60 acres. He occupied it for a while, and he told me not long ago that he could not do anything because the stock got mixed up.

By Mr. CAMERON:

Q. The stockmen were stronger and came out ahead?—A. Yes, sir.

By the CHAIRMAN:

Q. The agency stock and other people's stock run together?—A. Yes, sir; and if the herder is sharp he will get his share of the calves, and the Government loses the increase. The Government stock about three years ago numbered from 750 to 900 head. Now there are only 500. The Government herd grows less and the stockmen's herds increase greatly.

Q. Can you give us briefly what these stockmen who occupy the reservation from 1 to 9, inclusive—what they claim their right to be? But first let me ask you this question: Are you so well acquainted with this reservation as to be able to tell us what it would be worth annual rental—what a fair rental would be for the land in that part of the reservation represented on your map by the figures from 1 to 9, inclusive, now occupied by these stockmen?—A. Yes, sir; I am.

Q. Well, what is the accustomed rent of this country for sheep ranges? What I mean is, what could the Government rent this land out for?—A. Well, they are renting sheep and land here at different prices. Some men furnish the land and sheep and get an income of a dollar a head clear. Some men have made more favorable terms and pay six bits a head clear, and they have the expense of taking care of the sheep.

Q. You say the land owner furnishes the land and the sheep.—A. Yes, sir.

Q. If the land owner furnishes land to a man who owns sheep what rental does he get for the land?—A. I don't know of any land rented in that way; generally the land owner owns the stock. The land is worth the interest on the money invested. It is worth that and the taxes, else these men would not buy large tracts of land.

Q. It is worth that, you think?—A. Yes, sir; it is worth at least the interest on the investment and the taxes.

Q. Do you mean the interest on \$1.25 an acre?—A. These lands about here are valued at five, eight, and ten dollars an acre.

Q. Well, you think the lands are not worth the interest on \$5. Would that be a fair rental for these lands?—A. Well, not quite that much.

Q. Well, what do you think would be a fair rental per acre?—A. Let me see.

Q. Would you put it at four or five dollars?—A. Well, there is so much good land upon the reservation that I think I would put it at \$5 an acre.

Q. You think the interest on \$5 would be fair.—A. Yes, sir.

Q. At what rate?—A. The legal rate.

Q. What is the legal rate of interest in this State?—A. Seven per cent.

Q. Seven per cent. on \$5 per acre?—A. Yes, sir.

Q. In summing up the number of acres in the Round Valley Indian reservation now occupied by stockmen, what total did you make?—A. I made 97,500 acres.

Q. What is the annual interest on 97,500 acres at 7 per cent., valuing the land at \$5 per acre?—A. I will make the calculation.

By Mr. CAMERON:

Q. Very well, we will give you time to make it.

(Witness proceeds to calculate.)

WITNESS. I make the interest on 97,500 acres at 7 per cent., valuing the land at \$5 per acre, \$34,125. I will state that 10 per cent. is the usual interest paid here. The stockmen are paying from 8 to 10 per cent. on all their holdings. They also pay the taxes, so I think 7 per cent. a low estimate.

By the CHAIRMAN:

Q. You figured it out to be \$34,125?—A. Yes, sir; and the stockmen ought to pay that amount for the use of the reservation land. I think, however, there would be another way to get at a fair valuation, and that is to approximate the amount of stock that is grazed on the land, and then take the rate the other stockmen are paying, and consider that the sheep make the interest.

Q. Will you now state briefly what you understand these men now occupying the reservation base their occupation upon?—A. In the first place the reservation, as originally established, did not embrace this outside land. That is prior to the passage of the act of March 3, 1873. The exterior boundaries followed the general outline of the valley land. The whole of Round Valley south of the township line between townships 22 and 23 was a part of the Indian reservation. People lived there for years under some provision of the Government, and when the act of March 3, 1873, was passed restoring this land to the public domain the Government gave actual settlers a prior right to purchase 160 acres. The same bill which restored a large portion of the reservation to the public domain extended the reservation into the hills on the north to its present limits. At that time a little of this land was surveyed, but

the greater portion of it was unsurveyed. At that time these sheepmen had put up a corral and cabin, and had established their ranges, running their cattle and sheep on the land—a few at first, but gradually increasing them until the ranges were completely stocked. Then there were very few sheep, there being more cattle. Now it is full of sheep and but few cattle can run upon it. The bill of March 3, 1873, provided for a commission to appraise the improvements on the extended reservation. That commission did so. The bill also provided that tender should be made to parties of the appraised value of their improvements. To certain parties no tender was made in accordance with the requirements of the bill, and those to whom tender was made would not accept what was offered, and they remained and went on just as if nothing had happened.

Q. Were these same parties who now occupy the land living upon it at that time?—A. The same parties who now occupy Nos. 1, 2, and 3 were there at that time. The Azbells were there. They occupy No. 4. D. T. Johnson, whose land is represented by No. 5, came in there with the permission of the last agent.

Q. You mean Agent Sheldon?—A. Yes, sir.

Q. No. 5 has come in by permission of the agent?—A. Of course, by his consent.

Q. Was No. 6 there?—A. That is Short. Yes; he was there. Rather that was occupied by Corbet then, and Short bought him out. Of course these men occupy a great deal of land on the reservation, but there is some entered land there.

Q. Some of those parties have succeeded parties who had a claim?—A. Yes, sir.

Q. Were the parties who now occupy No. 7 there at the time the reservation was extended?—A. That is occupied by Foster Bros. Yes, sir; they came there about 1873, or perhaps before.

By Mr. CAMERON:

Q. Give the numbers as you go along.—A. Nos. 8 and 9 are occupied by Bourne and Johnson, who succeeded a party who was in interest at the time of the passage of the bill.

Q. How much did the parties who had improvements upon the land when the reservation was enlarged—how much did they claim? How much were they entitled to claim?—A. Well, the commissioners made an appraisal of the improvements only.

Q. Not the value of the land?—A. Simply the improvements—the sheep corrals and the cabins.

Q. Did they have any title to the land?—A. None at all.

Q. They had made improvements on the land, and these were what were appraised?—A. Some of the improvements were appraised and some were not.

Q. Nothing except the price of the improvements was tendered?—A. No, sir.

Q. Did any of these parties who now hold the land, represented by the figures from 1 to 9, inclusive, purchase these improvements or make the improvements themselves?—A. In the case of White, he has been there from the first. He had improvements on No. 1. I will say here that there is quite a little farm on the western part of No. 1.

Q. Has the party who cultivates this farm any title to the land?—A. I guess he is a jumper or squatter. He is an interloper.

Q. Do you know his name?—A. I cannot think of his name, and what his status is I do not know.

Q. Do any of these stockmen claim to have any permission from the

Government to occupy this land?—A. They certainly have no permission from the Government.

Q. Do they claim to have any?—A. Yes, sir; they claim that by the act of March 3, 1873, they were entitled to pay for their improvements before they were required to remove. White claims that they did not appraise anything of his. The Henleys claim that they were not satisfied with the appraisal and would not take it. Uptegraff never was tendered anything.

C. He occupies No. 3?—A. Yes, sir.

Q. These men claim that they were not required by the act of Congress of March 3, 1873, to leave the reservation until they were paid for their improvements?—A. Yes, sir.

Q. And do they claim that that fact authorized them to occupy so large a portion of the reservation?—A. That is their claim.

Q. Do you know of any other basis for their claim?—A. There is none that I know, of unless there might be a school section they might have gotten hold of. There is some school land inside the hills which three years ago was State land. I do not know whether they have acquired that since or not.

Q. Their whole claim, then, is based upon the fact that they have not been paid for their improvements on 80 or 160 acres of land. Is there any stock with private brands running upon the reservation with the agency cattle?—A. There has been none recently. For the last few years the Government has had a herder. They have tried to have a sharp man. It would be hard to fasten anything of that kind. I have seen what the stockmen would call underhand work, but I cannot say that I know of anything of the kind you refer to.

Q. Is there anything else you can think of?—A. This man Johnson had a partner connected with the reservation. He was a silent partner, connected with the reservation—an employé of the reservation.

Q. But you do not know who he was?—A. I think it will be found out.

By Mr. CAMERON:

Q. Had any of these parties commenced occupying this land before it was surveyed?—A. Nearly all had begun to bring sheep into the county about that time.

Q. They had commenced to occupy it before the passage of the act of March 3, 1873. After that it was supposed to be an Indian reservation?—A. Yes, sir.

Q. What portion of it had been surveyed?—A. There had been exterior boundary lines surveyed, but the interior had not been sectionized.

Q. You do not know of any persons who filed entries on the land, do you?—A. Yes, sir; some speculators from San Francisco did so, but the patents were afterwards canceled.

Q. Do you know of any of these stockmen who hold under a title derived from the United States, through the Land Office?—A. In No. 6, in Williams' Valley there was some land that parties have a title to.

Q. How much?—A. There was something like six or seven hundred acres. Peter Dean, a capitalist of San Francisco, entered land there, which Mr. Short has a title to. Mr. Grey had a homestead in Williams' Valley, but I do not know whether he perfected his title.

By Mr. CAMERON:

Q. Is there anything else you desire to say, Mr. Eberle?—A. Well, what is the range of your inquiry?

Q. We desire to ascertain who, if any one, is occupying the reservation, and under what title, if any, they occupy it.—A. I have stated to you the names of persons who are now occupying the reservation.

Q. How many Indians are connected with the Round Valley tribe, as you understand it? We do not expect you to be exactly accurate?—

A. Some years ago they claimed 1,000, but the number now on the reservation is much smaller. Some tribes have never lived there. The Yakies have always lived on the Henley farm, and have been employed as servants and laborers. If there is anything to come out of the Government they take care to get their share of it.

Q. Indians also go off of the reservation to work, do they not?—A. Yes, sir; and the usual practice has been when a man wanted an Indian to work for him the Indian was furnished with a pass in order to leave the reservation, but that is not done now. I called your attention to the fact of parties living on the reservation who are not employés. There is a family of Bowens who live in the valley.

Q. In No. 10?—A. Yes, sir.

Q. Are they occupying it by permission of the agent?—A. Yes, sir. Bowen has an interest in land the title to which was confirmed by the Supreme Court recently. For a number of years Bowen has been cutting all the hay he wanted from the valley. He has been using the hay and living in a Government house on the reservation, and has been using the Government barn. There has been considerable fencing done between the ranges since Mr. Sheldon has been the agent. I mean upon the dividing lines between the ranges. A great deal of substantial fencing has been put up by different parties, which has cost a good sum of money, too. From the northeast corner of No. 9, following the northern line of No. 9, substantial brush fences were built in either 1878 or 1879. Then, following the line between Nos. 5 and 6, where it crosses Dry Creek, where it enters the valley, and up the hill and following the line between these ranges, there is a substantial brush fence. Probably the whole length of fencing here would be 7 miles, at least. Most of the improvements on this reservation have been made since the passage of the act of March 3, 1873. They are nearly all new. There is one other thing in connection with the reservation I will mention, and it is this: On the western edge of No. 10 there is what is known as Little Valley. There were in the valley some improvements the Government bought, and Sheldon permitted them to be removed and placed on land owned by a man named Thompson whom I have mentioned before, and I suppose they are there yet.

Q. Is there anybody else who knows that fact?—A. There ought to be. I saw them when they were being hauled there.

MEMORANDUM.—Exterior blue lines, boundary of Round Valley Indian Reservation. Interior blue lines designate the boundary of the several stock ranges occupied by settlers on the U. S. reservation.

		No. sheep.	No. acres.
No. 1.	Occupied and grazed by G. E. White	6,000	7,600
" 2.	" " Henley Bros. and Gibson	7,000	28,000
" 3.	" " Jacob Uptegraaf	5,000	11,000
" 4.	" " Frank Azbill	6,000	8,500
" 5.	" " D. T. Johnson	5,000	12,000
" 6.	" " J. G. Short	6,000	18,500
" 7.	" " Foster Bros.	4,000	5,500
" 8.	" " Bourne and Johnson	2,500	3,200
" 9.	" " Bourne and Johnson	2,500	3,200
		44,000	97,500
" 10.	" in part and grazed by Indian reservation		5,500
			103,000

About 1,600 head of horses, cattle, and hogs are also grazed on the reservation.

EDEN VALLEY, MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Frederick Omar Townsend.

FREDERICK OMAR TOWNSEND sworn and examined.

By the CHAIRMAN:

Question. Mr. Townsend, will you give us your full name?—Answer. Frederick Omar Townsend.

Q. This place is Eden Valley, Mendocino County, I believe?—A. Yes, sir.

Q. How long have you resided here?—A. I have only resided here with my family for about two years, but have owned this place much longer.

Q. Where did you reside before you came here?—A. I resided in Ukiah.

Q. How far is that from here?—A. About 42 miles.

Q. Were you acquainted with this neighborhood before you came here?—A. Yes, sir.

Q. How far is your present residence from Round Valley?—A. It is 16 miles to Round Valley.

Q. Are you acquainted with that reservation?—A. Yes, sir; I have been over, around, and on it frequently.

Q. Are you acquainted with the manner in which it is occupied and used?—A. Yes, sir; I think so.

Q. Will you state to this committee just how it is used, what portion is used for the Indians, and what is used by other people?—A. I think the valley lands are used for the Indians, but I do not know the number of acres.

Q. What proportion of the whole reservation is occupied for the use of the Indians?—A. About one-eighth of the whole reservation, I think, is used for the Indians; but I cannot state positively.

Q. That is your estimate?—A. Yes, sir; that is my estimate.

Q. How is the other seven-eighths occupied?—A. By individuals with stock.

Q. Is it portioned out among individuals, or is it occupied in common?—A. It is portioned off, and each has his share.

Q. Do you know the names of these individuals?—A. I know the names of some of them.

Q. Please give us the names.—A. George E. White is one.

Q. Do you know about how much land he occupies?—A. Something like 10,000 acres, I think, but I do not know positively. I know he keeps about 6,000 sheep upon the reservation land.

Q. Who else can you name?—A. The Henley Brothers occupy a portion of the reservation also.

Q. Do you know the Christian names of these Henleys?—A. Tom and Barclay Henley. Barclay does not live here, but he is one of the partners.

Q. How many acres do they occupy?—A. They must occupy, I should think, 6,000 or 7,000, or may be 10,000 acres. I can tell only from the number of sheep they run on the land.

Q. Do you know the names of any others?—A. Jacob Uptegraff is another.

Q. How much of the reservation does he occupy?—A. He has 5,000 or 6,000 sheep, and occupies about the same number of acres. Gibson is another.

Q. About how much does he occupy?—A. He has about the same number of acres that Uptegraff has.

Q. Do you think of any others?—A. Well, there is Gray. He has no sheep, but grazes cattle on the land. And there are Johnson and Bourne.

Q. These men occupy different parts of the reservation?—A. Yes, sir, and they generally keep from 4,000 to 5,000 sheep. There are also some parties who have gotten in lately, but I do not know their names.

Q. Do these men occupy seven-eighths of the reservation, to the exclusion of the Indians?—A. Yes, sir; entirely.

Q. Are the lands stocked to the extent of their capacity?—A. Yes, sir; to the full extent of their capacity.

Q. Are they stocked with sheep or cattle?—A. With sheep principally. Mr. Gray has cattle and horses.

Q. Is this seven-eighths valuable land?—A. It is, for that purpose.

Q. What is it worth per acre?—A. It is worth three, five, and six dollars an acre.

Q. You think that would be a fair rental for it?—A. Yes, sir; sheep have been rented with land that would keep them at \$1 a head.

Q. If you had the land and not the sheep what would be a reasonable compensation?—A. Well, that is a matter of calculation.

Q. Your judgment is better than ours, and we would like to get your opinion?—A. Well, land that would keep 4,000 sheep, which, except in choice locations, would require 8,000 acres, would be worth at least \$1,500 a year; that is, I should think so.

Q. How long have these men occupied the reservation?—A. Some of them have occupied it for twenty years. I was here in 1864. I did not live here then, but I bought stock here. This land here was owned by Judge Hastings.

Q. Do you know whether the reservation has left as much land as they can profitably use?—A. Well, they could use, of course, profitably all the land upon the reservation, but I don't know that it is the policy of the Government to go into such a business as would make the land profitable. They could occupy the land with stock. They have land enough to support all the Indians.

Q. What would be the best disposition to be made of the reservation?—A. Well, my opinion is, of course it is nothing but an opinion, I think that those Indians that are not able to take care of themselves should be selected from the rest, and a portion of the land should be selected which, under the management of a good man, would support them, and I would put those Indians upon it, and support them from the land. The balance of the land I would sell.

Q. Can you suggest any method by which it could be sold so that the Government could realize a fair compensation?—A. It could be sold at auction, in lots, and the Government could fix a minimum price for the valley land. I would fix the minimum price at \$10 an acre. Some of the finest land in the State is upon the reservation. I would fix the mountain land at, say, \$3. I would not allow a man to have as much as he wanted, but I would recommend that a man be allowed 640 acres.

Q. What would you do with the old and infirm Indians?—A. I would set apart 100 acres for each head of a family, so that they could have a living.

Q. Would you give them a title in fee?—A. I would hold the title for them, by all means.

Q. Would 100 acres be enough?—A. Yes, sir; 100 acres would be enough for each head of a family.

Q. Then what would you do with the single Indians?—A. I would set them loose and make them work, which they are doing now. Some of them are working on the reservation, but most of them are working for individuals. They are employed on the reservation part of the time picking hops, and everybody else employs them.

Q. Do they compare favorably with white laborers?—A. As compared with white laborers they are as good as the best whites, and besides, you can get them for less.

Q. Do they take care of their wages as well as the whites?—A. I think so.

Q. Do you think that with a little care they can be brought to lay aside their wages?—A. Yes, sir; you can teach them just as readily as you can anybody else.

Q. Are these Indians increasing or decreasing?—A. They are decreasing. They are bound under the present system to decrease. The old people will soon pass away and the young ones will be absorbed into the general population. One of the Henleys told me the other day that they had decreased half in the last ten years.

Q. What is the cause of this decrease?—A. They mix too much with the whites, and do not breed well.

Q. Are there many squaw men?—A. Not as many as there used to be. They used to be about all of them. There was nothing else. Burchard, a former agent here, made them marry the squaws they were living with, in 1876. There was a man here a week ago who is married to a squaw.

Q. After they marry the squaws do they identify themselves with the Indians?—A. No, sir; many of them are men with property; but it is a terrible thing, because their posterity is bad; two-thirds of them are criminals. The young men will come to the gallows.

Q. What claim do these men make for their occupation of this land?—A. They claim the right of occupancy by sufferance.

Q. What advantage do they have in sheep raising over their neighbors?—A. As a rule, we pay now \$5 an acre for land.

Q. A man who attempts to make a sheep business would have to pay \$5?—A. They pay a good deal more sometimes; these men who occupy this reservation pay no taxes, and have occupied the land for a great many years. It is a very big per cent. not to have any taxes to pay; we have had to pay the interest on the cost of the land besides taxes.

Q. Do you know anywhere in the neighborhood of what they gather, in dollars and cents, off of that land each year?—A. Well, I could not go into that.

By Mr. CAMERON:

Q. Do you know whether these men, in endeavoring to perpetuate their stay there, have acted separately or jointly; is any one recognized as the principal man among them?—A. Well, I do not like to say anything about that; I know a bill was passed by which they got their lines run.

By the CHAIRMAN:

Q. Is it not so that by the law of 1873 the boundaries were changed so that the line ran through the valley and the south side thrown open?—A. About two-thirds of the valley was sold in pieces of 320 acres. Of course the settlers there, with the use of dummies, managed to get all they wanted.

Q. We are simply after the truth in reference to the condition of things upon this reservation, and the best method of solving the ques-

tion. It is a question the United States has had its attention called to, and the Government thinks the present condition of things ought not to continue, but what is the best way to solve the question we do not know.—A. Of course I am interested in this way, and in this way alone: These people there are friends of mine, and I have no enmity towards them, and if they only paid taxes I would not say anything. As I said, they are friends of mine, but we are taxed heavily, and they ought to be made to pay, too.

Q. Has the agent been obliged to buy beef off the reservation?—A. Yes, sir; the agent has bought beef every year off the reservation.

Q. With proper management could he have raised enough beef to feed the Indians?—A. With proper management he could have fed four times as many Indians as there are upon the reservation now. There is land enough upon that reservation to raise cattle enough to feed all the Indians in the State.

Q. Do you know whether flour has been bought at Ukiah for the reservation?—A. I could not say whether flour has been sent there from Ukiah lately; but with regard to the meat business I never could understand why they bought meat, because they ought to raise more than they could consume. I sent a proposition by Congressman Luttrell offering to take care of those Indians, and give bonds binding myself to take the land as it was, and take care of the Indians at no cost to the Government.

Q. Do you know whether Mr. Luttrell made the offer for you?—A. He said he did.

Q. When did you make that offer?—A. I made that offer four years ago.

Q. Are you ready to renew that proposition now?—A. I am ready to renew that proposition at any time. Mr. Luttrell informed me that he had communicated the fact to the Government, but he said that Uptegraff was ahead of me.

Q. He was willing to do the same thing?—Yes, sir. Oh, almost anybody would do it.

Q. You would be willing to take the reservation with the five or six hundred Indians?—A. There are not that many there.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Philo George Tuttle.

PHILO GEORGE TUTTLE sworn and examined.

By the CHAIRMAN:

Question. Mr. Tuttle, will you give us your full name?—Answer. Philo George Tuttle.

Q. What is your business here?—A. Stock raising and herding.

Q. How long have you been in the business?—A. I have been in the business of stock raising and herding ever since 1857 or 1858.

Q. Are you at present employed by the Government?—A. I am at present employed upon the reservation, herding for the Government.

Q. How long have you been employed in that capacity here?—A. I have been employed here a little over eight years. There was a time when I was away for about ten years. I have been here for two years now.

Q. What is your special duty?—A. Taking care of stock.

Q. Do you have occasion to visit any other parts of the reservation except that occupied and used by the Government?—A. I visit it all at certain times of the year.

Q. How large is the whole reservation?—A. I do not know the number of acres.

Q. Do you know the boundaries?—A. Yes, sir.

Q. Can you give us the boundaries?—A. Yes, sir; I think so.

Q. Suppose you give us the boundaries.—A. I could not give the distances.

Q. Well, just describe the boundaries.—A. The reservation line on the northeast commences at the mouth of Williams' Creek and follows that, in rather a northwest direction until it comes to the head of the creek; then it runs until it strikes the head of Hall's Creek, which runs in a northwest direction. It follows that until it empties into the North Fork of Eel River. That river runs in a westerly direction. The line follows the North Fork of Eel River until it empties into the main Eel River, which runs in a northwesterly course. The line follows the bed of Eel River until it comes to the township line between townships 22 and 23, and it runs on that line from the western to the eastern boundary of the reservation, then up the main Eel River to the mouth of Williams' Creek.

Q. You do not know the number of acres contained in the reservation?—A. No, sir; I do not.

Q. What proportion of this reservation you have described is in the actual occupation and use of the Indian agency? How much of it?—A. I do not know that I understand your question.

Q. Is one half or one-tenth in the actual use and occupation of the agency?—A. The part we occupy is in the valley. The swamp and overflowed land is not fenced, and the stock range all over the country, and I do not know whether you would say the agency or other parties had it.

Q. Do the stock mix together?—A. Yes, sir.

Q. Are there any parties who have the exclusive use of any portion of this reservation?—A. No, sir; no parties have ever forbid us going into their inclosures.

Q. What sort of fences do they make?—A. The inclosures are fenced with brush, and the rivers and creeks make natural boundaries also. Fencing is made from one creek or river to another.

Q. Are there any parties who occupy portions of the reservation exclusively?—A. Yes, sir.

Q. Who are they? Can you give us the names of these parties?—A. Mr. Uptegraff has a portion of the reservation.

Q. How much of it?—A. I do not know how much.

Q. What does he occupy it with?—A. He occupies it with sheep.

Q. How many sheep has he?—A. I think he has about 4,000 at present.

Q. These sheep depend on reservation land for food?—A. This season he moved them into a small range. They are occupying only a part of the range now. This is done to save the grass on the range for winter feed.

Q. To save the feed for whose use; for the use of the reservation?—A. No, sir.

Q. For whose use then?—A. For their own use.

Q. For their own sheep?—A. Yes, sir.

Q. Who else is there upon the reservation beside Mr. Uptegraff?—

A. Mr. Lewis and parties by the name of Hoyden; Mr. Azbell, Mr. Bourne, and Mr. Johnson, and I think Mr. Short has a part of the reservation fenced, but I am not positive about that.

By Mr. CAMERON:

Q. The Henley brothers have fenced in a part of the reservation, have they not?—A. Yes, sir.

Q. How many sheep do the Henley brothers keep?—A. They have been keeping, until a short time ago, about 3,000 sheep on one range. How many they have on their other ranges I don't know. I heard them say that they sheared 7,000 a year ago.

Q. On this reservation?—A. Yes, sir.

By the CHAIRMAN:

Q. Do they ever interfere to drive you off of the portion they use?—A. No, sir; none of them have ever interfered with me.

Q. Do they interfere with the food you want, or do you have enough for your stock?—A. The stock would do a good deal better with all the feed. The reservation feeds 20,000 sheep, and if we had the feed these 20,000 sheep get our stock would do better than they now do.

Q. Could you keep a much larger herd?—A. Yes, sir.

Q. If you had all of this reservation, how many head of cattle could you keep?—A. I could keep about 2,000 head if I had all the reservation, and over that number.

Q. How many have you now?—A. Something in the neighborhood of 500.

Q. Is that as many as you can take care of with the feed you have now?—A. Yes, sir; and we would lose some now if we should have a hard winter.

Q. Taking it from year to year, have you as many as you can provide for safely?—A. Yes, sir; as a general thing. Twelve years ago I left 1,200 cattle here; I came back two years ago this month, and I should judge there were between three and four hundred here.

Q. Have they increased since?—A. I think they have.

Q. How did they decrease from 1,200 to 400 head?—A. I don't know.

Q. Have they run down in numbers at any time since you have had them?—A. I think not, sir.

Q. You think you have as many as you can take care of?—A. Yes, sir; just about as many as we can take care of with the feed these other parties let us use. We might take care of 50 or 100 more with special care, but it would not be safe to venture. With ordinary winters we could take care of 50 or 100 more. I do not speak of hard winters.

Q. Do you produce beef to sell in market?—A. The beef we produce we kill and issue to the Indians.

Q. About how many pounds of beef do you furnish for the reservation in a year, taking the years in and out?—A. I could not tell the pounds.

By Mr. CAMERON:

Q. About how many animals do you kill in a year?—A. We kill probably 250 animals a year.

Q. Can you do that and keep the number up?—A. No, sir; we cannot.

Q. How many can you kill and still keep the number up?—A. With the beef that has been bought under contract and the beef raised on the reservation, I consider that we have increased the agency herd in the last few years.

Q. How much has been bought?—A. Fifty-five or sixty thousand pounds a year. We bought about 60,000 pounds last year.

By the CHAIRMAN:

Q. What proportion is bought?—A. About one-third, I suppose. We kill from 225 to 250 a year. We bought last winter 62 or 63 head.

Q. So about one-third is bought?—A. Yes, sir.

Q. Of whom has it been bought?—A. For the last two years it has been bought of Mr. Gray and Mr. Bourne.

Q. Mr. Gray is one of the men who occupy a portion of the reservation, is he not?—A. Yes, sir; his stock range promiscuously back and forth.

Q. Did he furnish beef from stock on the reservation?—A. Yes, sir; a part of it.

Q. What portion of it?—A. Well, his cattle go and come. Some are on the reservation and some are not. His general herding is across the line.

Q. How many does he keep on the reservation?—A. I don't suppose he has over 40 or 45 that stay on the reservation all the time.

Q. Did it take that number to fill the contract?—A. It took 32 or 33 to fill the contract, and he kept about 40 on the reservation, I suppose.

Q. The other man was Mr. Bourne?—A. Yes, sir; he furnished the beef for the last year, I think.

Q. Do they furnish it together?—A. Each furnishes half.

Q. They have furnished it for the last two years?—A. Yes, sir.

Q. Who furnishes the beef for the next year?—A. Mr. Bourne, I think.

Q. How much beef does the contract call for?—A. Fifty-eight thousand pounds, I think.

Q. About how many cattle will that require?—A. It will take 50 or 60 head.

Q. Something like 1,000 pounds to the animal?—A. Yes, sir.

Q. Mr. Bourne is one of the parties who occupies a portion of the reservation with stock?—A. Yes, sir; he has sheep, cattle, and horses here.

Q. How many cattle has he?—A. At the present time he has about 300 head, or 250 perhaps. It would change about 30 odd, which he sells to the agency. It took that many to fill his contract. It would take 60 to fill the next contract.

Q. Who else occupies a portion of the reservation?—A. Mr. Thompson occupies a portion of it.

Q. They have divided the reservation by fences and natural boundaries?—A. Yes, sir.

Q. Each one keeps his herd within these limits, leaving you to get what you can?—A. Our stock range promiscuously.

Q. With what you can get, have you an abundance of food for them?—A. Some years feed is plentiful, and some years it is short. This year feed is plentiful.

Q. Has the reservation stock in the mean time been running down?—A. I could not say that.

Q. Can you tell us whether it is running down in size and quality, as well as in number? Are your cattle as large and heavy as the other cattle?—A. No, sir; but there is a reason for that.

Q. What is the reason?—A. We kill our cattle much younger than they do.

Q. Why is that?—A. Because we have not held enough cattle to kill.

Q. If you had a larger range the cattle could arrive at a riper age, because you could have more of them?—A. Yes, sir.

Q. You are compelled to kill younger cattle than ought to be killed?—A. Yes, sir; we are compelled by circumstances to kill cattle too young.

Q. What are those circumstances?—A. Well, we have not enough stock.

Q. You must have a larger herd in order to keep the cattle a longer time?—A. Yes, sir.

Q. Or use less beef?—A. Yes, sir.

Q. You must regulate either your range or the stomachs of the Indians?—A. One or the other, sir.

Q. What would you recommend as a remedy for this existing state of things?—A. Well, sir, I hardly know. If the Government had control of all the reservation and we had more stock, there would be no difficulty in furnishing all the beef the Indians would consume, but under the present circumstances it would be hard to do, because the cattle don't like to run with sheep, and the sheep occupy the whole reservation with the exception of that portion inside the immediate inclosure we have in the valley.

Q. Whose sheep are they?—A. They belong to White, Hayden, Uptegraff, Azbell, the Henleys, Gibson, Johnson, Bourne, and Mr. Short.

Q. The agency has no sheep?—A. No, sir.

Q. Of this reservation, whose boundaries you have given, what part is valley land?—A. I don't remember the number of acres, and I have heard, too; but I suppose there are about 3,000 acres. There is some that is claimed by parties as swamp land.

Q. Who claimed it?—A. I think there is a Mr. Bowen who claims 440 acres; and Mr. Henley and Mr. Corbit have claims also. The whole amount of these claims would aggregate 1,000 or 1,100 acres.

Q. One thousand or more acres of what is considered valley land is now claimed by parties as swamp land?—A. Yes, sir.

Q. To which they claim to have a perfect title?—A. Yes, sir.

Q. So there is left somewhere in the neighborhood of 3,000 acres, excluding the land claimed?—A. I would not be positive about it, but I think that is about the amount of land left.

By Mr. CAMERON:

Q. How long have the parties you have named occupied the reservation? I mean in general terms.—A. Mr. White's occupation began in 1860. Henley and Gibson were then occupying land on the reservation when I came into the valley. These other parties, I think, have all come in since. These three parties I have named had sheep, cattle, and horses on the reservation at the time I speak of. Mr. Bourne, a brother to the gentleman now here, was living here, and claimed the swamp and overflowed land. A man named Eberle also lived here upon a claim. All these parties who are now upon the reservation were here when I came back to the valley, two years ago. I don't know when Mr. Johnson came here.

By the CHAIRMAN:

Q. Are you acquainted with the grazing lands here in the valley?—A. Yes, sir.

Q. What are grazing lands worth in this vicinity? What are the

uplands worth a year for grazing purposes?—A. I don't think I could tell what they are worth. I don't know that I ever took that into consideration.

By Mr. CAMERON:

Q. Do you know the value per acre of the uplands?—A. I know that parties having claims of 160 acres here have said that they would get all the way from \$4, \$5, to \$6 an acre for them when they got their title. Taking the whole reservation as an average, I would not like to give \$3 or \$4 for it.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Theo F. Willsey.

THEO F. WILLSEY sworn and examined.

By the CHAIRMAN:

Question. Please give us your full name.—Answer. Theo F. Willsey.

Q. What is your present position?—A. United States Indian agent for the Indians at Round Valley Agency.

Q. How long have you been in charge here?—A. I have been in charge since the 1st of September.

Q. Since the first of the present month?—A. Yes, sir.

Q. Whom did you succeed?—A. Mr. Henry B. Sheldon.

Q. How long had he been here?—A. He had been here nearly seven years.

Q. Did you have any personal knowledge of this agency before you came here?—A. Previous to coming here I resided in this vicinity, but not on this side of the mountains. I was in the Sacramento Valley. I met some Indians there. A great many of the Indians belonging here lived there.

Q. Have you ever had charge of Indians before?—A. No, sir; I have never had charge of Indians before.

Q. In what condition do you find this agency in respect to its appointments? You have just come here, and we would like to have your opinion. Do you find it in good order?—A. The buildings are all very poor. They are old and are in a very poor condition. Nearly all the roofs leak. Nearly everybody upon the reservation, both white people and Indians, have been to me asking for better houses. They have been leaking, and are unsuitable to live in. They afford very little protection.

Q. Is there anything else out of order?—A. Well, I don't know that I could say that anything else is out of order.

Q. How many Indians are upon this reservation?—A. There are about 600 Indians here.

Q. How many white people are in your employ?—A. Well, on the regular roll there are about 7.

Q. Does Congress make an appropriation for this agency?—A. None that comes directly as an appropriation. It comes in the form of groceries, dry goods, sugar, tea, coffee, calico, socks, &c., on requisition of the agent.

Q. What has it amounted to this year?—A. I am not prepared to say.

Q. Have you familiarized yourself with the past accounts of the agency?—A. Not wholly, sir.

Q. Could you, from any account you know of here, tell us whether this reservation has cost more than it has produced; whether the Indians are an actual cost to the Government or not; if so, how much?—A. There has been no regular system of book-keeping that would show that. Of course these goods are furnished as they are called for, and that is an expense to the Government.

Q. How are the employés paid?—A. The employés are paid from the proceeds of the hops. That is, all except the agent, physician, and clerk. They are paid salaries. The other employés are paid out of the proceeds of the sale of hops.

Q. What does the reservation produce that it does not consume itself?—A. We sell nothing but hops.

Q. About how much each year does the reservation realize from the sale of hops?—A. I could hardly estimate that. It comes sometimes high and sometimes low. I suppose the crop will average this year from \$4,000 to \$6,000.

Q. Is the hop production capable of being enlarged?—A. Oh, yes, sir.

Q. Do the Indians cultivate land for themselves?—A. Yes, sir.

Q. How much do the Indians produce on their own private account from the reservation?—A. I can hardly state that.

Q. Is it half as much as the agency produces?—A. It is probably in that neighborhood. It may not be so much as that.

Q. Could the Indians be induced to cultivate hops to a larger extent?—A. I think so.

Q. Would that be as profitable to them as going off the reservation to work?—A. Yes, sir; perhaps more so.

Q. Do you see any obstacle in the way that would prevent the increase of hop-raising by the agency, and by the Indians on their own account?—A. None at all, sir.

Q. Do you think the Indians are capable of being encouraged in that industry?—A. Yes, sir.

Q. Would it be better to keep them around the agency than to permit them to go out as day laborers?—A. I think it would be more profitable.

Q. Would they be as likely to come ultimately to take care of themselves?—A. I think they would. Charles Munsen, one of the chiefs, has four or five acres in hops, and has twenty bales of hops this year.

Q. Is he a full-blood Indian?—A. Yes, sir; he is an Indian, and the chief of the Concows.

Q. I suppose he is above the average, or is he not?—A. Well, he may be, but I think there are plenty of others capable of doing just as well.

Q. That illustration could be increased?—A. Yes, sir.

Q. Do you care to say whether there has been any want of attention to that idea of developing the Indian into a self-supporting citizen? Do you think as much of that has been done as could be done?—A. No, sir; I do not.

Q. You have some other source of income besides hops, I suppose?—A. We make all our own flour, and grind grain for the valley people.

Q. They pay you a toll, I suppose?—A. Yes, sir.

Q. Is that in kind, or is it in money?—A. It is in money.

Q. About how much does that yield you?—A. The mill has not been used since I have been here.

Q. Do you think the mill resources could be made more useful?—A. Yes, sir.

Q. What is necessary in order to do that?—A. We need new and better machinery.

Q. Would it be a source of revenue to the Government?—A. Yes, sir.

Q. How much revenue would it yield?—A. I could not say.

Q. Then, you have a saw-mill?—A. Yes, sir.

Q. And plenty of good timber?—A. Yes, sir.

Q. Is there anything in the way of your producing all your own lumber for all the improvements that are necessary upon the reservation?—

A. The only thing is the want of funds. We have to pay the Indians who work at the mill. Our only source of revenue is from the sale of hops, and from the grist-mill. But we don't get enough from the hops and grist-mill to keep the mills running all the time.

Q. If you could sell lumber, would not that increase the revenue?—A. Yes, sir; if we could sell lumber that would, of course, increase the revenue.

Q. Have you any personal knowledge of how the uplands are occupied?—A. I have been over the western part of the reservation. That part is occupied by Mr. White, who has a sheep range.

Q. How many acres do you estimate that he occupies?—A. Ten thousand acres, I should think.

Q. Has he a very fine range for his stock?—A. Yes, sir, it is capable of keeping the reservation stock in a splendid condition.

Q. That would furnish a range for how many cattle?—A. I am not prepared to say. I am not an adept in that business, but I think that if we could keep the sheep off the agency herd could be doubled.

Q. How many head of cattle could you keep on the reservation?—A. Two thousand head, I should think.

Q. If you had 2,000 head could you send any to market?—A. Yes, sir, certainly.

Q. Could this reservation with proper management, with all the land under the control of the Government, produce cattle for market?—A. Yes, sir.

Q. Instead of being a charge to the United States is it possible to manage it so that it will be a source of revenue?—A. It could very easily be made self-supporting, and more than self-supporting.

Q. How much more?—A. I am not prepared to say how much more than self-supporting it could be made. There is plenty of range to raise, as I have said, 2,000 head of cattle, and that would furnish a revenue sufficient to meet all requirements.

Q. Are the Indians here increasing or decreasing?—A. I do not know.

By Mr. CAMERON:

Q. About how many Indians are there on your roll?—A. Well, we are just having a census taken now.

Q. What tribes have you charge of?—A. The Concows, Ukies, Pitt River, Potter Valleys, Little Lakes, and Red Woods.

Q. About how many do you understand there were on the list last year?—A. The last census gave something like 600.

Q. About how many of these remain uniformly upon the reservation?—A. I guess the majority of them are here. Of course, that includes children also. I understand that the Potter Valley Indians left the reservation about five years ago. They were probably not included in the last census.

Q. Do those Indians who have left the reservation receive annuity goods?—A. No, sir.

Q. State generally what the Indians do towards supporting themselves.—A. They do all the farm work; that is, they cultivate the ground. They raise wheat, barley, and oats under the supervision of the farmer, and they also pick hops.

Q. Are they paid for their work?—A. They are paid for picking hops.

Q. How do they compare with the white laborer?—A. Of course, they have not the education and skill of the white laborer, but they are getting to do very well indeed.

Q. You may state whether the young Indians take hold of work, and seem to understand that they must do something for themselves in order to make a living.—A. I think they understand that; in fact they are almost all employed either on or off the reservation.

Q. What kind of work do they engage in off the reservation?—A. They work on farms, herd stock, shear sheep, and pick hops, the same as the ordinary farm hands.

Q. I observe that they wear citizen's clothes?—A. Oh, yes, sir, they are civilized; and a great many of them read and write, and are excellent farmers.

Q. How many of them speak the English language more or less perfectly?—A. There are very few but what you can understand very well.

Q. Are they much given to drinking whisky?—A. That is a failing all are given to, but I don't think they drink as much as some other western Indians do. There is comparatively little drinking. There are some very fine men there, indeed.

Q. Do they marry and have families, and are the family relations recognized here or not?—A. Well, partly. Quite a number have been legally married, and a great many have their old customs.

Q. Do any of the men have more than one wife?—A. There may be one or two cases where they live with more than one woman. Mr. Ray, who is taking the census, told me the other day that there were some cases of the kind; but it is not a general practice.

Q. Do they frown upon it themselves?—A. Yes, sir; I think they do as a body.

By the CHAIRMAN :

Q. Can you give us some sort of history of this reservation, what it was originally, and how it was established?—A. There is a history of the reservation contained in a correspondence between Mr. Hoyt, Commissioner of Indian Affairs, and the Secretary of the Interior. The letters are dated respectively July 23, 1878, and June 27, 1879. (Witness presented the following letters :)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 23, 1878.

The Hon. SECRETARY OF THE INTERIOR :

SIR: I have the honor to inclose herewith, a letter received by this office from H. B. Sheldon, esq., United States Indian agent, at the Round Valley Agency, California, dated February 1, 1878, in relation to C. H. Eberle, C. H. Bourne, and David Thompson, who claim through the State, under the act of September 28, 1850, certain lands within the boundaries of said reservation, as "swamp and overflowed lands," and inclosing a letter from the treasurer of said State, giving a description of the lands sold to Eberle and others, together with amount paid by each; also two letters from the surveyor-general, dated October 17 and December 19, 1877, addressed to him, inclosing in that of October 17 diagrams showing the location of certain lands, to whom and when sold, and stating that the lands indicated have not been listed to the State by the Department; also stating that the SW. $\frac{1}{4}$, Sec. 14, N. $\frac{1}{4}$, W. $\frac{1}{4}$, SW. $\frac{1}{4}$, and E. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 23, T. 23 N., R. 13 W., were relisted by the State in lieu of sixteenth and thirty-sixth sections, and were listed to the State in list No. 2,

Humboldt Land District June 8, 1866, and that these lands have not been sold by the State, and that of December 19, he gives the price, &c., of these lands. In order to bring more fully to the attention of the Department the rights of the Indians in California, and that the Government recognized those rights, it will be necessary to refer to some of the acts of Congress in relation to the Indian service in that State.

By act of Congress, approved September 28, 1850 (the date of the approval of the swamp act, 9 Stat., 519), the President was authorized to appoint three Indian agents for the State of California. By act of September 30, 1850 (*ibid.*, 558), an appropriation of \$25,000 was made, to enable the President to hold treaties with the various Indian tribes in the State of California, and again by act of February 27, 1851 (*ibid.*, 572), an additional sum of \$25,000 was appropriated for the same purpose.

By act of March 3, 1852 (10 Stat., 2 and 3), the President was authorized to appoint a superintendent of Indian affairs for the State of California.

By act of August 30, 1852 (*ibid.*, 56), an appropriation of \$100,000 was made for the preservation of peace with those Indians, who have been dispossessed of their lands in California. By act of March 3, 1853 (*ibid.*, 238), the President was authorized to make five military reservations from the public domain in the State of California, or the Territories of Utah and New Mexico, bordering on said State, for Indian purposes.

Again, by act of July 31, 1854 (*ibid.*, 332), three military reservations for Indian purposes, submitted by superintendent of Indian affairs for California and approved by the President, were authorized, each to contain not less than 5,000 acres and not more than 10,000 acres, and the superintendent was authorized to apply not exceeding \$25,000 in the extinguishment of conflicting titles and rights to said reserved lands, to which is added the following proviso: "The State of California shall cede the necessary jurisdiction in such cases with regard to the land so purchased."

By act of March 3, 1855 (*ibid.*, 698), an appropriation of \$125,000 was made for defraying the expenses of the removal and subsistence of Indians in California to three military reservations, in accordance with the plan submitted by the superintendent of Indian affairs of that State and approved by the President, and by the same act (p. 699) two additional military reservations for Indian purposes were authorized, to be selected as heretofore, not to contain exceeding 25,000 acres each, with a proviso giving the President power to enlarge the quantity of reservations heretofore selected equal to those now provided for, making the maximum area of the five reservations equal to 125,000 acres.

Again, by act of March 3, 1857 (11 Stat., 183), an appropriation was made for defraying the expenses of the removal and subsistence of Indians of California to the reservations in that State.

By act of February 28, 1859 (*ibid.*, 400), authority was given to the Commissioner of Indian Affairs, with the consent of the Secretary of the Interior, to increase the number of reservations for Indian purposes, and the act approved July 27, 1868 (15 Stat., 221), mentions the Round Valley reservation in appropriating \$5,000 for a saw and grist mill for that reservation.

A brief history of this reservation is as follows, viz :

The valley was first selected for Indian purposes in 1856 by Superintendent Henley, and by letter addressed to him by 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.

In letter dated January 6, 1860, from this office to the General Land Office, after reciting the facts in regard to this reservation, it was stated that they were deemed sufficient to show that "Round Valley" had been set apart and recognized by the Department as an Indian reservation, and the Commissioner of the General Land Office was requested to respect the same upon the books of that office and to notify the local officers in California. May 3, 1860, the surveyor-general of California, acting under the instructions from General Land Office, reported a survey of the boundaries of said reservation.

The General Land Office, in a communication dated June 21, 1860, inclosed to this office a plat of said survey, certified by the surveyor-general of California under date of May 4, 1860, which showed the reservation as surveyed at that time to be situated in Townships 22 and 23 North, of Ranges 12 and 13 West of the Mount Diablo Meridian, California, and embracing 25,030.08 acres.

The act of Congress approved April 8, 1864 (Stat. at L., vol. 3, p. 39, sec. 2), provides, "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 of California, to be retained by the United States for the purpose of Indian reservations, which shall be of suitable extent for the accommodation of the Indians of said State, and shall be located as remote from white settlement as may be found practicable, having due regard to their adaptation to the purposes for which they are intended: *Provided*, That at least one of said tracts shall be located in what has been known as the northern district: *And provided further*, That if it shall be found impracticable to establish the reservations

herein contemplated, without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior is hereby authorized and empowered to contract for the purchase of such improvements, at a price not exceeding a fair valuation thereof to be made under his direction. But no such contract shall be valid, nor any money paid thereon, until, upon a report of said contract and of said valuation to Congress, the same shall be approved, and the money appropriated by law for that purpose: *And provided further*, That said tracts to be set apart as aforesaid, may or may not, as in the discretion of the President may be deemed for the best interests of the Indians to be provided for, include any of the Indian reservations theretofore set apart in said State; and that in case any such reservation is so included, the same may be enlarged to such an extent as in the opinion of the President may be necessary in order to its complete adaptation to the purposes for which it is intended."

The facts relative to this reservation were reported by this office to the Department, April 6, 1868, and in accordance with Department letter of April 14, 1868, the superintendent was directed to report the boundaries of Round Valley reservation extended to the summits of the surrounding mountains, accompanied with a plat, in order that the same might be set apart for a reservation, and also to have a valuation made of the improvements thereon, in order that the same might be submitted to Congress for approval and appropriation for payment, which he accordingly did. (See office report of March 4, 1870.) In that report it was recommended that the President be requested to order to be set apart as an Indian reservation "Round Valley," in Mendocino County, California, as enlarged by the superintendent, and on March 30, 1870, the President directed that "Round Valley" be set apart as an Indian reservation in accordance with the recommendations of the Secretary of the Interior as delineated on the map accompanying his letter of March 30, 1870.

The act of Congress approved March 3, 1873 (Stat. at L., 17, p. 633), entitled "An act to restore a part of the Round Valley Indian Reservation in California to the public lands and for other purposes," provides "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 twenty-two and twenty-three north, of ranges twelve and thirteen 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 one dollar and twenty-five cents 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, who shall have priority of right to purchase not exceeding three hundred and twenty acres of land in adjacent quarter sections, containing and adjoining said improvements and all said lands shall be sold and disposed of for cash only, the same to be done through the local land office within the jurisdiction of which these lands are situated: *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 for 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 of this act defines the southern, eastern, and western boundaries of the reservation, and authorizes and directs the Secretary of the Interior to appoint three commissioners for the purpose of examining the country in that locality with a view of establishing the northern line of this reservation.

This section also directs that these commissioners shall make an appraisement of all improvements of white persons north of the southern boundary of the reservation, as established by this section, and within the limits proposed by them for a reservation, as well as the improvements of all Indians south of said line, and the Secretary of the Interior is authorized to pay for these improvements out of the money reserved for that purpose by the first section of the act.

The third section of this act directs the President to cause to be withdrawn from sale or entry under the homestead or pre-emption laws all the land lying within the boundaries described by the second section of the act, and the northern line as fixed by the commission when approved, and requires all settlers within the limits of the reservation to remove therefrom as soon as they shall be paid for, or tendered the amount of the appraised value of their improvements.

In letter of March 29, 1873, this office recommended that the President be requested to issue his order directing that the tract of country described in section three of this act be withdrawn and reserved from sale or entry as public lands until, after the report of the commission appointed to fix the northern boundary of this reservation "shall have been received and approved," and on the 8th day of April, 1873, the President issued an Executive order in accordance with the above request, which was transmitted to this office by Department letter of April 10, 1873.

On March 21, 1873, the Department designated Hon. J. P. C. Shanks, of Indiana,

Charles Marsh, of California, and Agent J. L. Burchard, a commission to make an examination and appraisal of the land and improvements, and to fix the northern boundary of this reservation, as provided by the above act.

On May 3, 1873, the Department substituted General B. R. Cowen, as one of the commission, in place of Agent Burchard.

On November 1, 1873, this commission submitted a report of the appraisal of the improvements with their recommendations as to the establishment of the northern boundary of the reservation (see *Mis. Doc., Ind. Affairs, vol. 3*), which was approved by Acting Secretary W. H. Smith, August 4, 1874.

In report of May 14, 1875, this office recommended that the President be requested to issue an executive order defining the boundaries of Round Valley Indian Reservation, in accordance with the act of March 3, 1873, and the report of said commission. (See Annual Report, 1873, p. 164, for description of boundaries.)

On May 19, 1875, the Department transmitted to this office Executive Order, dated May 18, 1875, proclaiming and defining the boundaries of said reservation. (See Annual Report of 1877, p. 239.)

By Executive Order of July 26, 1876 (Report 1877, p. 239), the land embraced in the military reservation known as "Camp Wright" was reserved for the use and occupancy of the Indians of this reservation. The exterior boundaries of this reservation, as it now exists, were surveyed in December, 1876, and January, 1877, and approved January 17, 1877.

By reference to the report of Commissioners Shanks, Marsh, and Cowen (*Mis. Doc., Indian Affairs, vol. 3*), it will be seen that the improvements of the parties referred to by Agent Sheldon were appraised as follows, viz: C. H. Eberle, \$2,925; C. H. Bourne, \$5,130; David Thompson, \$1,940.

The records of this office show that the above-named parties have been paid in full the appraised value of their improvements, which is an acceptance of the terms of the act of 1873.

Agent Sheldon, in his letter above referred to, states that these parties, after being paid the appraised value of their improvements, now claim these lands, through the State, as "swamp and overflowed," and will not vacate them, and that they, together with others, have some 44,000 sheep grazing upon the lands of this reservation.

I inclose herewith Ex. Doc., No. 224, Forty-Second Congress, second session, being a letter from the Secretary of the Interior, dated April 1, 1872, in answer to a resolution of the House, of March 18, 1872, relative to the extension of this reservation, which gives a complete history of said reservation up to that date, in which will be found a valuation of the improvements of certain settlers made by Bvt. Maj. Gen. J. B. McIntosh, U. S. Army, superintendent of Indian affairs, California, under instructions contained in letter from this office October 18, 1869, together with the date of settlement and purchase as claimed by the settlers. Superintendent McIntosh, in his letter dated December 17, 1869, (*ibid.*), in speaking of claims to swamp and overflowed lands, states that "So far as I could ascertain, there are but three such claims in Round Valley; they are owned by C. H. Eberle, who claims 440 acres in Sec. 30, T. 23 N., R. 12 W.; C. H. Bourne, who claims 440 acres in Sec. 25, T. 23 N., R. 13, W.; David Thompson, who claims 200 acres in Sec. 35, T. 23 N., R. 13 W. In talking with these gentlemen they say that after selling their improvements to the Government they should still hold their claims to the swamp and overflowed lands from their title derived from the State. * * * In this connection I call your attention to the fact that Round Valley was surveyed for an Indian reservation in March, 1860, and it was not until July 29, 1851, that Joseph J. Cloud, the county surveyor for Mendocino County, surveyed these lands for these parties as swamp and overflowed lands. I believe the claims are a fraud and should be resisted by the Government. * * * "My own view of the case is that no one is lawfully there who entered the valley after the Government, through its proper agent, gave well-posted notices throughout the valley that they intended to hold that portion of the public domain for Indian purposes, and forbidding the citizens then and there to make any additional improvements."

To Department letter of February 10, 1876, the honorable Attorney-General replied, under date of the 11th of the same month, stating that he, that day, had instructed the United States attorney for the district of California to take such steps as are necessary to eject the parties who have illegally settled upon the Round Valley reservation in California.

On February 23, 1877, the honorable Attorney-General submitted to the Department a copy in part of a letter from the United States district attorney for California (herewith) in which it appears that on March 8, 1876, the United States attorney instituted an action of ejectment in the circuit court of California against Eberle, Bourne, Thompson, and others, settlers upon this reservation.

This is the action mentioned in Agent Sheldon's letter, which appears to be still pending.

This reservation appears to have been set apart by competent authority, and the only questions which under existing provisions of law remain to be determined are

the date at which under the various departmental and executive acts, both prior and subsequent to the act of 1864, the entrance of settlers into the valley became unlawful; whether the claims of these settlers are valid and must be respected by the Government, and whether the State of California is entitled to swamp and overflowed lands within this reservation under the act of September 28, 1850 (9 Stat., 519), entitled "An act to enable the State of Arkansas and other States to reclaim 'swamp lands' within their limits." The State of California was admitted into the Union by act of Congress approved September 9, 1850 (9 Stat., 452), on an equal footing with the original States.

The act of 1850 has been repeatedly held by the courts and by the Department to be a grant *in presentii*, vesting an indefeasible legal title in the State to all lands at the date of its passage—"swamp and overflowed lands made unfit thereby for cultivation." (Railroad Company *vs.* Fremont County, 9 Wall., 89; Railroad Company *vs.* Smith, *ibid.*, 95; Wendell *vs.* Conkling, Secretary's decision, November 11, 1873.)

The next point to be considered is the right of these parties to settle upon this reservation.

By act of Congress of March 3, 1853, (section 6, 10 Stat., 206), it is provided "That all the public lands in the State of California, whether surveyed or unsurveyed, with the exception of sections sixteen and thirty-six, which shall be, and hereby are, granted to the State for the purchase of public schools in each township, and with the exception of lands appropriated under the authority of this act, or reserved by competent authority, * * * shall be subject to the pre-emption laws of fourth September, eighteen hundred and forty-one." * * * The last proviso of this section prohibits settlement to be made on any tract of land in the *occupation or possession* of any Indian tribe.

By the last paragraph of section 7 of this act, no person is allowed to make settlement or location upon any tract or parcel of land selected for a military post, or within one mile of such post, or on any other lands reserved by competent authority. There is no doubt as to the fact that this valley was occupied and in possession of the Indians even before the State was admitted to the Union, for in a letter dated September 12, 1851, (annual report 1851-'52, 236), Special Commissioner McKee speaks of some 1,100 Indians occupying the valleys of Eel River.

As before stated, under the decisions of the courts and the rulings of the Department all swamp and overflowed lands inured to the States on the passage of the swamp act.

The question, therefore, to be considered is whether the State of California has the right to dispose of lands, admitting their swampy character, reserved by competent authority for Indian purposes, the title to which vested in the State on the passage of the act of 1850.

The lands claimed as "swamp and overflowed" within this reservation have never been listed or certified to the State by the Department.

The legislature of the State of California passed an act, approved May 14, 1862 (State Stat., 1850 to 1864, p. 617), granting all lands belonging to the State and within any Indian reservation to the United States. Now, as this reservation was established by competent authority as early as November 18, 1858 (if not before that time), when by letter of that date, by order of the Secretary of the Interior, this office directed Superintendent Henley to give public notice that the entire valley was set apart and reserved for Indian purposes, and as the act of the State granting all her title to lands within any Indian reservation to the United States was subsequent to the establishment of this reservation, it is the opinion of this office that the State by that act divested herself of all title or interest whatever to all lands to which she had any claim within this reservation. It is stated by the district attorney in his letter above referred to that these parties claim title by purchase from the State prior to the act of May 14, 1862.

By reference to the diagrams inclosed in the surveyor-general's letter of October 17, 1877, addressed to Agent Sheldon (referred to in the first part of this letter), it will be seen that all the certificates of purchase issued by the State for lands within this reservation claimed under the act of 1850, and sold by her, are of a subsequent date to the act granting these lands to the United States. Section one of the act of the State legislature, approved April 13, 1859 (*ibid.*, 109), reads as follows: "The certificates of purchase or of location of any lands in this State, issued or made in pursuance of any of the laws of the United States, or of this State, shall be deemed *prima facie* evidence of legal title in the holder of said certificate of purchase or location, or his assignees."

It is evident from this statute that the State considered the fee-simple to all lands claimed by her under any of the laws of the United States as vested in herself, and that only certificates of purchase or location would be evidence of title as against her, and as the State did not issue certificates of purchase to those parties prior to the act of May 14, 1862, the fee-simple to these lands was in the State at that time, and by that act she granted the absolute fee-simple to the United States, after which

she had no right, title, or interest thereto, and by her own act she is forever prohibited from making any disposition thereof.

Again by act of the State, approved April 18, 1859 (*ibid.*), "No certificate of purchase or location mentioned in the act to which this act is explanatory and supplemental shall affect the right, title, or possession of any party in adverse possession of any lands at the date of location."

At the dates when certificates of purchase were issued to these parties, the United States was a party in adverse possession of these lands, holding the fee-simple by grant from the State, and this act protects the rights of the Government.

Again, by act of the State legislature, approved April 27, 1863, section 19 (*ibid.*), 613), it is provided that in the event of any of the lands sold by the State proving 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 shall be entitled to receive in exchange therefor a certificate from the register of the State land office that such amount has been paid, and this certificate is receivable as payment for its amount, either principal or interest, upon any lands of the same class which the same purchaser or assigns may afterward desire to locate, or may already have located.

These lands were not the property of the State at the time she sold them; and this statute provides the manner of redress for these parties.

I refer to these State statutes in order to show that provision has been made by the State for cases of this character. These lands were not confirmed to the State by the act of July 23, 1866, to quiet land titles in California (14 Stat., 219), for two reasons: In the first place she had prior to the passage of said act granted all her title and interest thereto to the United States, and in the second place lands reserved for Indian purposes are one of the exceptions of that statute.

It is the opinion of this office from the foregoing that this reservation was legally established before the State passed the act granting to the United States all lands to which she had any claim within all Indian reservations, and that the fee-simple to all these lands vested in the Government on the passage of that act, and that as all certificates of purchase issued by the State for lands within this reservation are of date subsequent to said act, said certificates are null and void and of no effect as against the United States.

Commissioners Shanks and Cowen in their report of November 1, 1873, last clause (annual report 1873, p. 164), in speaking of these lands say that "The State of California has sold a certain portion of the lands within the new reservation as swamp lands and the purchasers are claiming under certificates from the State land offices. These lands, however, have not been confirmed to the State by the United States Government as swamp lands, and we respectfully represent that they are not in any sense of the term swamp lands, and should not therefore be confirmed to the State as such."

Should the Department concur in the views of this office I have the honor to recommend that I be instructed and directed to take steps at once to remove these parties, and that the honorable the Secretary of War be requested to direct the proper military officer, upon request of the agent, to furnish the necessary force to effect the removal. On the other hand, should the Department decide that the State is entitled to the lands within this reservation, alleged to be "swamp and overflowed lands," I have to recommend that a hearing be ordered to determine the character of these lands, and if upon such hearing they should prove to be "swamp and overflowed lands" I further recommend that the State be allowed to select other lands in lieu thereof as indemnity.

Some steps should be taken at once to remove these parties, it being preposterous to pretend that 44,000 sheep can subsist on the lands claimed by these parties.

The following is a list of the papers submitted with the case, which please return with your decision in the premises:

A.—Letter of Agent Sheldon, with inclosures, dated February 1, 1878 (California, S., 201, 1878).

B.—Letter of Agent Sheldon dated June 13, 1878, inclosing lands claimed as "swamp and overflowed" and sheep ranges of various parties (Cal. S., 856, 1878).

C.—Ex. Doc. 224, Forty-second Congress, second session (C., 159, 1876).

D.—Diagram showing exterior boundaries of reservation as it now exists.

E.—Letter of the Attorney-General, with inclosures, dated February 23, 1877 (Cal., I, 179, 1877).

Very respectfully, &c.,

E. A. HAYT,
Commissioner.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, June 27, 1879.

SIR: Referring to office report of July 23 last, in relation to C. H. Eberle et al., claiming through the State of California certain lands under the swamp act of September 28, 1850, within the boundaries of Round Valley Indian Reservation, in which it was shown that these parties have no right to the land claimed by them, the State

of California having by legislative action of May 14, 1862, granted to the United States all interest she had to any lands within any Indian reservation, and the certificates of purchase issued by the State bearing date subsequent to that act, I have the honor to modify the recommendations contained in the aforesaid report.

As it appears that a suit is pending in the United States district court for the district of California, I have the honor to recommend that a copy of said report and accompanying papers, together with a copy of this report, be transmitted to the honorable Attorney-General for such action as he may deem proper in the premises.

Very respectfully, your obedient servant,

E. A. HAYT,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

WITNESS. The Commissioner's letter gives a history of the setting apart of this reservation, and I think shows clearly that the State had no authority to certify this land as swamp and overflowed land, as the reservation was occupied prior to the time the land was certified as swamp and overflowed lands by the State.

Q. Are you able to give us the names of suits in which the question of right to these swamp and overflowed lands has been decided, so that we can find the record of the suits?—A. One suit decided the whole of it. The United States brought the action, and I think the title of the suit is "The United States vs. Eberle." Corbet, Bowen, and Thompson had claims also, but that decision disposed of the question.

Q. When was that question decided?—A. I do not know. It was at the last winter or spring term of the United States court, I think.

Q. I do not suppose you are sufficiently familiar with the merits of that case so as to be able to tell us upon what ground it turned?—A. No, sir.

Q. Have you a school at this agency?—A. Yes, sir; we have a day school.

Q. How many pupils are there?—A. There are fifty-two or fifty-three names on the rolls.

Q. Is it in session now?—A. Yes, sir; but we have had a vacation since the first of this month. The people are all away picking hops, and the children like to be with them. That is, we have only a half a day's schooling now.

Q. Is the day school a success?—A. Yes, sir.

Q. You have no boarding-school?—A. No, sir; that was burned some time ago.

Q. The day school is a substitute for that, I suppose?—A. There may have been a day school here too, but I don't think there was.

Q. You are not able to say which is the best, the day school or the boarding-school, from your experience?—A. No doubt it is better to have a school where you can keep the children away from the camps and the influences of the customs of the older Indians.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Henry B. Sheldon.

HENRY B. SHELDON sworn and examined.

By the CHAIRMAN:

Question. Will you please give us your full name?—Answer. Henry B. Sheldon.

Q. You were formerly agent here?—A. Yes, sir.

Q. For how many years were you agent here?—A. I was agent here nearly seven years. I came here October 1, 1877.

Q. You succeeded whom?—A. I succeeded Mr. Burchard.

Q. How long had Mr. Burchard been here?—A. He had been here five years.

Q. Was he the first agent here?—A. Mr. Gibson preceded him.

Q. When was this reservation established?—A. It was established in 1855, I think.

Q. Mr. Gibson was not the first agent?—A. He was the first agent under what is called Grant's policy. This reservation was under the charge of the Methodist Church.

Q. Did they have charge of other Indians in this vicinity besides these?—A. They had nominal charge of River and Hoopa Valley.

Q. Where are these places?—A. River is 200 miles below San Francisco, and Hoopa Valley is 184 miles, by land, north of here; rather northeast.

Q. Did the religious society have any personal supervision of the management of affairs at the agency, or the selection of the agent?—A. They indicated what agent they wanted, and then left the management of affairs to him. There was a time, though, when there was an attempt on the part of the society to control the agent.

Q. There is what is called an Indian Commission. Has that any connection with the management of this agency?—A. No, sir; none whatever. The religious societies have a committee that looks after the agencies under their control. In our case one of the secretaries lives at New York.

Q. Who has charge of the nomination of agents?—A. It was Dr. Reed, of New York, in my case. In our conference there has been a corresponding committee who had charge of matters here. I have corresponded with Dr. Reed, of New York. This corresponding committee was appointed by the conference year by year.

Q. The boundaries of the reservation were changed in 1873, were they not?—A. Yes, sir; but that was before I came. Before that time the reservation constituted the entire valley, and ran to the summits of the surrounding hills.

Q. The valley contains about how many acres?—A. It contains about 25,000 acres.

Q. The act of 1873 excluded from the reservation a portion of the valley?—A. Yes, sir.

Q. What portion?—A. All that portion south of the boundary line between Townships 22 and 23 was excluded from the reservation.

Q. What proportion of the valley land was excluded from the reservation under the act of 1873?—A. About three-fifths or three-fourths of the valley was excluded by that act, and other land was included in the reservation by the commissioners.

Q. When you came here was the upland in the reservation in the occupation of the agency?—A. No, sir.

Q. Was it occupied as it is now?—A. The occupation was very similar.

Q. Will you describe what it is to-day?—A. It is occupied by several parties who have claims, or who have bought from those who had claims. On the south side is George E. White; then come Gibson and Henley, and Uptegraff. On the north side is Azbell, and joining him is Johnson; and next to him is Short, and joining him is Bourne.

Q. Can you estimate the number of sheep they keep on this reservation?—A. It varies considerably, but I did have at one time an estimate that was given me by the herder. It amounted to nearly 50,000 sheep.

Q. What portion of the whole upland is occupied by sheep?—A. Nearly all of it.

Q. How large a herd had the agency when you came here?—A. I think the herd was about the same as now. It may have been 30 or 40 more.

Q. At any time during your administration was the herd larger?—A. It may have changed a little. It may have been a little over 500 at one time.

Q. Was that enough to keep up the number and supply the agency with beef?—A. No, sir, it was not.

Q. Why have you not kept a larger herd?—A. We could not get the herd?

Q. What was the difficulty?—A. In the first place we had no funds with which to purchase cattle, and we were compelled to use our cattle as fast as they were large enough.

Q. Was there any other reason?—A. Well, the want of pasturage was, of course, a reason.

Q. Was there sufficient pasturage upon the reservation to feed more cattle if you had the use of all of it?—A. Yes, sir.

Q. How large a herd could you have kept if you could have had more pasturage?—A. I think that if the reservation had the use of all its land they could easily keep 5,000 head.

Q. How many head of cattle does it take to supply the Indians with beef?—A. About 350 a year.

Q. How large a herd would it take to keep up the agency herd and kill 350 head a year?—A. About 1,000 head.

Q. Then if there was a herd of 5,000 head the other 4,000 would be a source of revenue to the agency, would they not?—A. Yes, sir.

Q. What other source of revenue would there be?—A. The hop crop would be a source of revenue.

Q. About how much?—A. For the last three years we have raised from two to ten and eleven thousand dollars' worth, and one year our crop amounted to about \$15,000.

Q. Is the grist-mill a source of revenue?—A. Yes, sir.

Q. How much?—A. From \$800 as a minimum to \$1,000 as a maximum.

Q. If it was in prime order could it produce more?—A. There could not be a great increase.

Q. Could the saw-mill be made a source of revenue?—A. Yes, sir, it could be made so by selling lumber. There is a good supply of timber, and a great demand for lumber, but there is a difficulty in the way.

Q. What is the difficulty?—A. The Treasury Department requires that all proceeds of the sale of lumber shall be turned into the general Treasury.

Q. Do they make a distinction between that and hops and the grist-mill?—A. I don't know that that has been brought into discussion. There has been a discussion as to the proceeds of the grist-mill and the farm between the Treasury Department and the Interior Department, and the Interior Department won the case, but the lumber has not been brought into consideration. Every decision heretofore has turned upon the decision of the Supreme Court in the case of the Menomonee Indians, and every attempt to obtain revenue from the sale of lumber has been met with that decision.

Q. Were the agency buildings in the same condition when you came here as they are now?—A. Well, sir, I think they were in about the same condition. Of course a good many repairs have been made, but their condition is about the same.

Q. What is their condition?—A. It is not good.

Q. Why have they not been repaired?—A. I have not had the means to repair them.

Q. You had lumber enough in the forests?—A. Yes, sir; but I could not get it cut.

Q. Why?—A. Because I had no authority to make the Indians work there. On the farm we required all the able-bodied to assist, but at the mill it was different.

Q. Did the Indians raise this point on you?—A. I don't think they did.

Q. I don't believe anybody would have invented it for them.—A. Well, I found this condition of things when I came. Mr. Burchard was paying the Indians at the mill in lumber, and they sold it and never used a piece for themselves.

Q. How do the Indians use their money?—A. Some of them use it for luxuries that the Government don't provide for them. A large majority of the working men have resided in white families in earlier days, and have acquired an appetite for such things as white men use. The first year I was here nearly 200 of them left the reservation and went to Ukiah and bought land, and have been living there ever since.

Q. How have they been doing?—A. They have taken care of themselves.

Q. Have they been on the gain or wane down there?—A. I could not say.

Q. Did they go there because they wanted to get homes?—A. Yes, sir.

Q. Why could they not get land here?—A. The Department could not give them land here because it had no control of it, except in very small quantities.

Q. The title to the land is in the United States, is it not?—A. Yes, sir; to a large portion of it.

Q. The United States has no treaty with these Indians, I believe?—A. No, sir.

Q. Have you a boarding-school here?—A. Not at present. We had one here up to July one year ago, which was in operation for about two years. That building burned down a year ago.

Q. Was there an appropriation for the erection of the building?—A. No, sir; I received about \$2,000 from the Department for the restoration and repair of the buildings at Camp Wright, and I used that for the change of the buildings from there to the agency.

Q. Where is Camp Wright?—A. It is south of this township line. It is a military reservation of a mile square.

Q. You say that building burned down?—A. Yes, sir.

Q. What was the origin of the fire?—A. It was set on fire by the boys in the school.

Q. Maliciously or carelessly?—A. Maliciously. There was some difficulty between some of the boys of the school, and I think the fire resulted from that.

Q. Were they never detected?—A. They confessed it, and were kept in confinement twenty-one days, and then ordered released.

Q. By whom were they ordered released?—A. By the Acting Commissioner of Indian Affairs, Mr. Stevens.

Q. They have never been punished further than that?

A. No, sir; they are here now.

Q. On what ground was their release ordered?—A. I think Mr. Stevens said the boys were certainly not aware of the enormity of the crime, and he thought they had been confined long enough.

Q. Did you leave on record any opinion as to the matter?—A. If I did it was very modestly done.

Q. Was the Department made aware of what you thought of such discipline?—A. I expressed my opinion of it to Mr. Belt. There is an Indian office separate from the Indian Bureau, and Mr. Belt has charge of it.

Q. What are the duties of that office?—A. All communications go through that office to the Secretary. Mr. Belt was here a year ago, and after investigating that matter he turned the boys loose. I had the boys arrested again, and told him I did not consider that we were safe under the circumstances, unless they were in confinement, but they were ordered released.

Q. How are the agency hops raised? Do you employ the Indians in hop raising?—A. With the exception of one year the Indians have done all the work in the hop fields.

Q. Did you pay them for the work?—A. Yes, sir; but they generally have done the work up to the picking without pay.

Q. Describe the process of raising hops.—A. Well, sir, the first thing is done in the winter and spring, when we clear up the ground after the picking; then the poles are got in readiness, and manure is hauled and put on the ground; then, in the spring the pruning comes, and then the poling.

Q. I don't care about the agricultural method pursued, but I would like to know how you manage otherwise. You pay for the labor performed, you say?—A. Yes, sir; we sold this year sufficient roots to provide the money to pay for the pruning and poling.

Q. When you get them picked, what do you do then?—A. They are then brought to the hop-house, and there the Indians assist in curing them. There are two white persons in charge of the furnaces, who have been in charge twelve years; all the rest of the work is done by Indians. The hops are cured and put into the store-room, and, after a proper sweat and fermentation, they are baled and carried to San Francisco and sold.

Q. Do you take personal charge of the sale of the hops?—A. Yes, sir; I take charge of their sale, which is as soon as they are baled; I send them to a commission merchant in San Francisco.

Q. Who sells them for you?—A. I sell them in the market.

Q. Who has acted as your agent?—A. In the last three years Moody & Farish have acted as my agent.

Q. Before them who acted?—A. I think one year I sent them to E. Wolf & Co., and one year I sold them to the same firm.

Q. When does he account to you for the sale?—A. He accounts just as often as he sells, and I draw on him.

Q. Do you ever leave the money in the hands of the commission merchant?—A. I did at one time. I desired to deposit it as miscellaneous funds, but was informed that they kept only one account, so I did not deposit it.

Q. Do you send an account of it to Washington?—A. Yes, sir; an account of it goes to Washington every quarter, but the money is deposited in San Francisco with the sub-treasurer. All my expenditures and receipts, which are sworn to, are kept in a book.

Q. What was the difference between the receipts and expenditures last year?—A. I cannot tell exactly; the accounts have not been kept in that way; I keep the books according to the Government method, and the accounts have been large.

Q. Has there never been a balance sheet of profit and loss between yourself and the Government?—A. No, sir.

Q. Both you and the Government are at sea as to whether the revenue has been larger than the expenditures?—A. It has cost the Government something every year.

Q. How much?—A. When I came here it was costing the Government \$10,000 for the employés and the salary of the agent.

Q. What is the salary of the agent?—A. Fifteen hundred dollars.

Q. The agent gives bonds, does he not?—A. Yes, sir.

Q. Who are your bondsmen?—A. I have given four different bonds. The first was when I was at Eureka, and Mr. Joseph Russ, Mr. Bullock, and Mr. Gates were my bondsmen. The second was after I came here, after I had been confirmed by the Senate. Then I gave four residents of the valley—W. P. Milcot, Jacob Uptegraff, Saunders Hornbroke, and William Montague. The other was a supplementary bond; I got Mr. White and Mr. Henley to go on that bond, as I did not wish to go to the expense of going out of the valley.

Q. What are the full names of Messrs. White and Henley?—A. George E. White and George Henley.

Q. Who were on the fourth bond?—A. John Cyrus and William McDonald, of Calistoga; also a gentleman of Oakland and a gentleman of Napa. I know them well, but it is sometimes hard to think of names.

Q. I observed a good many little houses about here. I suppose they are Indian homes?—A. Yes, sir.

Q. Were they erected under your management?—A. Yes, sir, mostly.

Q. Were they erected by Indians?—A. Yes, sir; by Indians under the supervision of the white carpenter.

Q. They built their own homes?—A. Yes, sir; and I furnished the lumber, nails, &c. This comes out of my receipts for hops, and I have to account for it in my books. The pay of the carpenters and the pay for cutting the lumber come out of the proceeds of the reservation. When we require brick we make them ourselves, and the nails and windows and hardware are purchased on requisition by the Government.

Q. Does the Indian select his own location?—A. Sometimes; but the plan was adopted before I came here of centralizing them for better inspection and care, and for getting at them handily for work. They have desired to separate of late, and for the future of the Indians it would be better for them to be on their own ground, and as far separated as possible.

Q. About how large a piece of land would a head of a family take care of?—A. Not a great deal, but they are all required to have their own garden. We require them to do that.

Q. Do they take care of their gardens?—A. Some of them do, and make their gardens a source of revenue; others do not.

Q. Are their homes in such order as you would like to have them?—A. No, sir; there may, however, be a few of them in good order. They are gradually providing themselves with tables, chairs, and other things; they are gaining in that line.

Q. As a whole is this agency in as good a condition as it was when you came here, in all respects?—A. Yes, sir, with the exception of the buildings; they have deteriorated by use.

Q. Is the Indian in a better condition?—A. Yes, sir.

Q. He goes off more, don't he?—A. No, sir; not as much.

Q. Do they earn as much money?—A. More, sir.

Q. In what respect have they improved here under your administration?—A. They do more work on the outside, and get a larger revenue

than they did, and more are getting a revenue from their gardens and from their hops.

Q. Is their moral condition better?—A. Their moral condition is no worse than it was when I came here.

Q. Is that all you can say?—A. I cannot say that it is much better.

Q. Have they had any religious teaching?—A. Yes, sir.

Q. In what form?—A. Missionaries sent by the church, until this last year.

Q. Has the church become discouraged?—A. I stopped the minister.

Q. Why?—A. Because he interfered with the affairs of the agency.

Q. He interfered with the material as well as the spiritual welfare of the Indians?—A. Yes, sir; it commenced in connection with the school. The children went to him with some complaint. In the first place there were petitions gotten up by an employé in the school complaining about a teacher, and he got the children to sign them. And after their names were signed to it it went into the hands of the preacher, and the Indians thought that because he was sent from the conference and appointed by the Church he could exercise some authority. He went into the school in the absence of one of the teachers and took a vote as to whether they wanted that teacher there. He did that twice. I remonstrated with him, and also referred the matter to his superior, who chided him; but still it did not cease.

Q. Did he come to you or carry on the matter independently?—A. He carried it on independently.

Q. Did he take steps to make the teacher go?—A. He reported the matter to his superior, and the matter took the shape of charges made by this superior. They could not investigate in the form of a trial, because they had no means of bringing a legal trial. The matter came up as a complaint against the agent, and an investigation took place pro and con. The charges were investigated, and the result was that the party making the investigation reported, "I find nothing in them."

Q. There was some trouble about the management of the school and you sent the teacher away?—A. I refused to allow him to continue his services upon the reservation.

Q. You have been here nearly seven years, you said?—A. Yes, sir.

Q. Does the present condition of things here, this occupation of the reservation by outside parties, meet with your approval?—A. Not at all, sir; the Indians ought to be in the exclusive occupation of the entire reservation. I have taken steps to lay the matter before the Department, and the letters in your hands are the result of the correspondence.

Q. Has the Department taken any steps to exclude these people from the reservation?—A. The only step taken was the bill to pay settlers for their improvements.

Q. Who do you mean by settlers?—A. Parties occupying or claiming a part of the reservation whose improvements have been appraised, and who have not heretofore been paid for them. A portion were paid under the act of 1873, but the remainder have not been paid. Nothing has been paid since I have been here.

Q. What other changes would you make in the administration of affairs here, if you had it under your control, besides excluding parties who now occupy a portion of the reservation?—A. I would recommend that the Indians be given land in severalty.

Q. How general an allotment do you think would be wise?—A. To almost the entire tribe. There are a few old ones who could not take care of the lands, but the others would all take care of it.

By Mr. CAMERON :

Q. What amount of land would you give to each ?—A. That would depend upon what they wanted to do with it. Some would want to cultivate it, and they would want valley land. There are some spots on the ranges and in the mountains which could be used for vegetables, &c., but many of the Indians would gain their living by raising stock, and they would want a larger place than others.

By the CHAIRMAN :

Q. How would you allot it ?—A. I would allot it to some for agricultural purposes.

Q. How much land would you allot ?—A. From 40 to 100 acres, perhaps, for farming purposes ; but for grazing purposes I would allot not less than 360 acres.

Q. Could one head of a family manage that amount of land ?—A. Yes, sir.

Q. Could he have a considerable herd on 360 acres ?—A. They would herd together. My idea would be to allot to tribes in contiguity.

Q. Would you give them this land in fee ?—A. No, sir ; I would not give them the land in fee ; but should be held in the United States for at least twenty-five years.

Q. Would you have the entire reservation allotted out ?—A. Yes, sir, after a time ; but I would in the mean time use the balance to provide a small farm for the sustenance of the agency.

Q. Would that exhaust the reservation ?—A. That would require all the land we could control. There is some of the 102,000 or 103,000 acres that has been deeded.

Q. Have you any knowledge of the acquisition by parties of what are called swamp and overflowed lands ?—A. In December and January, 1859, this land was surveyed by the United States deputy surveyor, and sectionized, and notes were filed showing the character of that land—overflowed land—to be other than swamp, and in 1861 another deputy surveyor was called upon to survey these lands, and he made a report stating that they had been wrongly reported—that they ought to have been reported as swamp and overflowed land.

Q. How many acres were there ?—A. About 1,080 acres.

Q. This was in 1861, you said ?—A. Yes, sir.

Q. Were these lands within the limits of the reservation ?—A. Partly in and partly not.

Q. These lands were surveyed and reported as swamp and overflowed land after it was withdrawn as an Indian reservation, and the question of title hinged upon that ?—A. I think so, sir.

By Mr. CAMERON :

Q. Have any of the men who occupy any portion of the reservation come in since you were appointed agent, or were they here when you came ?—A. Some of them have purchased improvements from others.

Q. Under what claim do they occupy portions of the reservation ?—A. From the fact of holding improvements at the time the reservation limits were extended by the act of March 3, 1873.

Q. We have been told that the Henley brothers occupy 28,000 acres ?—A. That is a mistake ; they do not occupy so much.

Q. Do they claim to occupy the large amount of land they do occupy upon this reservation because they had a shanty on any portion of it at the time the reservation was extended ?—A. They claim to occupy a part of it on account of the former claim of a party who had placed

scrip on a large body of land, but whose title to land upon the reservation was not recognized by the Commissioner of the General Land Office.

By the CHAIRMAN :

Q. And they claim under a title that has been proved to be no title at all? Can you state the actual boundaries of the land occupied by the Henley brothers?—A. I can show on the map where the land is. [Witness produces a map and examines it.] They claim in their answer to the suit brought by the United States to disposes them land bounded on the north by land occupied by Jacob Uptegraff, on the west by Eel River, on the south by George White, on the east by Mill Creek, and sections 34, 27, part of 22, and part of 14 in township 23, range 13.

Q. When was that action brought?—A. That action was brought in the summer of 1876 in the circuit court, at San Francisco, and it was decided in 1881, in favor of the defendants. Then an appeal was made to the United States Supreme Court, and the court dismissed the appeal this last winter. The suits were brought against the swamp-land claimants, and against those parties occupying portions of the reservation who had been tendered the appraised value of their improvements, and had not vacated. They stated in their answer that their improvements had not all been appraised; and for that reason they need not accept the appraisal which had been tendered them. The court sustained them and gave them the case. It decided that they could hold their improvements until such time as all their improvements were appraised.

Q. Was it decided that they could hold the whole range?—A. The amount of land occupied by these parties was not a part of the testimony.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
October 22, 1884.

Testimony of Philo Handley.

PHILO HANDLEY sworn and examined :

By the CHAIRMAN :

Question. Please give us your full name.—Answer. Philo Handley.

Q. What is your age?—A. I am forty-two years of age.

Q. Where do you reside?—A. I reside on the reservation.

Q. How long have you resided on the reservation?—A. I have resided here for nine years.

Q. What position do you now hold on the reservation?—A. I am the head farmer.

Q. How long have you held that position?—A. For nine years.

Q. Now, you may go on and state what your duties are as head farmer, and what they have been from the time you took the position. Just give a general statement.—A. I have been superintending the farming interests of the reservation.

Q. State whether or not the Indians have made any advancement as farmers since you have been connected with the reservation.—A. I think they have.

Q. About how many of the Indians are engaged in agricultural work? What proportion of the male Indians?—A. Nearly all of them; nearly all the heads of families.

Q. How do they rank as laborers as compared with the whites?—A. Some of them are good laborers and some are not, but I think they will average very well with the floating white population.

Q. What agricultural products are raised upon the reservation?—A. All the cereals, wheat, barley, and oats, and nearly all kinds of vegetables.

Q. Can you state as near as you can the amount of wheat, oats, and barley raised during the last year, or the present year?—A. Well we have not measured our this year's crop yet; we have just finished threshing. It will be about 16,000 bushels, including the three grains—wheat, barley, and oats.

Q. How much hops did you raise last year?—A. We raised about 28,000 pounds of reservation hops, aside from the hops raised by Indians.

Q. What quantity of hops did the Indians raise for themselves last year?—A. Well, 7,500 or 8,000 pounds.

Q. You may state whether, in your opinion, if the Indians had the use of the entire reservation it could be made to sustain them without any expense to the Government?—A. Yes, sir; I think that if they had what they needed it could be made to support them.

Q. You mean if they had what they needed to work with?—A. Yes, sir; what land they needed, and the stock and implements to work it with. There may be such a thing as to have more land than they require, and be land poor.

Q. Do the Indians, so far as you know, generally desire that the land should be allotted to them so that each could say he owned a piece of land himself?—A. Yes, sir; that is the general desire.

Q. What amount of this valley land, in your opinion, ought to be allotted to each head of a family?—A. Well from 10 to 20 acres, in my opinion.

Q. You think 20 acres as large an amount as an Indian would profitably cultivate?—A. Yes, sir; that is, valley land.

Q. Do you know how many heads of families there are now upon the reservation?—A. I could not tell without examining the vouchers and obtaining the names, but there are between two hundred and two hundred and twenty-five, but I should say there were not that many capable of cultivating a farm.

Q. Well, about how many are there who are capable of superintending and cultivating a farm of from 10 to 20 acres?—A. I do not think the number would exceed one hundred and twenty, and most of these have other Indians depending upon them.

Q. How many of the one hundred and twenty are heads of families who have other Indians depending upon them?—A. A large number have other Indians depending upon them to some extent, but I think it is doubtful if there are that many able-bodied heads of families.

Q. How many would that leave unprovided for?—A. None, I think. All are put down as heads of families, but in a great many instances they live together. They are classified in that way because they are liable to have families.

Q. What proportion of these who are classed as heads of families would prefer to engage in herding rather than in agriculture?—A. Well, sir, I don't think any would prefer it. All would prefer a piece of valley land for farming to a piece of grazing land in the hills. That is my opinion.

Q. Of course, I am simply asking your opinion.—A. I judge that from a conversation a week since with one of the herders, who said he wanted

a piece of valley land; and he had been raised with the stock. He told me he would rather have a piece of valley land and have a farm.

Q. When you put these people on their allotments of 10 or 20 acres would you have to give them instructions, and look after them, or are they now sufficiently instructed?—A. They ought to have somebody to help them for about a year.

Q. Could you and your assistant give them all the personal supervision and instruction that would be necessary?—A. I think so, if the United States would supply them with enough means to put up fences, and supply stock and implements.

Q. The main thing I would like to know is, are these Indians so far advanced as to know how to do the thing which you call farming?—A. They are as ready now as they ever will be.

Q. That don't quite answer the question?

Mr. CAMERON: He has stated that many of them are good workers.

By the CHAIRMAN:

Q. If you had these Indians on this reservation on your hands, and were required to take care of them, what would you do?—A. To express my views might place me in a bad light with the agent. It might conflict with the opinions of the agent.

Mr. CAMERON. It doesn't matter whether it does or not. We don't propose to set you up against him, but your experience with the Indians is valuable.

The CHAIRMAN. We would like to have your opinion. You have been on the reservation nine years and ought to know more about it than we do?—A. You will allow me to use two or three *ifs*.

Q. Yes.—A. I think if the Government would buy this swamp land, if that can be done—I would be in favor of throwing the hill land, at least a large part of it, into the market, thus condensing the reservation and placing it under the control of the agent and the Indians. There is also a body of deeded land in the heart of this reservation which would have to be bought; but if that could not be done, I would locate the Indians upon the swamp land, and, selling the range land, I would locate the Indians on as much land as they needed, and lay it off in regular order, and issue teams to them and tell them to go to work. After a year's time I would tell them they must make themselves self-supporting, because they would receive nothing more. I would retain the hop or middle field for the reservation purposes, and every Indian who worked a day on that part of the reservation I would pay for his work; I would require them to raise hogs. They are opposed to eating the same meat the white people eat, especially pork, but should be made to do it. They don't like hog meat, and use it mostly for grease; that is the reason there is such a draught on the cattle.

Q. Have they enough land in the valley for all necessary purposes?—A. They have valley land enough left for all the uses the Indians could put it to, but this swamp land is right in the valley here and ought to be bought for them. The military reservation is very poor and is only fit for grazing.

Q. What is the quality of the swamp land?—A. Excellent.

Q. How does the land here compare with other lands in this section of country?—A. It compares very favorably. The Indians have as fine a body of land as any in the United States.

Q. What is the character of what you call swamp land?—A. A portion of it is very good; some of it is the driest land on the reservation. To show that I am honest in this matter, I would undertake to give

bonds of any reasonable amount, say \$100,000, and ask nothing but a salary, and if I did not make this reservation self-supporting I would take no salary. Of course I don't mean to cast any reflection upon the agent. Of course that would do away with my position; but I am asked my honest conviction. Of course the Government ought to support the school. It ought to make an annual appropriation sufficient to run the school and to pay the agent's salary, but I believe the balance could be paid by a miscellaneous sum.

Q. Do the Indians own any stock?—A. Yes, sir; they own a little stock, a few horses and hogs.

Q. What do they do with their hogs?—A. They sell them.

Q. Do they own any cattle?—A. No, sir; they are not calculated to take care of stock.

Q. We have been told that many are employed as herders.—A. I mean as herders; it has been tried and has proven a failure.

Q. Why?—A. They don't seem to take the right interest in the stock.

Q. They take pretty good care of ponies, don't they?—A. No, sir; they do not.

Q. Cannot they be brought to it?—A. In issuing stock to them, if I had my way, I would appoint a committee of Indians in each tribe to take charge of the herds, and would hold them responsible; I do not see any other way.

Q. You think you could select a band you could have such a hold upon as to bring about good order?—A. I would not enter upon bonds unless the Government would give me authority to enforce discipline. There is nothing like discipline; and I think if an Indian commits a crime he should be punished like a white person.

Q. Are they so far advanced in civilization as that to make them liable to punishment would not be inhuman?—A. I think so.

Q. Do they understand the law?—A. Yes, sir; I think so.

Q. Do they break the law oftener than the whites?—A. No, sir.

Q. Do they understand the English language so as to be able to understand the proceedings of a court?—A. Very well.

ROUND VALLEY, INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Saunders Hornbroke.

SAUNDERS HOENBROKE sworn and examined.

By the CHAIRMAN:

Q. Give us your full name, please.—A. My name is Saunders Hornbroke.

Q. Where do you reside?—A. I reside in this valley.

Q. How long have you resided here?—A. I came here in 1853.

Q. What is your occupation?—A. I am a farmer.

Q. How much of a farm have you?—A. About 180 acres.

Q. When did you acquire that; when did you settle on it?—A. In 1859. I settled then on the place I am living on now.

Q. What is the character of the soil in this valley?—A. It is generally good.

Q. What products are raised in the valley?—A. Mainly barley, wheat, oats, and corn; in fact anything a man wants to plant—potatoes, beans, pumpkins, and all other vegetables.

Q. State whether or not the reservation was established before you came here.—A. I think, sir, Noome Lacke was the reservation then.

Q. Where is that situated?—A. Right across the mountain.

Q. How many Indians were in this valley when you came here?—A. There must have been 3,000 Indians here—may be more.

Q. When was the reservation established here?—A. About 1856 a kind of agent was sent here to establish a farm, and the Indians were collected on it—June, I think. It is pretty hard to tell exactly when the reservation was established here. We have so many different notions about it. I think it was converted into a reservation by the McIntosh survey. I don't recollect the time exactly.

Q. Do you know the extent of the reservation at this time?—A. No, sir; I don't believe I can come anywhere near it. It is pretty big, though.

Q. How is the reservation outside of the valley occupied, as you understand it?—A. Well, Gibson and Henley have one sheep range on it, Azbell has another, Uptegraff has another, and Johnson has sheep on it, and Mr. Short has a good deal of deeded lands on it, probably three or four hundred acres.

Q. When did these men first commence occupying any portion of the reservation?—A. Williams' Valley, where Short lives, must have been settled in 1859 or 1860. The land has changed from one party to another, and it is hard to tell when it was first settled. I don't know when the Azbell and Gibson land was settled, but I know these lands have been occupied a good while.

Q. How are they occupied?—A. With sheep ranges.

Q. Have you been familiar with the condition of the Indians since the reservation was established here?—A. Yes, sir; I have been on and off the reservation many times, and am well acquainted with all the people on it.

Q. State generally whether or not the condition of these Indians has improved of late years.—A. There has been a general improvement all the time. All of them were blanket Indians when I first knew them, and the first crop they made they worked with butcher knives, and dug it out with sticks. Now all dress in citizen's clothing, and some dress pretty well. I see some of them wearing gloves.

Q. Do they speak the English language?—A. Yes, sir.

Q. We are told that many of the younger Indians can read and write; is that a fact?—A. I guess many of them can; but they were no better than brutes when they first came here. They lived by hunting and fishing, and digging roots, and when you killed a beef there was a perfect scramble for it. Now they want the best pieces of it only. They are pretty high toned.

Q. Are they good workers?—A. Lots of them are good workers.

Q. Do you employ them?—A. I have not employed them much lately.

Q. Why?—A. Because they ask more than a white man.

Q. They command in the market as good wages as the white men?—A. Yes, sir; and the last year, I think, they have wanted more. At least I can hire white men cheaper.

Q. Are they good hop pickers?—A. Yes, sir. Some one said they were better than the Chinamen. I never saw a Chinaman picking, but they are better than the white people who pick hops.

Q. If a small portion of the valley were allotted to each head of a family, do you or do you not think they would cultivate it, and ultimately

become self-supporting?—A. I think that most of them would. A great many of them now raise beans, potatoes, and such truck to sell; but I think they would require a white man to look after them for a time, some of them for a longer time than others, but a great many of them are pretty smart.

Q. By proper management, these Indians, you think, could be made self-supporting and cease to be a charge upon the Government?—A. Undoubtedly. I don't think they need be more than a year in coming to that.

By Mr. CAMERON:

Q. What care do they take of their earnings? Do they expend their earnings extravagantly?—A. Most of them spend their wages extravagantly, I think, and there is where they want a white man to look after them.

Q. Are they much addicted to the drinking of spirituous liquor?—A. Well, they are about like the average white laboring people.

By the CHAIRMAN:

Q. About their morals among the women and men, are they worse than the white people?

A. I think they are improving in that respect every year. When they first came here they were just like brutes.

Q. Was the contact with soldiers bad for them?—A. It was worse for the Indians than for the soldiers; but after a while it got pretty bad for the soldiers.

Q. In that respect they are improving?—A. Yes, sir.

Q. Do they have more than one wife?—A. I don't know. I don't think they have gotten into the Mormon business yet. Some of the captains used to claim two or three wives, I think.

Q. Do they take good care of their children?—A. I think so.

Q. Can you account for the reason that they don't multiply as fast as they used to?—A. No, sir.

Q. It is a fact, is it not?—A. I think that in the last two or three years more young ones have been raised than usual.

Q. Is there any other matter you think of?—A. I don't know of any other just now, because I don't know what you want.

Q. We want all the knowledge we can get.

Mr. CAMERON. The Government wants them to become self-supporting, so that it will not be put to any expense.

A. I am like Mr. Handy, I think they ought to have this swamp land, and I don't think they need half the range land. I would keep a portion of the range and sell the balance.

By the CHAIRMAN:

Q. How much of the range would you sell?—A. About two-thirds of it. Yes, all of that.

Q. And what would you do with the valley land?—A. I would pursue the system recommended by Mr. Handy.

Q. Would that ultimately result in these Indians being a self-supporting portion of this community?—A. Yes, sir; without any trouble, and in a very short time.

Q. How long a time would it require?—A. They could support themselves after the first year, but I should have some one to look after them for even a longer time than one year. They want a man to go to for advice, and he wants to tell them to take care of themselves, and what to

do, and that is all. They are pretty smart, and after having been told once they would be able to understand. It would be a good thing to have a man ride around among the farms and see that no whites impose on them, and have him show them what to do. You cannot expect one of your children to do anything without coming to you for advice, and if they have confidence in a man they will go to him for advice.

By Mr. CAMERON :

Q. We have been told that some of these parties who occupy portions of the range have from time to time endeavored to secure the influence of the agent by paying him money, particularly agent Burchard. Do you know anything about that?—A. I know that Mr. Bransford here tried to give Mr. Burchard money, but he would not accept it. Mr. Bransford told me this himself. He is dead now.

Q. Who was he?—A. He kept a store here.

Q. Did you understand that he was acting for the men who occupy the range?—A. He told me so. He came here one day with \$1,000, and he told me he wanted to get Burchard to take it—Mr. Burchard can tell you this himself.

Q. Where is he?—A. He is in Ukiah.

By the CHAIRMAN :

Q. For what purpose was he going to give Mr. Burchard this money?—A. He wanted him to let these men alone who were on the range.

Q. How came he to be doing that?—A. He said he could make so much by doing it.

By Mr. CAMERON :

Q. He did it as a business matter?—A. Yes, sir; that is all. You will see him in Ukiah and he can tell you the whole concern. He is the minister at Ukiah. He has not settled his bonds up yet since he was here.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Lemuel D. Montague.

LEMUEL D. MONTAGUE sworn and examined.

By the CHAIRMAN :

Question. What is your full name?—Answer. Lemuel D. Montague.

Q. How long have you been here?—A. Twenty-four years this fall.

Q. That carries you back to a time before this was an Indian reservation, does it not?—A. Well, no, sir. It was considered a reservation farm when I came here; that is, the valley was.

Q. What have you known of the reservation since you came here?—A. It has been reduced since I came here. All south of the township line this side of Covelo was settled upon as the reservation, and the northern line was extended up into the mountain further.

Q. How much of it is valley land?—A. About 5,000 acres, I have always understood.

Q. And the rest is mountain or grazing land?—A. Yes, sir.

Q. Has the reservation a good wide range for its cattle?—A. Well, it would have a plenty if it were not occupied by other stock.

Q. By whom is it occupied?—A. Well, there are Henley and Gibson, who have a sheep range.

Q. Enough to maintain how many sheep?—A. Well, I believe about 3,000; of course I can't tell exactly; it is hard to tell.

Q. Who else?—A. Mr. George E. White claims a range, and sheep and cattle are running on it. Uptegraff has a large range, and he has from six to seven thousand sheep. That is, the capacity of the range is about 6,000. He has now about 4,000 on the reservation. Then there is Azbell who also has a range, and a man by the name of Johnson. He has a silent partner. They have about 2,000 sheep. And Gray, above here, has cattle running on the reservation everywhere. His cattle run on and off the reservation. They are more there than anywhere else. Short also has a great portion of his range in there. He has about 2,000 acres of entered land, and he took in a portion of the reservation.

Q. What portion of it is occupied by other people than Indians?—A. All the mountain land.

Q. What portion of the whole?—A. The greater portion.

Q. Is it seven-eighths?—A. Yes, sir; all of seven-eighths.

Q. This is occupied by private parties?—A. Yes, sir.

Q. Is it occupied to its full capacity?—A. Yes, sir; I think so.

Q. Does the occupation of seven-eighths of the grazing land upon this reservation interfere with the interests of the agency?—A. Yes, sir; I think so.

Q. In what way does it interfere?—A. The agency stock need the grass which the other stock feed upon.

Q. Are they unable, in consequence, to support enough stock for their own use?—A. Yes, sir; that is my opinion.

Q. If the agency had the entire control of the reservation how many cattle do you think they could support?—A. It would be hard to tell, but a great deal more than they need.

Q. Three times as many?—A. I think so; but it is hard to make an estimate.

Q. Are you acquainted with these Indians?—A. Yes, sir.

Q. Have you come in contact with them frequently?—A. Yes, sir.

Q. Do you think there is any need of this reservation being a charge on the Government?—A. Not if properly managed.

Q. Could it more than support itself if properly managed?—A. Yes, sir; I think so.

Q. Have these Indians improved since you have been here?—A. Yes, sir, and greatly.

Q. What portion of them, if they had good land set apart for them, would be able to take care of themselves?—A. Probably nearly all, if divided into families and so many acres given to each family. Of course there are some old Indians who are not able to take care of themselves, but the younger ones eventually would, if the land were properly managed, take care of themselves. They would be able to do so in three or four years. They support themselves a good deal now. If it was not for the work they do, it is said they would fare pretty roughly now.

Q. Do these parties who occupy the reservation pay anything to the Government?—A. Nothing at all.

Testimony of Henry B. Sheldon.

Mr. HENRY B. SHELDON recalled.

By the CHAIRMAN:

Question. During your official life here have any of these private parties occupying grazing land upon the reservation ever paid any rent?—Answer. Yes, sir.

Q. How much?—A. I think it was for four years. I received \$25 from one of them. It was for the range now occupied by Mr. Short.

Q. Have any of the rest paid any?—A. No, sir.

Q. Have they been asked for any?—A. No, sir.

Q. Do you know of their having paid Mr. Burchard anything?—A. Nothing but this one case of \$25.

Q. Would the books of the agency show it, if anything had been paid?—A. There is nothing on the books except that \$25.

Q. How many years did the party pay?—A. Either four or five.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of C. B. Bateman.

Dr. C. B. BATEMAN sworn and examined.

By the CHAIRMAN:

Question. Give us your full name.—Answer. Dr. C. B. Bateman.

Q. Are you a resident of this valley?—A. Yes, sir.

Q. How long have you resided here?—A. Ten years last November.

Q. In what capacity have you resided here?—A. I was two years the physician on this reservation; since then I have been engaged in private practice.

Q. What two years were you the reservation physician?—A. Eighteen hundred and seventy-three and 1874, I believe. I came the 1st of November, 1873.

Q. That was soon after the limits of the reservation were changed?—A. Yes, sir; soon after. The commission came out here the year before, I believe.

Q. And they fixed the present limits?—A. I understood so; I heard it talked about.

Q. Since you left the position of physician on the reservation have you come in contact with the Indians frequently?—A. Yes, sir.

Q. Professionally?—A. Yes, sir; many times.

Q. What is their present condition compared with what it was when you came here in 1873; are they physically as well?—A. Far better, I think.

Q. Did you find them, when you came, subject to bad diseases?—A. Yes, sir; I found that a large proportion of them were affected with venereal diseases, but I think it has been on the decrease since. At the close of my two years they were in a better sanitary condition than before. The births exceeded the deaths those two years.

Q. Do you know their present condition?—A. Yes, sir.

Q. Do the births exceed the deaths now?—A. No, sir.

Q. Do they consult you now?—A. Frequently.

Q. Have they a physician now?—A. Yes, sir.

Q. Is he here now?—A. Yes, sir.

Q. Has he been here any length of time?—A. Dr. Rawlins has only been here a short time.

Q. Do you think, taking the whole range of the ten years you have been here, the prospect is favorably or otherwise as to their future?—A. I think it is favorable.

Q. Do you look forward to a time when they can take care of themselves?—A. I do.

Q. What changes in the present method would you suggest in order to hasten that end?—A. I view favorably their expressed wishes, made to me very often, of having some land in severalty. They wish homes of their own.

Q. Would this be to their interest?—A. Yes, sir.

Q. Some have gone off of the reservation, have they not?—A. Yes, sir.

Q. Do you know what induced them to go off?—A. I think I do. The largest tribe here formerly was the Potter Valley tribe. They went off and purchased land near Ukiab, because they wanted land and homes they could call their own and they said the Government did not meet their desires in that respect upon the reservation.

Q. Would they have preferred to stay if they could have done the same here?—A. If the Government had met their desires they would have gathered in more and more in place of going away. They always expressed that to me when on the reservation. It was always a cherished idea with them to have homes of their own. The agent would mention the matter prospectively, but it was not mentioned to the authorities at Washington, and then some of them took the matter into their own hands and left.

Q. Tell us whether you think on the whole it would not be as well to scatter them around—a few located in one place and a few in another place, rather than have them gathered together in one place?—A. It would be better for them to be put under the law the same as white people.

Q. Would they soon be absorbed into the general public by being scattered?—A. For better care I do not know but what it might be better to keep them to themselves for a while yet—in a community to themselves; but otherwise it would be better to have them scattered around.

Q. Take those few Indians down at Ukiab, is it not probable that they will become a part of that community quicker than if there were 2,000 of them?—A. I think so.

Q. If the Government had kept this entire valley would it have supported all of these Indians?—A. It would have supported all the Indians in California, and more than supported them.

Q. Suppose they had all been gathered here, would it not have taken them much longer to assimilate to the California civilization than if scattered about?—A. That would have been what the Indians in the State preferred above all things, and would have stimulated their industry and energies more than anything else, I believe; but when this valley was first surveyed the proposition was distinctly made to the Government, and the Indian agent reported that here was the place where every Indian in California could be supported for all time, and I thought the Government made a mistake by not locating all of them here. I have been of that opinion. Some twelve years ago the idea was to give them lands and homes to themselves, but we never know exactly what the Government policy is from year to year, so they keep shifting, and the poor Indian is kept shifting around, too.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Ira C. Hoxie.

IRA C. HOXIE sworn and examined.

By the CHAIRMAN:

Question. What is your full name?—Answer. Ira C. Hoxie.

Q. How long have you been here?—A. I have been here since 1856. First, I went away and came back in 1857, and have been here since that time, excepting the year 1876.

Q. Have you had anything to do with the reservation?—A. I was employed on the Home Locke Reservation twenty-nine years ago, when this reservation was first started.

Q. Were you here when the reservation constituted the whole valley?—A. Well, let me see; I would have to start at the commencement.

Q. Well, go on; tell the story in your own way.—A. In 1855 Strong was agent on the Noome Lacke Reservation, and there were some Indians in here; they could not get on the reservation, and they started this place under the name of Noome Cult. farm, and the stock was branded "N. C." There was more land here than they wanted for a farm, and they invited settlers to come here; and then, in a few years after that, a proposition was made to Congress to take the whole valley. And the property of the settlers was surveyed and appraised with the calculation that Congress would buy them out and appropriate the whole valley for a reservation. Well, they finally ran a fence through the valley, half a mile this side of the present township line, and this was the reservation until—I don't remember exactly when—but, anyhow, afterwards the line was run to the township line; and then the Shanks party came and took the range in the mountains, with the understanding that the Government was to buy the settlers off, and it has stood that way since. They have not been bought off, and rich men have ranges on the reservation; and they have somewhere in the neighborhood of 25,000 head of sheep on the reservation.

Q. Has the agency any cattle?—A. Yes, sir; a small herd.

Q. Is there enough grass on the reservation for the Government herd and for these sheep belonging to other parties?—A. The Government stock ranges just as much outside as on the reservation. There is a plenty of grass everywhere.

Q. How long were Mr. Shanks and his associates here locating the reservation?—A. Two or three days, I understand. I was not with them. I understood they rode up on the hill and some one told them where the range was, and they laid out certain boundaries. I don't think they were here long enough to do anything properly.

Q. Who directed them?—A. I don't know. I paid very little attention to it; but I think they were here two or three days. They might have been here longer or not quite so long.

Q. Do you think the agency has all the grazing land it needs?—A. The Government has had no more grazing land since the lines were run off than it had before.

Q. Have the same number of sheep been on it all the time?—A. Yes, sir; and the agent has protected these men who occupy the ranges from other intruders, by stating that the land was going to be made a reservation, and he would not allow anybody to settle these lands. Two

parties have settled on Mr. White's range, and Mr. White has tried to get them off and the agent has sent them word to move off.

Q. The agent told these parties the Government would not allow them to settle upon these men's ranges?—A. Yes, sir; because the land had been surveyed for a reservation. He does all he can to keep anybody else from settling.

By Mr. CAMERON:

Q. He does not want any more intruders?—A. No, sir.

Q. Do these men who occupy the ranges pay any taxes?—A. I don't think they pay taxes; I never heard of any taxes being paid.

Q. Are you engaged in stock raising?—A. Not at present.

Q. What would be a fair rental for these uplands for grazing purposes?—A. I could not tell, sir.

Q. I suppose the men who have these ranges would not do without them for a great deal of money?—A. They have splendid ranges.

By the CHAIRMAN:

Q. Would they not give more for them than anybody else?—A. I don't know that.

Q. Were you one of the men who had improvements on this land when Mr. Shanks came here?—A. I had just sold mine. I had a range about 12 miles from here.

Q. To whom did you sell it?—A. I sold it to Jacob Uptegraff.

Q. Describe what you had.—A. The improvements did not amount to much; two or three corrals and three or four cabins.

Q. Was that land open to settlers?—A. It was open to settlers, but had not been surveyed.

Q. So you could not file your location?—A. I had gone there so as to be there when it was opened.

Q. How much stock had you when you sold to Uptegraff?—A. Two thousand five hundred sheep; my partner and I had that many at the time we sold.

Q. When did you move there?—A. I moved there in 1866.

Q. When did you sell?—A. I sold in 1870. I was there about four years.

Q. Have you any objection to saying what he gave you for your improvements?—A. I got \$5,000 for the sheep and the range—my claim on the range and about 2,500 head of sheep.

Q. That is the foundation for Mr. Uptegraff's claim?—A. Yes, sir.

Q. What were the improvements you had made?—A. There were four or five little cabins and about three small sheep corrals on different parts of the range, and I had a garden fenced in.

Q. How large a garden?—A. About an acre.

Q. How much were all these improvements worth, aside from your claim on the land?—A. In those days it would cost about \$50 to put up such a cabin as ours.

Q. The cabins cost about \$50 apiece?—A. Yes, sir.

Q. Then there were some other improvements?—A. Yes, sir; there were the corrals. I suppose they would cost about \$100 apiece.

Q. How many were there?—A. There were three, I think.

Q. That would be \$300 for the corrals and \$250 for the cabins. How much did the garden fence cost?—A. About \$100; nearly as much as a corral.

Q. That would be \$650. That would cover the actual improvements, would it?—A. Yes, sir.

Q. Has Mr. Uptegraff put any new improvements on the land?—A. Oh, yes, sir; he has extended the range and put a great many improvements on.

By Mr. CAMERON:

Q. What extent of country did you claim there?—A. It was bounded by rivers and cañons, and I suppose it was 4 miles one way and about 2 the other. That was the land I claimed and that I sold improvements on.

Q. Does Mr. Uptegraff's claim embrace more than that?—A. I think not, sir. It is just the same.

Q. Is there anything else you can suggest to us?—A. No, sir.

By the CHAIRMAN:

Q. Have you any suggestions as to what ought to be done with these Indians?—A. Well, I was in this country when the Noome Lacke Indians were uncivilized, and I have watched the progress of civilization among them, and I think their progress is a criterion to go by.

Q. How have they done?—A. They have done first rate, and have had no assistance. You can't persuade any of them to go on the reservation. They have plenty to eat, and are making their own living, and seem to be satisfied, and very peaceable.

Q. Where is the place you named?—A. It is just on the edge of the Sacramento Valley, 60 miles from here. At the time I was there there was a large tribe of them.

Q. Have they gotten hold of the land permanently or not?—A. I did hear that they had pre-empted or bought the land.

Q. What is the quality of the land?—A. It is poor; but together with that and their chickens and hogs they make a good living.

Q. Are they fair members of the community?—A. They seem to be friendly with their white neighbors, and no complaints are made.

Q. Are they any worse among the whisky barrels than the whites?—A. Not a bit.

Q. Are these Indians contented here upon the reservation?—A. It is my opinion that the Indians were forced to live here for a number of years. They objected to living here, and would run off and go away, and the soldiers would bring them back. Otherwise there would not be as many here now as there are.

Q. What would you do with them if you had your own way?—A. That is difficult to answer. It looks to me as if these Indians ought to be self-sustaining. There was very little difference between these Indians and those over the mountain, at one time. In fact some of these were more civilized than the others.

Q. How would you manage things if you had control of them?—A. Well, I think the best thing for the Government and for the Indians, too, would be to give those who want land to cultivate a portion of this land, if they desire to stay here, and let those who want to go some where else to make a living let them go.

Q. Suppose those who went away got tired, and wanted to come back here, how would you guard the Government against such a condition of things?—A. I would make provision so that if they came back I would save some land for them. I don't see that this range land does the Government any good in the world.

Q. What would you do with it if you were the United States?—A. I think it would be better to throw it into the market.

Q. All of it?—A. A majority of it, anyhow.

Q. How would you sell it? What is the best way to get the most money for the United States, and not have it gotten for nothing?—A. I think the United States knows more about that than I do.

Q. You are a practical man, and we would like to have your views.—A. I think it ought to be opened for pre-emption, giving these men who have settled there the chance to enter a quarter section each.

By Mr. CAMERON:

Q. And let them put dummies on the other quarter sections?—A. They will do that anyway.

By the CHAIRMAN:

Q. Suppose the Government puts it up at auction?—A. Then the capitalists would get it.

Q. Well, they would have to pay the Government price?—A. I think it would be better to cut it up into lots.

Q. How much land would you give to one man? Would 160 acres be enough?—A. No, sir; a man could not make a living out of 160 acres of this mountain land. I would cut it up into lots of 640 acres.

Q. What would be a fair minimum price for the upland or range land?—A. Well, I understand men who have ranges, and have deeded land, ask from \$5 to \$8 an acre for it.

Q. Do you think \$5 would be a cheap minimum for the range land upon the reservation?—A. Some parts of it are not fit for anything, but at that price a good deal of it would go.

Q. Suppose the United States makes up its mind to sell the upland and lowland, too, and scatter these Indians, what would be a fair minimum price for the valley land?—A. From \$35 to \$50.

Q. Would \$35 be a fair minimum for all the valley land on the reservation?—A. I think all of it could be sold off at \$35 an acre.

ROUND VALLEY INDIAN AGENCY,
MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Norman C. Salisbury.

NOERMAN C. SALISBURY sworn and examined.

By the CHAIRMAN:

Question. What is your full name?—Answer. Norman C. Salisbury.

Q. How long have you been living here?—A. I have been here a year the first of last June.

Q. Are you one of the employés?—A. Yes, sir.

Q. What is your business?—A. I am on the books as logger.

Q. What is that?—A. That is, I have to get the logs to the saw-mill.

Q. You don't run the mill?—A. No, sir; that is the business of the sawyer.

Q. Is it a good mill?—A. Yes, sir; it is a good mill.

Q. Is it run by water or steam?—A. It is run by steam.

Q. Does it run all the time?—A. It could run all the time, but the boiler is too small. It does good work, though.

Q. Is the timber good and abundant?—A. Yes, sir.

Q. What kind of timber do you use?—A. Pine, spruce, or fir chiefly.

Q. Could you find a market for all the mill could saw?—A. Yes, sir.

Q. What expense would be required to put it into good order?—A. The engine is good, but the boiler is too small. It would take from six to seven hundred dollars to put the mill in capital order.

Q. Then how much lumber could it produce in a year?—A. It ought to average with a larger boiler 8,000 or 9,000 feet a day.

Q. Could you find a market for that?—A. Yes, sir.

Q. At a fair profit?—A. Yes, sir.

Q. At how much profit?—A. I have not figured it out, but it could be sold at the mill for \$10 or \$12, and it would not cost more than \$3 to haul it and saw it.

Q. The cost of hauling and sawing it would be about \$3 a thousand?—A. Yes, sir.

Q. How much has the mill been running since you have been here?—A. We went there the 1st of June, and we sawed until the 1st of October, but the mill was in very poor repair; but she sawed quite a quantity of lumber.

Q. Don't you think it would be wise and prudent to put it in good order and keep it running?—A. It would be a good source of revenue for the reservation. We could saw enough to keep the buildings in good repair and sell lumber too.

Q. Would the Indians use considerable lumber in putting up houses around here if they had it?—A. They haven't very good houses.

Q. Do you know enough about these Indians to tell us whether they would be glad to put up houses if they had lumber?—A. Many of them have very inconvenient houses, I know, and I think most of them would like the opportunity to provide themselves with better ones.

Q. What portion of the heads of families could be induced to have homes of their own?—A. I don't know one but would like to have a home of his own. They are asking for lumber all the time, and pick up every piece they can find to fix up their houses.

Q. Do you know anything about the occupancy of the reservation by other people?—A. Very little. I am confined principally to the saw-mill.

Testimony of Peter G. Tuttle.

PETER G. TUTTLE recalled.

By the CHAIRMAN:

Question. Mr. Tuttle, I forgot to ask you one question when we were examining you before. If you had this reservation under your entire control what changes would you make?—Answer. In the case of the stock, if the Government did not see proper to remove the men who are now on the reservation I would sell the northern part to a certain line running east and west, and I would reserve the western part from the North Fork of Eel River to the southern line of the reservation. The eastern part is of no benefit except a part near the valley, which should be retained on account of timber for fire-wood. We don't want our stock to run on the northern part of the reservation, because it is too far from home, and we have ample ground for them close home.

Q. Did I ask at what price you would sell the land?—A. You asked what it would be worth. I don't think I could form a fair estimate of what it would be worth.

Q. You would retain the valley land?—A. Yes, sir; I would not dis-

pose of the valley land; I should also endeavor to get this swamp and overflowed land and let the Indians have that. These people in here are raising herds, and are mixing their stock with ours. They ought to be removed or the reservation reduced.

Q. How do you think it could best be sold?—A. I should put it up at auction; and I should judge from the way they pre-empt land outside, where they pay from \$400 to \$600 for 160 acres when a man gets his title, I should think they would be willing to pay as fair a price as these parties who have bought land have paid. I would like to have it so that we could have a certain place for our cattle where we would not be bothered with sheep, where no sheep shall be allowed to run. If the Government would only protect us from these sheep it would be a great help to the reservation. It is essential to keep in view the fact that the reservation must run to Eel River, so as to have a low range in winter, and the land along Eel River is occupied by White, Henley, and Ute-graff; it is essential to have it for the reservation.

COVELO, MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Whitcombe Henley.

WHITCOMBE HENLEY sworn and examined.

By the CHAIRMAN:

Question. Mr. Henley, will you give us your full name?—Answer. Yes, sir; Whitcombe Henley.

Q. Where do you reside?—A. I reside in Round Valley, at Covelo.

Q. How long have you resided here?—A. For a little over twenty years, off and on.

Q. Are you acquainted with the Round Valley Agency and reservation?—A. Yes, sir.

Q. Do you know the exterior limits of the reservation?—A. Yes, sir.

Q. Will you be kind enough to give them to the reporter? Give them in general terms.—A. The south boundary is the township line between Townships 22 and 23.

Q. Can you give the western, northern, and eastern boundaries?—A. The western boundary is the Main Eel River, and North Eel River.

Q. What is the northern boundary?—A. The northern boundary is the North Eel River, and Hall's Creek, and Bland Mountain.

Q. How would you describe the eastern boundary?—A. The eastern boundary is William's Creek; but I am not certain about that. I am not certain whether the reservation runs on the east to Eel River or not.

Q. About how many acres is it considered to contain?—A. My judgment is that it contains about 180,000 acres.

Q. 180,000?—A. Yes, sir; that is my judgment.

Q. That is more than the Indian Department report.—A. What do they report?

Q. They report it at between 102,000 and 103,000 acres.—A. Well, I will modify my statement, and say 125,000 acres then, because I think it is more than 102,000.

Q. Is any portion of it in the hands of private parties?—A. Yes, sir.

Q. Will you give the names of those parties, and how much of it is in their occupation?—A. I will have to estimate it.

Q. Well, as soon as you can estimate it?—A. Well, commencing with Jacob Uptegráff and Henley and Gibson about 16,000 acres, and Frank Azbell about 16,000, and Johnson and Eldred about 10,000, and J. G. Short about 4,000 acres, Johnson and Bourne about 5,000, George C. White, about 10,000, and J. N. Ray about 2,000. Now, I think, that is all.

Q. Do you know of any other private parties occupying any portion of it except those whose names you have given? Are you of the Mr. Henleys spoken of here?—A. Yes, sir; I think there are two or three parties on the reservation against whom judgment has been ordered.

Q. Do you mean the matter of swamp land?—A. No, sir; lands that are in the mountains here. They settled after the reservation lines were made, and suit was commenced against them by the agent, Mr. Sheldon, and judgment was ordered against the men occupying the lands. Now, men against whom judgment was rendered are J. K. P. Lewis and a man named Beers. I don't know his first name. Tom Hayden and John Hayden.

Q. About how much land do they occupy?—A. I do not know that.

Q. As to the land these parties, whose names you have given, now occupy is it marked out separately, so each one has a separate occupation?—A. Yes, sir, there is a well-defined boundary between the land occupied by each one.

Q. What use do they make of the land?—A. They raise sheep on it.

Q. Do they run sheep on it to nearly the extent of its ability to maintain sheep? That is to quite the full capacity?—A. Something near it. The reservation cattle also run on the land, and of course these men could not keep as many sheep as if there were no cattle on it.

Q. The reservation has how many cattle, all told?—A. My understanding is that there are between four (4) and five (5) hundred cattle.

Q. How long have the parties occupied this reservation, the parties or their predecessors?—A. All those except the three or four men against whom judgment was rendered have occupied it from the time the reservation was made a reservation, and long before.

Q. From the time the boundaries were fixed by the act of 1873, and previously?—A. Yes, sir.

Q. What is their claim to title?—A. I think I had better state the manner in which they have acquired the right to stay there.

Q. We would be very glad to hear you state it.

Mr. CAMERON. State it in your own way.

A. In 1873—I am not certain about the date, but that was about the date—the lands were extended into the mountains.

By the CHAIRMAN :

Q. The act was dated March 3, 1873?—A. At that time the majority of those men occupied the land they now control. I suppose it would be correct to say that all those parties I have named occupy the land now.

Q. They occupy it now?—A. Yes, sir; that is it. Those I have named; those from whom they have purchased were on the reservation at the time the lines were extended into the mountains. The bill extending the reservation lines provided that a commission should be appointed by Congress to appraise the value of their improvements, and pay them for the same. That commission was appointed, and it came

and appraised the property. After the appraisement was made the settlers claimed that it was improperly made; some of it not appraised, and some not allowed at near its proper value, and for that reason they refused to accept the money which was tendered according to the appraisement by the Government. Then the Government brought suit to compel them to leave, to eject them from the land, and judgment was rendered in favor of the settlers. In 1877 or 1878, I don't know exactly the date, that was appealed to the Supreme Court, and in the winter of 1884 the United States Supreme Court sustained the decision of the court below.

Q. Do you know the title of the suit?

Mr. CAMERON. The United States against whom?

A. I do not know exactly. It was against certain settlers, but I don't know whether all those men I have named were named in the suit or not.

The CHAIRMAN. Have these men any other claim except this, under which they claim the land?

A. No, sir; only the decision of the Supreme Court. They contend now that they have a right to remain until Congress appoints a commission to appraise the land properly; and pays the full value of their improvements.

Q. Are they willing to go then?—A. Well, I don't know; but they think they would *have* to go after that. If they don't have to go, they certainly won't go.

Q. They think when this is done, they will have no further rights?—A. Yes, sir; I suppose so.

Q. Under what claim of right did they make the improvements in the beginning?—A. As settlers of public lands of the United States.

Q. Were these lands open to settlement at the time?—A. Yes, sir.

Q. Were they surveyed lands?—A. No, sir; unsurveyed.

Q. They were not in the market.—A. No, sir.

Q. What right has a settler before the land is opened for sale?—A. The way I understand it is that the United States invites settlers to settle whether the land is surveyed or unsurveyed. They can settle at any time. After the land is surveyed, and the Government concludes that it wants the land it cannot take it without paying for the improvements.

Q. Why?—A. Because it has invited them to settle upon the land.

Q. How much land do you understand a settler can take?—A. One hundred and sixty for pre-emption or homestead.

Q. The improvements of how many settlers did Mr. Uptegraff purchase?—A. He purchased the improvements of only one settler.

Q. And that settler was only entitled to 160 acres?—A. Yes, sir.

Q. Did he make any improvements himself?—A. Oh, yes; a good many. He purchased somebody else's land, and added to it by adding other improvements in the same place.

Q. How could he enlarge it into 20,000 acres? Did he buy a right of these men to spread it?—A. Well, I don't know his opinion in regard to that.

Q. Take the Henley brothers, they bought somebody's improvements?—A. Yes, sir. They bought one-half of E. S. Gibson's. Really George Henley bought the half of Gibson's place. Gibson had made the improvements before the land was included in the reservation.

Q. Gibson made an improvement as settler?—A. He made an improvement.

Q. Will you explain to me how the Gibson improvement got spread out into 16,000 acres?—A. By his using that much?

Q. Yes, sir.—A. Just the same as other settlers use 20,000 or 30,000 acres sometimes. Men can come into that area and take up claims. When unsurveyed and nobody wants to settle the settler uses that much if he can.

Q. Of course that remark applies to all of them?—A. Certainly.

Q. Is there any other statement you would like to make?—A. I think not. All I wanted in the first place to give my testimony for was so that you would have testimony to show how many men were on the reservation and how much each one occupied.

Q. We have been glad to get the views of the men who hold the land. Your statement as to the men who occupy it is very much like that we have had before. It makes the quantity of land occupied a little less, but not a great deal.

Q. Is there anything else on the side of the men who occupy it that you desire to state, so that it can go upon the record?—A. No, sir; there is nothing else.

Q. If there is any one of these men about here who desires to give the testimony, he has the same right to testify as others have.

Mr. CAMERON. I think the appeal you spoke of was dismissed, but we have not ascertained why.

A. It was dismissed because no error was found in the proceedings below.

Q. No, I think that was not the reason, but we can ascertain from the district attorney in San Francisco.—A. I was informed that the district attorney at Washington dismissed it because he examined the record of the trial and found no error in it.

Q. Well, he would have no right to dismiss it.—A. Well, he could ask for its dismissal.

Q. Oh, yes. Are any of the lands on the reservation occupied by the persons you have named taxed?—A. No; none of the lands are taxed. Some of the improvements are.

Q. Is it a fact that these persons occupy this land without paying any taxes?—A. I will qualify my statement. Some of the land may be taxed.

Q. Are the lands occupied by Henley and Gibson taxed?—A. If any is taxed it is only a very small portion.

Q. It seems to give you a certain advantage over other citizens engaged in the same business?—A. Most of those engaged in the same business here have the same advantages.

Q. You mean those who are occupying good land?—A. Yes, sir.

By Mr. DAWES:

Q. Are the lands outside Government lands?—A. Yes, sir.

Q. A great deal of land?—A. Yes, sir.

Q. Open to purchase?—A. Yes, sir.

Q. Valuable land?—A. Well, a range of 20,000 acres is valuable, but not valuable per acre.

Q. I mean in quality.—A. It takes about 20,000 acres to make a range worth much.

By Mr. CAMERON:

Q. Is it valuable for any other purpose than that to which it is put—raising sheep?—A. It is only valuable for raising sheep; that is all.

COVELO, MENDOCINO COUNTY, CALIFORNIA,
September 22, 1884.

Testimony of Frederick A. Redwine.

FREDERICK A. REDWINE sworn and examined.

By the CHAIRMAN:

Question. Will you give the reporter your full name?—Answer. Frederick A. Redwine.

Q. Do you reside in Round Valley?—A. Yes, sir.

Q. How long have you resided here?—A. About nineteen years.

Q. Are you familiar with the limits of the Round Valley Indian reservation?—A. Yes, sir; I am familiar with what they have always said was the reservation, and according to the survey. The line runs along this township line to Eel River, and down Eel River to North Eel River, and up North Eel River to Hull's Creek, and along that to the head of Willims' Creek, and down that creek to Eel River and along that to the township line again.

Q. Is any of it occupied by private individuals?—A. Yes, sir.

Q. Do you know who they are and how much each of them occupies?—A. I can't tell how much each occupies.

Q. About how much, in your judgment?—A. Well, Mr. Uptegraff, who is a son-of-law of mine, has been there a long time.

Q. How many acres does he occupy?—A. I could not tell when you come down to acres; I have been over the place many a time, but I would have to estimate it; it must be, however, enough to keep 10,000 head of sheep.

Q. Enough to keep 10,000 head of sheep?—A. Yes, sir; but I could not tell exactly. North and south it must run 8 or 10 miles. A man is building a fence there now, and he could tell more accurately. This man is building a fence between him and Mr. Gibson which will be about 10 miles long.

Q. What kind of a fence is he building?—A. It is brush, rails, and wire.

Q. Barbed wire?—A. Yes, sir.

Q. Does the man reside in this town?—A. Yes, sir.

Q. You can't give the number of acres?—A. No, sir.

Q. Who else occupies a portion of the reservation?—A. There are Gibson and Henley.

Q. How many acres do they occupy—about the same or more than Mr. Uptegraff?—A. Their range is larger than Mr. Uptegraff's. It runs further east, and further on the reservation.

By Mr. CAMERON:

Q. Perhaps you could name them in the order in which they occupy.—

A. The ranges I have named run along the main Eel River, which runs north and south, and the north fork of Eel River, which runs east and west.

Q. Who else is occupying land on the reservation?—A. Mr. George E. White has a large claim in there, but I know less about that than any of the others. I want to say this, that there are men named Beers, Lewis, and Hayden who have claims upon the same land claimed by White, along the township line between townships 22 and 23.

Q. Upon what ground does White claim this land?—A. Because the Government has never appraised his improvements.

Q. What are the claims of the other men you have named?—A. They are the same as White's as far as the Government is concerned, but they undertook to put up improvements upon White's claim, and there is a dispute between them and White.

Q. Can you name anybody else who occupies part of the reservation?—A. Frank Azbell has what is called the Boulder Mountain range.

Q. How large is it?—A. Enough to keep considerable sheep.

Q. How many?—A. Six or seven thousand, perhaps; five or six, at any rate.

Q. Where is his range?—A. It lies east of Uptegraff.

Q. Is there anybody else you can think of?—A. Let me see. I have a claim in there, but I have never been on it. I bought it lately. It is a claim that has never been appraised.

Q. Of whom did you buy it?—A. I bought it of Mr. Brown.

Q. How much land does that claim carry?—A. I suppose it runs about 2½ miles.

Q. Does an improvement carry just as much land and as far as a man claims?—A. Yes, sir.

Q. Then any improvement on unoccupied land carries the land just as far as a man claims?—A. Yes, sir.

Q. I understood from Mr. Whitcombe Henley that the Henley claim had grown from a single man's improvement claim to 20,000 acres?—A. I don't know that I understand you.

Q. A man made improvements upon the land before the passage of the bill extending the reservation?—A. Yes, sir.

Q. And his improvement was what was purchased by Mr. Henley, and that improvement had grown into a large tract of 20,000 acres, and the same in Mr. Uptegraff's case, whose improvements have grown to 10,000 acres. Do you understand it in that way?—A. Yes, sir; I do.

Q. Suppose a man forgets how much he claims, how can he tell?—A. Only like this: he could go up on that hill and say, I will claim so much, and he could herd sheep from a certain cañon to some other point, and he makes a brush fence from river to cañon.

Q. And claims all of it?—A. Yes, sir. The same question was brought before the courts to decide as to whether the title was good, and that is the reason I bought the Brown place. It was decided that all the land upon which improvements had been made, the improvements on which had not been appraised and paid for, was conveyable; and that is the way the act reads also.

Q. If you had a right there until your improvements had been appraised and paid for, you could convey it to some one else and he would have the same title that you had?—A. Yes, sir.

Q. With the same boundary lines?—A. Yes, sir; that is the way I understand it.

Q. Do you think of anything else you can tell us?—A. That is all I can think of.

UKIAH, MENDOCINO COUNTY, CALIFORNIA,
September 24, 1884.

A council was held here with members of the Potter Valley and Calpella tribes of Indians who had left the Round Valley Indian reservation and purchased land near this town, and the following Indians were examined:

Testimony of Charlie Brown.

CHARLIE BROWN examined.

By the CHAIRMAN:

Question. What is your name?—Answer. Charlie Brown.

Q. What is your occupation ?—A. I am farming, and I act as interpreter for the Indians here who can't talk English.

Q. The rest can't talk English as well as you, can they ?—A. Some of them can't.

Q. Where do you live ?—A. I live in Ukiah now.

Q. How old are you ?—A. I will be thirty-two next spring.

Q. How long have you lived here ?—A. I have lived here twenty-five years.

Q. Where were you born ?—A. I was born in Santa Rosa.

Q. What tribe do you belong to ?—A. I belong to the Calpella tribe.

Q. How many Indians live here ?—A. There 112 in my band, little and old.

Q. Did you ever live at Round Valley ?—A. Yes, sir.

Q. How many years did you live there ?—A. The last time I went there I staid four years. The first time I staid four months, and when Mr. Gibson was agent there I went back, and then Mr. Burchard came, and I was there altogether four years.

Q. Did all of your people live there at that time ?—A. No, sir.

Q. Did your people come away with you ?—A. No, sir; they came after I came.

Q. How soon after you came away did your people come ?—A. From the reservation ?

Q. Yes.—A. They came right after me.

Q. Did you buy some land ?—A. Yes, sir.

Q. Did your people buy some land too ?—A. Yes, sir.

Q. How much land have you ?—A. I have got 10 acres of land.

Q. Do all your people own the land ?—A. Yes, sir.

Q. You have 10 acres of your own ?—A. Yes, sir.

Q. How did you get the money to pay for it ?—A. I borrowed the money.

Q. And then you paid it back again ?—A. Yes, sir; we worked and made money and paid it back.

Q. How many of your people besides you have land just as you have ?—A. Well, I don't know how many have land. There are only five I know of.

Q. Only five ?—A. Yes, sir. There are more people in there than that. We all live in a bunch, but I don't know but five who have land.

Q. How many acres have you and your people got altogether ?—A. I don't know how many acres. I could not tell you that.

Q. You said five others besides you had 10 acres, did you not ?—A. No, sir; I don't know how much they have.

Q. Have they more than you ?—A. I can't tell you. I know Captain Lewis has a farm down here.

Q. Is he a full-blood Indian ?—A. Yes, sir.

Q. Is he here now ?—A. No, sir.

Q. Who else can you name ?—A. Captain Jack, but he don't belong to my tribe.

Q. What tribe does he belong to ?—A. He belongs to the Potter Valley tribe.

Q. What kind of work do you do ?—A. I farm.

Q. What do you raise ?—A. I raise some hay and some corn, water-melons, pumpkins, and potatoes.

Q. You don't raise any hops ?—A. No, sir.

Q. Do you work in the hop fields for white people ?—A. Yes, sir.

Q. How many days have you worked in the hop fields this year?—A. I worked thirty-six days.

Q. At picking hops?—A. Yes, sir.

Q. Did your people work at hop-picking too?—A. Yes, sir; all of them worked at it.

Q. How much have they earned?—A. I have a book I keep it in—well, they earned over \$600.

Q. That has to be divided among how many people?—A. Between seventy-three people.

Q. Have they worked as much as you?—A. Yes, sir.

Q. Then the seventy-three have earned over \$600 in thirty-six days?—A. Yes, sir.

Q. Do your people earn money enough to take good care of themselves?—A. Yes, sir.

Q. Has each one of you a wife?—A. Yes, sir.

Q. And children?—A. Yes, sir.

Q. And a home?—A. Yes, sir; each one has a little home.

Q. Did they build it themselves?—A. We buy the lumber and build the house ourselves.

Q. How do they pay for the lumber?—A. By their work, sir.

Q. They understand how to work, do they?—A. Yes, sir.

Q. Do you like to work and have something of your own?—A. Yes, sir.

Q. Why did you not stay at Round Valley? What was the matter?—A. We were worked there too hard, and didn't give us enough to eat.

Q. You didn't have as good living as you have now?—A. No, sir; we have good living here.

Q. If you could have good land there, would you rather be there or here?—A. Rather be here.

Q. How many came away from there?—A. Over three hundred.

Q. Did all come at the same time?—A. Yes, sir; all came at the same time.

Q. Can you tell how many years ago they came here?—A. Yes, sir; it was five years ago.

Q. Who was the agent then?—A. Mr. Burchard.

Q. Mr. Sheldon came there after you left?—A. After some of us left.

Q. Did he come there after the rest left?—A. A few were there. I was there when he came.

Q. Was he a good agent? How did he treat the Indians?—A. He didn't treat them right.

Q. What was the matter?—A. He worked us too long, and he said the Government would furnish money, sirup, and beef cattle, and horses and ox teams, flour, and everything the people wanted. He said all these things belonged to the Indians; but, at the same time, we couldn't get any of it when we needed it.

Q. Didn't he give them enough to eat?—A. No, sir.

Q. What did he do with it?—A. He kept it for himself.

Q. Well, he could not eat it all, could he?—A. No, sir; but we don't know what he did with it. I don't care if a thousand people who work for the Government stand before me I can swear that we didn't get it. I killed 100 hogs myself, and scalded and cleaned them, but the Indians didn't get any of them.

Q. That is, 100 hogs were killed and something was done with them, and the Indians didn't get any of the meat?—A. Yes, sir; 100 and over at a time. We got about a half or a quarter of a pound for each In-

dian. I lived there quite a while, and I have worked a whole week splitting rails, building fences, plowing, sowing grain, working in the grist-mill, in a checked shirt, and the whole week amounted to \$1.50, and I only got 75 cents in money—the rest in clothes, shoes, or something else.

Q. Did Mr. Sheldon try to get them to build little houses?—A. Yes, sir.

Q. Why didn't they build houses there?—A. Well, we did.

Q. Are the houses there now that you built?—A. I have a house of my own there now, and my brother-in-law has one there, too.

Q. Did you leave your house there and come here?—A. Yes, sir; I left a house there 28 feet long and 12 feet across.

Q. What did you do with it?—A. Nothing; I just left it there.

Q. When the people came away did the agent try to prevent them from leaving?—A. He let them come.

Q. Did he say they had better not go away?—A. He didn't say much.

Q. Your tribe are below here, I believe?—A. They are between Hopland and Ukiah.

Q. That is, your band. Where do the Potter Valley Indians live?—A. They live about 13 miles above here.

Q. Can they tell us how they live?—A. Yes, sir; they understand English.

Q. Have you a good many children down at your place, between here and Hopland?—A. Yes, sir; we have quite a number of children.

Q. Are you increasing in numbers?—A. Yes, sir.

Q. Are there more of you than there were when you first went there?—A. Yes, sir.

Q. How many children have you now?—A. In my own tribe there are about 10 or 12.

Q. How many died last year?—A. That I don't know.

Q. Have you any school?—A. No, sir.

Q. Would you like to have your children go to school?—A. Yes, sir.

Q. Would you like a school of your own?—A. Yes, sir; we don't want them to go to school with the white children. We want a teacher of our own at our place.

Q. Why don't you want your children to go to school with white children?—A. Because there would be trouble between the Indian children and the white children.

Q. You think it would be better to have a little school in your own village?—A. Yes, sir.

Q. Could you pay the teacher?—A. Yes, sir; we would pay the teacher, and we could build a little school-house.

Q. Would you be glad to have a teacher sent you?—A. Yes, sir; and we have a little money to pay the teacher.

Q. Are you doing better here than you were at Round Valley?—A. Yes, sir.

Q. Do you think it would be better for all the Indians at Round Valley to go off somewhere like you have done?—A. It is better for them to stay there.

Q. Could they not do as well as you if they were to go off somewhere to themselves?—A. Sir?

Q. Suppose the other Indians were to start off and get some land?—A. They all have land.

Q. I mean the Indians at Round Valley?—A. I don't know about that; all of my tribe have gone away, only about eight left there now.

Q. Are they old people?—A. No, sir; they are young people?

Q. Were your people born up there?—A. No, sir; none of them were born up there. Gibson took us up there when he was agent.

Q. Have all the Indians except those who were from up there gone away?—A. The Potter Valley Indians were born in Potter Valley. They went up there, but have come away again.

Q. You don't know how many are in Potter Valley, do you?—A. No, sir.

Q. Do the Indians here live just like white people?—A. Yes, sir.

Q. Do you drink whisky?—A. Yes, sir.

Q. Too much?—A. Yes, sir, sometimes; I don't deny my word.

Q. It is a bad thing everywhere?—A. Yes, sir.

Q. Do your people get drunk and get into fights?—A. Yes, sir; just like the white people.

Q. Do they get into the courts often?—A. Not very often.

Q. As often as the white people?—A. No, sir; not as often.

Q. Do any of them have more than one wife? Have any two wives?—A. Yes, sir; some keep three and some keep four wives. We don't marry by license like the whites. We did that way when we were at the reservation and were Christians. We married then by license, but that didn't do us any good, so we let it go.

Q. And now all of your people have more than one wife?—A. Yes, sir.

Q. Do they marry just like white people?—A. Yes, sir; our people marry like white people.

Q. How do you do when you get married?—A. When we want to get married we go to the captain and we have a small meeting of forty or sixty or eighty people right there, and we have to give the woman decent clothes and a little money. When we give the woman the money and the clothes we go to the place where her mother and father live and we make a trade just like trade for something else, and then they pay us back what we spent for the woman. That is the rule of our people; it is the rule now.

Q. You do this with the first wife?—A. We do just the same with the other wife, and then we turn the first wife off.

Q. You don't have but one at a time?—A. No, sir; we have only one at a time.

Q. You don't have two or three together living with you?—A. No, sir; when we are tired with one wife we let her go.

Q. What do you do with the children?—A. Let them go, too.

Q. Can the wife do the same way?—A. If a woman don't like me she can leave me and go and get another husband and take her children along with her.

Q. What did you pay for your 10 acres?—A. I paid \$1,000—\$100 an acre; but the interest and taxes brought it up to \$1,450.

Q. That was a pretty good price?—A. Yes, sir.

Q. Was it too much?—A. I don't know about that.

Q. How did you get that money?—A. We made it picking hops.

By Mr. CAMERON:

Q. Do you pay a poll tax?—A. No, sir.

Q. Do you think you could sell the land for what you gave for it?—A. No, sir; I could sell it for \$1,400. I could sell it to Judge McGovern. We have a bargain with him.

Q. Are you going to sell it?—A. Yes, sir. We are going to sell it and buy wood land.

Q. What are you going to do with wood land?—A. We want to build

houses and have a fire to cook with. We want to use it with our other land.

Q. So you are going to buy some wood land to use with your other land?—A. Yes, sir.

Q. Do the Ukiah people tax your land?—A. Yes, sir.

Q. Do they tax you as much as the whites?—A. No, sir; not so much.

Q. Why?—A. I don't know.

By the CHAIRMAN:

Q. Were your people sick on the reservation?—A. Yes, sir.

Q. What was done when they were sick?—A. The agent forced us to work when we were sick.

Q. Wasn't there well ones enough to work?—A. No, sir; when we were not able to work he forced us to work, and when we would not work he said he would put us in the smoke-house. He put some of us in the smoke-house pretty nearly every day.

Q. Which agent did that?—A. Sheldon, Burchard, and Gibson all did worse and worse.

Q. You said you go to "the captain." Have you a man here called Captain?—A. Yes, sir.

Q. Is he chief?—A. Yes, sir; he has the same authority as a chief. He is the head of my tribe.

Q. Does he tell you what to do, and you obey him?—A. Yes, sir.

Q. Does he keep your money?—A. No, sir.

Q. But he advises you what to do?—A. Yes, sir.

Q. Is he the oldest man?—A. No, sir.

Q. Is he pretty old?—A. Yes, sir. This man sitting here [pointing to an old Indian] is Captain Billy, and that other one next to him is old Calpella.

Q. Where does Calpella live?—A. He lives above Ukiah, about 6 miles, at Calpella. He was born there, and so that town was called Calpella. Our tribe had a little reservation in San Rosa when he was a boy. He was taken there and kept in captivity for fifteen years, and they forced him and his people to remain there.

Q. Who did it?—A. The Mexicans.

Q. That was under the Mexican Government?—A. Yes, sir.

Testimony of Charlie Bourne.

CHARLIE BOURNE examined.

By the CHAIRMAN:

Question. What is your name?—Answer. Charlie Bourne.

Q. Where do you live?—A. I live right up here above town about a mile and three-quarters.

Q. Where did you live before you came here?—A. I used to live in Potter Valley.

Q. How much land have you of your own?—A. I have about 56½ acres.

Q. Of your own?—A. All mine.

Q. All paid for?—A. Yes, sir.

Q. How much did you pay for it?—A. I paid \$600 for it.

Q. Have you a deed for it?—A. Yes, sir.

Q. How long ago did you get this land?—A. I got it in 1879; the 22d of September.

Q. Have you a house?—A. Yes, sir.

Q. Have you a wife?—A. Yes, sir.

Q. How many houses have you on this land? We want to find out how nicely you are getting along, and then we want to ask you about Round Valley. We want to know about your land here, and we will then tell the people at Washington that you have some nice land that you own yourselves. You say that you and your folks have 56½ acres?—A. Yes, sir; but I thought you were going to ask about the reservation.

Q. Well, we are.—A. Well, I thought you were asking me about my land.

Q. We only want to know how you are getting along.—A. There is Captain Jack and myself who run the farm now and paying taxes and interest, but it belongs to all our folks, and nobody can take it.

Q. How many houses have you?—A. We have a good many.

Q. Are they good, comfortable houses?—A. Yes, sir.

Q. Do you like to live there better than at the reservation?—A. Yes, sir; all of us like to live there better than at Round Valley.

Q. What do you raise on the farm?—A. We raise hops and rent some hops.

Q. Do you work for the white people around here?—A. Yes, sir; we work for them. I have rented 10 acres of hops for myself.

Q. How many children have you?—A. Of my own?

Q. Yes.—A. I have only one child.

Q. You have a wife, I suppose?—A. Yes, sir.

Q. Do you live in a house by yourself?—A. Yes, sir; I live in a house by myself. We all live in our own houses.

Q. Each man who has a wife has a house for himself?—A. Yes, sir.

Q. You say you came away from Round Valley in 1879?—A. No; we came away before that, and picked hops down here. We don't count the day and the month like the white people. We don't know anything about that, but I know when we bought that land by the day and month.

Q. Who was agent at Round Valley when you came away?—A. Mr. Burchard was agent.

Q. Didn't you like him?—A. Oh, no. He was the trouble when he was there.

Q. What was the trouble?—A. The only trouble was that every agent on the reservation when we were there would say, in the first place, that he would give us a horse, some land, cows, and everything for our own if we would learn something. Well, I went to school about two months and I didn't know my A B C's, and they ought to have left me there more than that time. I ought to have staid in school until I could learn something. I wanted to understand something, but they would not let me stay at school. After I had been at school they put me to work like a dog.

Q. There was a school there all the time, was there?—A. There was a school there, and they ought to have let me stay in it.

By Mr. CAMERON :

Q. How old are you?—A. I am about twenty-one.

By the CHAIRMAN :

Q. How much have your people earned this year from raising hops?—A. They go out and pick hops for other people.

Q. How much did *you* earn from raising hops?—A. I have not sold my hops yet.

Q. How much did your people earn this year from going out and picking hops for the white people?—A. My people got over \$800.

Q. Did they get it in money?—A. Yes, sir.

Q. What do these people do with their money?—A. They feed themselves with it in the winter and build houses.

Q. Have you any school at your place?—A. No, sir.

Q. How many children have you got to send to school if there was a school?—A. I can't tell that now.

Q. Have you thirty?—A. No, sir.

Q. Do you want to build a school-house? We want to know whether you want a school, and whether it is best to set up a school for you.—A. I heard before you came here that a school-house was going to be built, but I didn't say anything. Why don't you build us a school-house for us and give it to us as long as we live? But we won't say we will pay for it or for the teacher. We could say so if we had \$1,600. We want a school, of course, but we don't want to pay anything. We would be glad to send our children to school if the Government will build a school-house and send us a teacher and we will not have to pay anything.

Q. Would you not be willing to pay something?—A. No, sir; we had schools in the reservation, you know.

Q. You said they ought to have sent you to school more when you were on the reservation—that they did not send you to school half enough. Now, don't you want a school on your place here? We only want to know what you want. We want to tell the people at Washington that you have land of your own, and are earning money, and have homes and want a school.—A. Well you ought to have asked that in the first place, instead of asking how I live and what I did in the reservation.

Q. I wanted to know how you got along, and if things were going wrong at the reservation.—A. That is the reason we left there.

Q. Well, tell us what was wrong.—A. Well, they didn't treat us as we wanted to be treated. In the first place I didn't go to school long enough. I went to school to try to learn something because they said that was what they wanted us to do; to learn not to steal, fight, or drink, and learn to do no wrong to any person. I went to school when I was about fourteen years old, and in about two months they took me away, and I have not learned the A B C's. They did the same to all these men here.

Q. Do all you people have more than one wife?—A. I want to tell you about the reservation. I am not through yet.

Q. Well, go on.—A. In the first place, they said they would give us land and horses and everything we wanted, and they never did it. They ought to have given us something so we could live there. They didn't do it, and we came away and bought our land here the 22d of September, 1879. We have our own homes here and feed ourselves well, and nobody troubles us—nobody does any harm to me here.

Q. How many of your people are here?—A. Over a hundred; but I don't know exactly how many.

CHARLIE BROWN recalled.

By the CHAIRMAN:

Question. Do you want to say anything more?—Answer. Up at the reservation they told us about the Democrat and Republican. They

said the Republican would show us what to do; how to get a home, how to work, and how to live, how to raise vegetables of all kinds; and they said we could have our own land, 6, 7, 8, or 50 acres for ourselves. Every agent said so, but we didn't get anything; sometimes we went to school only two or three months; but I can read and write and find out things through the newspapers; and so I said to my people they have promised us everything and we have got nothing, so we better leave and go to Ukiah, in Mendocino County, and buy our own land and live there. We can shear sheep, and make money, and we can rent hops and make money, and pay for the land; we can buy 15 or 20 acres and pay the interest (I understand what interest means); that is what I said to my people; and so I took my people away, because I found out something about those white people. I learned very little at school; only two or three words; but I taught myself since; I studied myself; I knew something; so I took my people away, and brought them here and found a place for them. We paid \$100 an acre for 10 acres. That is what I wanted to tell you, and that is the last word from me.

UKIAH, MENDOCINO COUNTY, CALIFORNIA,
September 24, 1884.

Testimony of Eberle.

EBERLE recalled.

By the CHAIRMAN:

Question. Could you give us any further information than you did when before the committee the last time in reference to the fair rental of the land now occupied by private parties on the reservation?—**Answer.** Sheep and range are leased in Mendocino County at a cash rental of from 75 cents to \$1 per head per year, the owner to pay the taxes on the sheep and lands, the lessee to return the number of sheep leased. Jacob Updegraff's sheep, grazing on the Round Valley Reservation, have been leased for several years at those figures, latterly at 75 cents per head per year. At 75 cents per head the income to Mr. Updegraff on 1,000 head of sheep would be \$750. Stock sheep are worth and valued at \$2 per head; 1,000 head worth \$2,000; 10 per cent. per year would represent a good interest on the money invested and cover the taxes on the same, and would amount on the \$2,000 (the value of 1,000 head of sheep) to the sum of \$200. As Mr. Updegraff owns no land on the reservation, and pays no rent for the use of the reservation lands, his income for each 1,000 head of sheep leased to Joel Varm is \$750 per year; of this amount, \$200 represents a fair interest and taxes on the actual capital he has invested, and \$550 represents the yearly income he receives for the use of the reservation lands upon which his sheep graze for each 1,000 head. As the lessee expects also to receive a profit from the transaction, it is a fair presumption that those who do not lease their sheep derive a still greater income from the use of the reservation lands for sheep only, exclusive of other stock.

THE MISSION INDIANS.

LOS ANGELES, CAL.,
September 29, 1884.

Testimony of Anson Brunson.

ANSON BRUNSON sworn and examined.

By the CHAIRMAN:

Question. What is your full name?—Answer. Anson Brunson.

Q. You are a member of the law firm of Brunson & Wells?—A. Yes, sir.

Q. State your relation to the Government of the United States.—A. We were appointed special attorneys to represent the interests of the Indians in this part of the State of California, and as such we have now on hand one case which was commenced by Burnes, of San Bernardino. It is an action of ejectment against over a hundred of those Indians named in the process?

Q. Please begin back and give us a little narrative or history of those Indians, their condition and their relation to the title to these lands.—A. I spent three or four weeks, gentlemen, four or five years ago, during the spring and fall, hunting in that neighborhood, and that was my first acquaintance with these Indians. I passed through their village, and upon inquiry there I learned, from a man who lived there, that those Indians have been in possession of the same land, they and their ancestors, for over one hundred years. They have built upon the ranch quite a number of houses, which are in good shape and condition. In fact they are in better condition than the majority of houses occupied by the white settlers in the valley. They are well covered, and mostly adobe houses. Their fields are inclosed for the most part with live willow trees. The last time I was there, which was about a year ago, they were fencing their lots. Upon these lots they raise all kinds of vegetables and barley. I don't know about wheat. They have some cattle and horses, but not a great deal of stock. They are a peaceable, quiet people, and you can frequently see them on their ponies hunting rabbits. Their rights were never questioned until about two or three years ago, at the time of the partition of the land, when Burnes was awarded the land upon which these Indians are located. They occupy only a small portion of the land. The rancheros go into the valley to cultivate their little patches of vegetables for their own use, and they shear sheep to obtain money to supply their wants. They have wagons and horses also.

When this land was awarded to Burnes he knew the condition of the Indians living upon it, and I have been told, whether it is reliable or not I don't know, that he was particularly desirous to have this particular tract assigned to him, in order that he might get some bill through Congress by which he could sell it at an advance over its actual value; and the name of Lawson was prominently connected with that arrangement. Perhaps that led to his removal. I don't remember when the patent issued for that ranch. I think, however, it was about the time of the trial of the partition suit, so the statute of limitations would not run, the State courts and the Supreme Court of the United States having decided that the statute of limitations does not run until the issuing of the patent. The grants from the Mexican Government reserved to these Indians their right to occupy that land. We who have

had the most experience with the Mexican titles know that it was the policy of that Government to protect the Indian. They were not only a protégée of the Mexican Government, but of the church also. Were it not for this partition, and the expectation of selling at a figure in advance of the actual value, the suit would not have been commenced. The present suit is on a motion for a new venue.

Q. What does Burnes claim is his title?—A. As one of the successors of the original grantee holding under the Mexican patent. The patent upon Mexican grants reserved the outstanding rights of all parties. It was stipulated in the treaty with Mexico that the property rights of Mexican citizens should be protected.

By Mr. MORGAN:

Q. Were these Indians recognized under the Mexican law as citizens?—A. Yes, sir. In 1851 Congress appointed a commission to settle private land claims. This commission came here and the different claims were presented, and they passed upon them. This is one of them. The grant was confirmed, and the Federal courts say the issuing of the patent is a quitclaim.

Q. In the grant made by the Mexican Government to its grantee was there any reservation of the rights of other persons, or did the Mexican Government grant the land that was in the bona fide occupancy of the claimant?—A. There was none, except in the case of Indians. The policy of the Mexican Government has always been to protect the Indians in the different settlements they may have made. Most of this land was mission property, that is, property belonging to the church. They would not make a grant covering mission property. Until confiscated by the Government it was considered mission property. Wherever the Indians have been their rights were respected by the Mexican Government. There is not a case in the Mexican records where the Government has attempted to remove Indians from their occupation of land.

Q. Would you advise the purchase of this land at what it is reasonably worth to Mr. Burnes? At the price it is actually worth in the market?—A. Yes, sir.

Q. How far is it from here?—A. About 90 miles.

Q. How far is it from the railroad?—A. About 65 miles. You have to get off at San Gorgonia.

Q. What is the present condition of these Indians. If an Indian had land in his own right would he take care of it?—A. Yes, sir.

Q. Do they understand what it means to own land?—A. They understand what it means, and they are as particular among themselves as to trespass as you or I would be if we lived in New York City. They recognize the rights of property, are well behaved, quiet, peaceable people. In all my dealings with them I have never heard a word of complaint against them. I believe some of the Gorgonia people have been accused of stealing.

By Mr. MORGAN:

Q. If they have, under the treaty, a paramount title to the land they occupy, then you consider the patent by the Government makes a reservation for the Indians?—A. That is the ground of the defense in the suit for ejectment. We regard that reservation as sufficient.

By the CHAIRMAN:

Q. How could the Government ascertain if they thought it wise to purchase Mr. Burnes's interest in this land; how could they ascertain the true value of it?—A. The best way would be to take the value of

land in the immediate vicinity. Most of the people who have been awarded suits are represented by a syndicate here in this town. They are selling off all they can get, and their scale of prices would be a very good criterion to go by. The value of the land before the partition was perhaps \$2.50 an acre; perhaps now it is worth \$4; maybe it would cost \$10 to buy it.

Q. How large a tract would it be wise to purchase for these Indians?—A. I think from 300 to 500 acres would cover all of the claim the Indians occupy.

Q. Would that be enough for them?—A. Yes, sir.

Q. If the title were in them in fee do you think they would stay there and keep the land?—A. I have no doubt of it. They are less nomadic than any Indians in California. Our Indians are very different from the savage Indians. Those in Round Valley are different from the Indians on our side of the mountain. Savage Indians roam about, but these don't go away from home except in sheep-shearing or harvesting time.

Q. Do they keep the money they earn?—A. Yes, sir; of course they don't accumulate a great deal of property. If they have a wagon and a span of horses they are satisfied.

Q. Do they drink whisky?—A. I have never seen any of them with whisky. There was some trouble about whisky but through the Federal officials it has been suppressed.

LOS ANGELES, CALIFORNIA,
September 29, 1884.

Testimony of John G. McCallum.

JOHN G. MCCALLUM sworn and examined.

By the CHAIRMAN:

Question. What is your full name?—Answer. John G. McCallum.

Q. You are agent for the Mission Indians, are you not?—A. Yes, sir.

Q. How long have you been such?—A. Since the 1st of last October.

Q. Will you be kind enough to tell us all you know about them without our questioning you? Tell us how many there are.—A. The last enumeration was in 1880, and at that time there were 3,010. There has been no enumeration since.

Q. In your opinion are there as many now as there were in 1880?—A. I think there are a few more now. There has been no epidemic among them, and are in good condition; and they have, I think, slightly increased.

Q. How many reservations have they?—A. They have about twenty reservations of their own.

Q. Will you describe them?—A. The agency office is at San Bernardino, and the heaviest of these reservations is about 30 miles from that place, and the most distant 120 miles. The others are scattered about within that distance, some of them being 180 miles apart. They are generally small reservations.

Q. Do they depend upon appropriations from the Government for their support?—A. They get the benefit of appropriations, but they are not what are called nation Indians. All they receive is a gratuity from the Government, I understand.

Q. About how much does that amount to each year, do you think?—

A. So far as rations are concerned they are confined to the old, infirm, and indigent. That has not for a few years exceeded an average of \$300 a year for the whole 3,000 Mission Indians. The largest reservation is at Banning, which is a station on the Southern Pacific Railroad, near the center of the four townships which are reserved. There is no other reservation near so large as that. Perhaps that will amount to about as much as all the others put together. It is peculiarly situated. A number of Indians are here, and are within the limits granted to the Southern Pacific Railroad Company. About Banning, in the valley, the land was surveyed at the time of the executive order of August 27, 1877, by which this reservation was set apart. The executive order, of course, reserved all land the title to which had passed from the Government. Under the ruling of the Department it was argued that with regard to railroad land which had been surveyed the title had passed. You will find that the town of Banning was built within the limits of these four townships; within some of the even-numbered sections which had been sold at that time. There has been a continuous effort made to have that reservation cancelled. Of late the people of Banning are making every effort to have it cancelled so far as the township of Banning is concerned. The land in the other townships is not sectionized. I mention this fact because it will be a question whether those unsurveyed townships should not be made a reservation, provided surveys have been made to ascertain where the odd sections will fall which are claimed under the railroad company. While I have endeavored to dispel that idea, under instructions from the Department that such lands are considered reservation lands until surveyed, the agent of the Southern Pacific Railroad Company has notified the people that the railroad company has instituted, or are about to institute, a suit at Washington for the purpose of obtaining their equitable rights, and some of those persons who have settled upon what would be odd sections if surveyed, seem disposed to hold on to their settlements. I mention those four townships particularly, because there is more natural water and wood there than, perhaps, there is in all the other reservations. It is, in fact, the only body of good land in the whole reservation, and if the policy of the Government shall be to have a permanent reservation for these Indians without buying it, that would be the proper reservation. It is a large body of land, and well located for natural water and timber. There is a gentleman here now who has come to meet you as the representative of the settlers about Banning, who seeks to have that township set aside, because much the larger portion of the valley has been disposed of and the title is in question. They are outside the exterior limits of the reservation, but are in the section allotted to the railroad company. Their claim, and I think it is correct, is set forth in the following communication addressed to the Secretary of the Interior and the Commissioner of Indian Affairs, but was sent to me within the last few days.

To the honorable Secretary Teller and the Commissioner of Indian Affairs at Washington, D. C.

We, the undersigned owners and residents of Banning, Cal., situate in the T. 3 S., of R. 1 E., in San Bernardino meridian, respectfully ask for your concurrence and aid in securing the removal of the Executive order of date September 12, 1876, withholding from public entry portions of the township above mentioned, the same being a part of the reservation intended for the Mission Indians, and to this end submit the following facts for your consideration:

That from the map subjoined it can be seen that more than half of the township is

uninhabitable mountain land, and that of the cultivatable area fully three-fourths is deeded land, the aggregate value of which exceeds \$224,000: Banning Land and Water Company, \$100,000; San José Fruit Company, \$25,000; Gillig & Co., \$10,000; Gilman, \$12,000; Murray, \$6,000; Dunlap, \$4,000; Scott, \$16,000; Temme, \$3,000; Hewylitt, \$2,500; store, \$4,000; Ingelow, \$2,000; Carpenter, \$2,000; Barbour and Murray, \$6,000; Wright Brothers, \$1,600; J. C. Hay, \$5,000; Cabot, \$1,000; railroad company, \$10,000.

This township comprises the village of Banning, and has a church, school, post and express offices, railroad depot, stores, magistrates, &c. A large hotel and many new buildings are now being erected. In this voting precinct at last election were forty-two voters, and the population has since much increased. The total water supply of this region is chiefly owned by a private corporation, known as the Banning Water Company, and the water is by them brought from the mountains, many miles distant, in cement ditches, for domestic and irrigating purposes.

There is no water on the Indian land in this township, and although attempts have been made to procure water from wells these efforts have not been successful, hence no Indian settlement exists in this township. Only cereal culture is possible on some of these lands, from the same cause, and this only in favorable seasons.

The fact of these few unimproved sections being thus withheld and sandwiched between improved lands seriously retards and clouds the development and progress of this entire section of country. It is an Indian reservation without a single Indian resident. Nearly all of the able-bodied Indians who reside in the next township get employment here; thus the development and progress of this section being a positive benefit alike to them also.

We had hoped, from representations repeatedly made to various commissioners, and latterly to Commissioners Whittlesey and Smiley (who concurred in the expediency of the removal of the Executive order, so far as affecting this portion of the reservation) that action on your part would long ere this have been taken for our relief. A recent letter from Commissioner Price, instructing Agent M'Callum to eject any settlers, and not to allow of cultivation upon these unoccupied lands, has aroused much excitement and public feeling against the injustice of the depreciation of our lands and property from contiguity to these unimproved sections. Many settlers had settled and improved their lands before the date of the Executive order, and now find it difficult from this cause to dispose of their property. We, therefore, urge upon you that some measure be at once adopted for our relief. All facts herein stated are vouched for by the undersigned property owners.

Dated at Banning, Cal., this 18th September, 1884.

WELWOOD MURRAY,
SAN JOSÉ FRUIT PACKING COMPANY.
GILLIG & CO.
JOHN C. HAY.
WRIGHT BROTHERS.
WILSON HAYS.
CHARLES H. INGELOW.

E. G. CARPENTER.
J. M. GILMAN.
W. S. HATHAWAY.
R. I. CARPENTER.
GIDEON SCOTT.
BARBOUR & MURRAY.
W. K. DUNLAP.

WITNESS. So far as my knowledge goes, the facts stated are correct, but I would not wish to be understood as agreeing in the inferences and conclusions drawn from that statement. I simply present the statement and the map which accompanies it. The facts are set forth correctly so far as township 3 south, range 1 east, San Bernardino meridian, is concerned, but the legal conclusions to which they arrive I am not prepared to say that I indorse. The statement of facts is correct, but I do not think they state a legal argument. [Here witness refers to map.] All those light-blue lines represent lands occupied by white people, and correctly represent them as land the title to which has passed, whether on even or odd sections. They seek to have the red sections set aside, also the balance of the township which is unsurveyed. One of their arguments is, that as the reservation stands it is all mixed up with the land owned by white people. The other three townships in that reservation being unsurveyed, if the Government should either purchase the railroad title or give them other lands, these lands could be consolidated and would make a continuous reservation. That, I think, would be wise, and I am disposed to go so far as to say that while these people make a strong argument in favor of canceling the reservation, so far as the land surveyed is concerned, I do not see any

argument against canceling that which is unsurveyed in that township. It is true, as stated, that in that township, so far as I know, there are no Indians residing. I believe, however, that if the Indians had any assurance of a title in severalty, numbers of them would like to settle about Banning. In making my annual report I have had reference to the act of Congress, passed last session, giving Indians the right to homestead upon public lands precisely as white people do. The former rule was that they should be allowed to do so upon the renunciation of their tribal relations.

By Mr. MORGAN :

Q. Before you leave that point I would like to ask would you not provide that an Indian homestead should not be available within a certain time ?—A. Certainly ; the law makes that provision. In Southern California there is no large body of tillable land among the public lands ; a great portion of the State is a desert, and is useless as long as it is destitute of water. Now, the late act will be of little or no benefit to these Indians unless they can take homesteads upon the Indian reservation. Under the act an Indian cannot take a homestead upon the reservation any more than a white man can ; therefore I think the Executive order could be modified so as to make an exception in favor of the Indian. If that can be done many of these Indians would be glad to take such homesteads.

Q. Does this late act prevent Indians from making homesteads upon a reservation ?—A. Yes, sir ; the land being set apart as an Indian reservation prevents an Indian from making a homestead upon it.

Q. It is reserved in common ?—A. Yes, sir ; precisely.

Q. Before an individual can get a homestead upon the reservation such a bill as the Coke bill would be necessary, then. Would not that cure it ?—A. Yes, sir ; the law of allotment has no reference to these Indians.

Q. Here are four townships set apart by Executive order ; is there a particular tribe upon that land ?—A. Yes, sir ; this land is occupied mostly by the Serranos, a branch of the Coahuilas, the San Luis Reys, and the Dieguenos. Very little distinction is kept up among these Indians as tribes, so the reservations are made for the Mission Indians at large.

Q. Are there any particular Indians who have a right to go there to the exclusion of other Indians ?—A. I think not.

Q. As an agent of the Government, you would not prevent any Mission Indian from going in there and settling upon these four townships ?—A. My answer is that any Mission Indian can occupy the land, as no tribes are mentioned. In truth they are mixed up.

Q. Are these four townships involved in the case which Judge Brunson mentioned ?—A. No, sir.

By the CHAIRMAN :

Q. What is your advice as to the best disposition of the whole question touching this reservation ?—A. The title of the railroad company should be extinguished, either by purchase or giving new lands with proper guards. I think the bill for the relief of the Mission Indians contains such a provision, but there should be some guard with reference to the limits, otherwise those people would be likely to select more than the equivalent of the land they lost. The right to select land without any restriction would be worth \$10 an acre. I might say \$40 as to some land. I have examined a number of Mexican grants, and they

all contain a provision reserving the rights of Indians who are living upon them. Ex-Governor Downey claims a grant which contains the most prosperous village of the reservation—Aqua Caliente. He said that as to his grant it was an exception. He said the others contained a reservation as to Indians, but his did not; and he did not see how the other claimants would get over it. I informed him that all of them contained this exception, but as to whether Indians were citizens of Mexico I understand that the Mexican law made no distinction as to race, but it did as to condition. There were wild and civilized Indians, and the wild ones were not citizens. These Mission Indians, I think, were not classed as wild Indians, and if they were not wild Indians and were citizens of Mexico I must confess that I don't see by what authority I am acting as agent.

Q. Do you think these Indians need all the land in each one of these reservations?—A. No, sir.

Q. Would it be wise to dispose of a portion of it?—A. I think so.

By Mr. MORGAN:

Q. Are these Indians industrious?—A. Many of the younger Indians are industrious, and they are as honest a people, so far as my observation goes, as I ever knew. Their crimes are petty. If they commit larceny it is petty. They seem to pick up things of a petty character. Of course there are many indolent Indians among them. They are very timid Indians. They are not like any other Indians I have seen; they are superior to all the other Indians in California in respect to industry and obedience to law, but they are like children in intellect.

Q. How about polygamy?—A. I don't know of any polygamy among them, but they seem to have exceedingly loose ideas with regard to matrimony. That is, the fathers of the Indian girls will trade them off—sometimes for \$20, and sometimes for a horse. They don't trade them to white men, but to Indians.

By the CHAIRMAN:

Q. Do they have more than one wife at a time?—A. They have only one at a time, as far as I know.

Q. How are their morals?—A. Their morals are not the same as those of the whites, yet they apparently have not the sense of guilt that white people would have. Of course their education is different, and their views of morality differ from ours. They have the diseases that come from immoral indulgence. There is considerable scrofula and complaints connected with syphilis, but this does not prevail with the majority of them.

Q. Are there any schools upon these reservations?—A. We have six day schools.

Q. What progress do the children make?—A. The children at these schools are making good progress.

Q. Do they speak English?—A. I estimate that about 30, perhaps 50 per cent. of the whole number talk English. There are a great many more who understand English, but will not talk it. Perhaps one-tenth understand, but will not talk, English.

Q. Do the children who attend school learn English?—A. They learn to read and write English, and will read in the Fourth Reader with as much accuracy of pronunciation as white children of the same age, and yet it seems that they don't understand what they read. They learn to pronounce and spell very accurately. They improve up to a certain point very fast, and then their development seems to stop—that is after they finish the Fourth Reader and the elementary rules of arithmetic.

By Mr. MORGAN:

Q. A majority of them speak Spanish, do they not?—A. Yes, sir.

Q. If any one was clothed with the power to distribute to them lands in severalty, giving each head of a family sufficient land for the purposes of self-support, what proportion of them would take this land and settle down upon it as citizens?—A. I would estimate that there are between five and six hundred heads of families, but perhaps a majority of all the adults among them are engaged among the white people. They are not on the reservation except occasionally, and are not engaged in agriculture for themselves. They don't know how to proceed to get homes of their own.

Q. If some one would point out the way and help them to do it, could they be led to take homes in any considerable number?—A. I think about 400, perhaps more, would do so.

Q. How large a homestead would you advise should be set apart for each head of a family?—A. I estimate it at 80 acres; while there are about one-quarter of a million acres in all the reservations together yet perhaps nine-tenths of the land is worthless to the Indians, because destitute of water, and they have not the enterprise to bring water upon it; so what might be suitable for Indian homesteads might not be more than 25,000 acres. Eighty acres in this country, well cultivated, is, I think, more than sufficient. I will say further that Indians don't cultivate large tracts of land. Even in their villages, where they could extend their fields, they cultivate only 3 or 4 acres, where there is no reason why they could not cultivate 30 or 40.

Q. Are any of them in want?—A. They are not in want so far as the Government is concerned. It was said that in some portions of San Diego County they were in want on account of the crops being blighted, but the Indian captain there does not corroborate it. I sent word for them to send a wagon for provisions, but the wagon did not come. The Government has supplied all that has been estimated for, and the estimate has been small because there has been but little demand—not more than \$300 a year on the average. The goods I estimated for the year are now arriving at Colton.

Q. How often do you visit these reservations?—A. I visited them last fall; that is, I visited all those reservations at which there are schools, and I visited most of them this spring. To visit all the reservations where there are schools requires a travel of 40 miles a day for a trip of nearly two weeks, situated as they are through the mountains. To visit all of them would take about a month. I have visited all the principal villages since I have been agent. There are some places where the reservation is only a section or quarter section. I have not visited them.

Q. Then it only comes to your knowledge that there is need of assistance from applications made to you?—A. Yes, sir; I learn a good deal upon my visits to the reservations, but a great many of the Indians visit the office, as, for example, the Indians under Cabezon, the son of Cabezon, who is now said to be one hundred and forty years old; they came to see the new agent. Perhaps 200 of them came in from the Colorado Desert; then the captains of the villages about San Bernardino came in, bringing an escort sometimes of as many as 200 Indians. A good many of the Indians are in Los Angeles picking grapes and shearing sheep. Perhaps there are 300 Indians in Los Angeles engaged in industrial pursuits.

Q. What wages do they get?—A. They get from \$1.25 to \$1.50 a day

through the grape season; and during the sheep-shearing time they get 5 cents a sheep, and some of them make \$4 or \$5 a day. It is safe to say that they make not less than \$1 a day.

Q. Who teach the day-schools you spoke of? Are the teachers male or female?—A. Female.

Q. Who appoints them?—A. The agent nominates them, subject to confirmation by the Commissioner of Indian Affairs; but the Commissioner usually confirms the nominations.

Q. How are you guided in the selections?—A. The teachers generally make personal application, and then there is an opportunity to examine them.

Q. Do they go to the villages?—A. Yes, sir; they live in the villages, in the school-houses; that is, a little room is partitioned off for them. Sometimes they are 5 miles from any white settlers. There are white women in these villages who have lived there for months without seeing any white persons except the few employés.

Q. Do you visit them?—A. Yes, sir; those are the places I visit.

Q. How many children attend these schools?—A. The six schools will average about 130—a little over 20 to a school. Some of them have an average of 31 or 32, and the lowest is 15, I think, on the average.

By Mr. MORGAN:

Q. What is the amount of the appropriation for these schools?—A. I am unable to say; but my impression is that they are supported by the general appropriation.

By the CHAIRMAN:

Q. What salary do these teachers receive?—A. I pay the teachers \$720 per annum.

Q. Have you any training or industrial schools?—A. No, sir; they are all day-schools. We have no training or industrial schools.

Q. I believe that certain religious denominations have certain agencies under their charge?—A. Yes, sir; the Lutheran Church had the Mission Indians in charge when that policy prevailed; but my understanding is that when Secretary Teller came into office he did not recognize that policy; and since then, so far as I have noticed, agents have not been appointed through the influence of the church. My appointment was recommended by Senator Miller, somewhat against my protest.

Q. Do any religious denominations attempt to do religious work at any of these agencies?—A. None; except that some Catholic priests occasionally visit the villages. When speaking about the schools, I said that there are no training-schools among the Mission Indians. If any Indians in the United States need such schools, it is these Mission Indians; but I am of the opinion that the children cannot be kept at school near home—they will run away. They should be taken to Carlisle or Hampton, or the schools should be built away from their homes.

Q. How far are you from Albuquerque?—A. That must be nearly 1,000 miles from here.

Q. There is an Indian school there?—A. Yes, sir; but it will be difficult to induce the parents to send their children so far. They would be willing to send them to San Diego or to school here at Los Angeles. I think they could be kept at school on or near the reservation, because they would feel at home, and I think that so far as practicable day-schools should be changed into training schools.

By Mr. MORGAN :

Q. Is there any form of tribal government among these Indians?—A. They have customs which they observe. They have captaincies by consent of the agent; the Indians select the men, and they come to the agent for a certificate of recognition as such; and they are usually good men too. They also have trials about small matters, and the agent does not interfere in such matters. The tribal relations of these Indians, speaking generally, do not exist in the sense in which they are understood elsewhere.

Q. I suppose they have some regulation by which petty offenses are punished by Indian authority?—A. Yes, sir; that is, as to offenses against each other.

Q. Do they have any arrangement as to the settlement of property matters between them?—A. I think they have some regulations of that kind, but yet the rules are not well defined. There is very little of that kind of business going on among them, because there are hardly any disputes among them. An Indian died leaving five or six houses, and he had a wife; under the laws of the State they would have gone to the wife, but they had an Indian trial by which they agreed that some Indian who was not nearly related to the deceased should have charge of the stock. I told them to decide the matter according to their own way. There was a time when they would kill the stock when an Indian died, but now they have gotten so far along that they don't destroy the property.

Q. Will you tell us what their rights are in making contracts?—A. The United States law forbids their making contracts except in certain formal manner to be approved by the Secretary and the Commissioner of Indian Affairs. They are making contracts always; and they were for a number of years living like white people.

Q. Do they ever resort to the California courts to assert their rights?—A. I have not known of a case.

Q. How would it be if an Indian committed an offense like homicide against another Indian?—A. Our State laws, I think, would take hold of it. The supreme court of Nevada decided that they had no jurisdiction over such matters, but I think our courts would take notice of it, because our Indians are different from others. It would be hard to say that they were living in a tribal condition, except that they have an agent. They make their own contracts for shearing sheep, chopping wood, &c., and they never come to me. I don't see why they should. They usually collect their own wages, too, and can, I think, collect them in the courts. I know if I write a white man a note he usually pays the wages.

Q. Would it be safe to abrogate the distinction between offenses committed by Indians upon one another and those committed by white men upon one another?—A. It would be the very thing to do; they ought to be under the jurisdiction of the State courts as to offenses. I cannot see any reason why they should not be a part of the masses of the people; they are civilized substantially.

By Mr. MORGAN :

Q. Under the treaty, if they were citizens of Mexico they are now citizens of the United States, and of California?—A. Yes, sir; because the treaty provides that if a person shall not elect within a year to be a citizen of Mexico he shall be considered a citizen of the United States.

By the CHAIRMAN :

Q. Are these Indians more addicted to the use of whisky than their white neighbors ?—A. I would say that no larger proportion of them drink intoxicating liquors than the white people, but it ought to be added that their conduct when under the influence of liquor is so different that it would seem as if there were a great many more drunken Indians than white people; they become very noisy.

Q. Is there any intermarrying between whites and Indians ?—A. I do not know of any by ceremony. There are white men who have taken up with Indian women and recognize them as their wives. These men are called squaw men.

Q. Does a squaw man with an Indian wife have any privileges that he would not have if he did not have such a wife ?—A. They are recognized, I think, as members of the tribe. It depends upon what sort of a man the squaw man is. A good man they are glad to recognize.

Q. How do those of mixed blood compare morally with the full bloods ?—A. They are of better morals, and I am inclined to think more intelligent.

By Mr. MORGAN :

Q. Why are these Indians called Mission Indians ?—A. Because they are of that class of Indians who were under the charge of the old mission churches of California. We had a great many missions in this State, and they took in all the Indians they could get.

By the CHAIRMAN :

Q. They were Catholic missions ?—A. Yes, sir; and at the time the church was secularized this mission property belonged to the churches, and when the missions were broken up these Indians who were connected with the church were thrown off to provide for themselves.

By Mr. MORGAN :

Q. Their relation to the church was that they were wards, was it not ?—A. Yes, sir; I think so.

Q. Were these missions designated by boundaries ?—A. They cultivated fields but I don't think those fields were inclosed.

Q. You don't know whether one mission was so confined as not to intrude upon the territory of another mission ?—A. The missions were so far apart that no such conflict could arise.

Q. What distinction was there between these Indians and the other population we received from Mexico ?—A. The distinction between them and the rest of the population was that those people were called Mission Indians.

Q. Since your acquaintance with them these Indians have been known as Mission Indians in contradistinction to the others ?—A. Yes, sir; when the church was secularized thirty years ago the Government of the United States in dismissing the missions and receiving this population from Mexico under the treaty was bound to respect the character these people held under the Mexican law, and the rights of these Indians upon Spanish grants were respected as individual property by the Mexican Government and set apart in such a way as to pass as a sort of inheritance from ancestor to inheritor. I think they actually had a segregation of land which they occupied in families from generation to generation; and they now occupy those same lands. They recognize these rights among themselves; and I hear of no dispute among them.

Q. Do these lands descend from father to child ?—A. Yes, sir; it is a recognized right.

Q. If there is anything you think of after we are gone we should be glad to hear from you as to the welfare of these Indians, or what is the best disposition to make of them so as to absorb them as soon as possible into the community, and enable them to take their place as citizens, and the United States be relieved of the expense and burden of taking care of them.—A. There is not so much need of it here as in other parts of the country, because these Indians come near self-support now.

By Mr. MORGAN:

Q. Have you discovered any aversion to holding land in severalty?—A. I have not.

Q. The nomadic Indians are averse to it?—A. I understand that.

Q. Also the civilized tribes?—A. Yes, sir. The Indians down about Banning, so far as I hear expressions of opinion, are anxious to have titles to land in severalty, and when I lecture them for not taking more land, and getting agricultural implements, they answer that they don't know when the reservation will be removed, and they have no title to the land they occupy. Until they can have a permanent foothold you cannot make a citizen homesteader of them. The two things, which, in my judgment, are needed above all other things, are title in severalty, either by the qualification of the executive order, so that they can take homesteads on the reservation, or by making the law of allotments apply to these reservations, and to educate them in occupation.

Q. What is their disposition as to the ownership of cattle, sheep, and horses? Do they like to own stock?—A. Yes, sir; but they had rather own horses than any other stock. They are rather fond of ponies; but some have good stock. One Indian in Coahuila Valley has 100 head of cattle.

LOS ANGELES, CALIFORNIA,
September 29, 1884.

Testimony of Welwood Murray.

DR. WELWOOD MURRAY sworn and examined.

By the CHAIRMAN:

Q. What is your full name?—A. Welwood Murray.

Q. Where do you reside?—A. In Banning, San Bernardino County.

Q. Are you acquainted with the Mission Indians?—A. Yes, sir; I have lived ten years among them. I was for a long time resident physician and magistrate on the Colorado Reservation.

Q. What is the condition of those Indians?—A. They are in a semi-civilized condition.

Q. What do they do for a living?—A. They are employed chiefly by the whites, in various ways.

Q. What is their moral condition?—Their moral condition, for Indians, is good, but their sanitary condition is not the best, from the lack of proper medical attention.

Q. Have they any of the diseases that result from self-indulgence?—A. There is quite a good deal of that.

Q. Is it on the increase?—A. No, sir; it is on the decrease; considerably less of it than there was six or eight years ago.

Q. Are they an industrious people?—A. Yes, sir; they are generally industrious. They work for the white people and are quite expert in the cultivation of the vine.

Q. Do they save their earnings?—A. Many of them lay up their earnings.

Q. Have any of them farms of their own?—A. Probably a hundred of them have small allotments of land varying from 2 to 6 acres.

Q. What do they raise?—A. Mostly the vine is grown; some peaches and a little wheat. Many of them are very energetic and industrious.

Q. Would they desire to have land of their own?—A. I know every man of them and all have expressed a desire to have land of their own.

Q. How much land should each one have?—A. I think from 10 to 50 acres, according to the nature of the soil.

Q. If an Indian has his land in fee-simple would he keep it?—A. Yes, sir; they are very much attached to their homes.

Q. Is there any particular condition of things at Banning you would like to bring before the committee?—A. Yes, sir; there is this: There was a meeting of the people of Banning held a few weeks ago, at which I was appointed a delegate to see you gentlemen and secure your aid in obtaining a modification of the executive order of September 1, 1876, which set apart a certain township as a reservation; and these people desire to have this executive order modified as far as Banning is concerned. We have there a post-office, 247 population, and \$247,000 worth of deeded land, in actual valuation to-day. There is not a resident Indian in the township, nor ever has been. The present condition of matters has the effect to depreciate the value of our property, and deprive us of the sale of that which we acquired before the reservation was put there. They applied to Mrs. Jackson and General Whittlesey to get them to use their influence in their behalf.

Q. Have they recommended it?—A. General Whittlesey said he would unquestionably recommend it. He said it was absurd to withhold this particular township from public entry. There is a large hotel at Banning, and many buildings in process of construction, and there is not an Indian in the township. The few sections in this township which are Indian land have no water, and more than half the township is mountain land. The entire water right of this country had been acquired many years ago by a corporation. The statute of limitations has given the people the right to use this water, and the Banning water company, with a large capital, are colonizing and selling of allotments of land to the people there, and it retards the progress of the place to have the executive order remain in force.

Q. Do they take the water which is on the Indian reservation?—A. Yes, sir; they take the water which is really on the Indian reservation.

Q. How do they get that water?—A. When I first came there, ten years ago, some gentlemen built a flume 40 miles in length to float wood to the new railroad which was then being built—a very large structure was built costing \$30,000, and a good many thousand cords of wood was cut. I was appointed superintendent of that structure. I developed a great deal of water in the main mountain cañon for that corporation—probably 200 inches of water—and put it into the main flume, which they leased from an old resident who was first in time and first in right. This water privilege was sold two or three years ago to the company, who are now engaged in cutting up the land into lots and selling it to settlers.

Q. Where do these people get their title?—A. They get their title through the former owners. This was deeded land before the reservation was proclaimed.

Q. Well, sir, we will take your statement and lay it before the full committee.—A. The map, Mr. McCammon has already shown you, I believe.

The CHAIRMAN. Yes.

The WITNESS. With one exception, on the other townships there is no white resident who has any right to the land. He is the only one who was there before the proclamation was made. There are a great many settlers there. At the recent meeting there were thirty-two who were counted as squatters on the reservation; and they argued that there are only ten or twelve Indian families on one of the townships and the whites ought to have the land. I simply appear for the town of Banning.

Q. How far is that from here?—A. About 100 miles. You will pass it on the railroad. It is in a pass known as San Gorgonio Pass.

Q. How many reservations are there?—A. There are a good many.

Q. Have those you have visited any schools?—A. No, sir; they have no schools. I have visited them many times. There are a great many children, and they sadly need some schooling.

Q. Are they good workers?—A. I had rather have them than the white men. In pruning, in cultivating, and planting they excel, yet when we have them two or three weeks there will be an interregnum for one or two weeks, but we get them back again. My wife is a teacher in one of the schools. It has cost many hundreds of dollars to teach them, but when I have examined them it has seemed to me to be a waste of money. They are educated in the simple, common branches of English education, but it ought to be in some industrial pursuit. The girls ought to be taught to knit and bake, and the young men to sow and plant, to labor and become independent on their own reserves. They ought to be taught the occupations of every-day life. They could easily be taught mechanical pursuits. They have a wonderful perceptive faculty when trained. I have had men in my employ who were most dextrous as carpenters.

Q. Are there any means by which the children could be taught occupations?—A. Not now, but if a school could be had where it would be in the center of the reservations there would be probably from 75 to 100 children who would go to it. I mean an industrial training school.

Q. What proportion of the Indians speak English?—A. Not one in ten speaks English. Nearly all the male population speak Spanish.

Q. Have they more than one wife?—A. No, sir; they are extremely strict in that regard. At a recent meeting in Aqua Caliente the sheriff took a man who had done some wrong to a woman, and the Indians ordered him punished themselves.

Q. Do they have any such things as courts among themselves?—A. Yes, sir.

Q. Would it be wise to punish them for committing offenses against each other, just as a white man would be punished?—A. Decidedly wise and expedient. I have convicted many of them of offenses the same as whites, and I know that since those convictions crime has been materially lessened. They understand legal proceedings very well; and are, generally speaking, sober, industrious people.

Q. Are they increasing in numbers?—A. It has been a matter of great doubt as to whether they are increasing in population or not, and in a conference with some of the leading and older members of the tribes, they seemed to think the increase is very slight.

Q. Are they anxious about the question whether they are going to lose their lands or not?—A. Yes, sir; they are full of anxiety. They think the pressure from the whites is so great that it is a question of time only when they will be deprived of every acre of their land.

Q. Do they understand what it is to own land in severalty?—A. Yes, sir; perfectly, and every one would like to be fixed in his own home. Every one has so expressed himself.

*Testimony of Hon. Barclay Henley.*WASHINGTON, D. C., *February 20, 1885.*

Hon. BARCLAY HENLEY sworn and examined.

By the CHAIRMAN:

Question. Mr. Henley, where do you reside?—Answer. I reside at Santa Rosa, Sonoma County, California.

Q. What is your business?—A. I am an attorney-at-law and at present a member of the House of Representatives from California.

Q. Have you any knowledge of the occupancy of the Round Valley Reservation in California? If so, will you please state it to the committee in your own way?—A. I have looked over the testimony that has been taken by this committee in connection with the Round Valley Reservation, and it has occurred to me from my perusal of the testimony that I might furnish some information to the committee that would be pertinent to this investigation. In the first place, I hold in my hand the record of the suit commenced by the United States Government in 1872 to eject settlers that are occupying a portion of the mountain land of the Round Valley Indian Reservation. That suit was commenced under an act of Congress that authorized the appointment of a commission whose duty it was to tender to the settlers the appraised amount of their improvements, and upon their refusal to take this amount the United States district attorney was authorized to institute suit for their dispossession. The title of the suit is *The United States vs. Fred Bourne and others*. It is not necessary to give the names of the other defendants in that suit, but they are in the occupancy of the land. With the testimony given in reference to this matter heretofore, I want to give in brief the history of that suit. The commission authorized was, under the act of Congress, appointed, and they came to Round Valley. They were residents of Washington City; one had been a Congressman—that was Mr. Shanks. The law required them to make an appraisal of the value of the improvements of settlers upon this land, but in order to do this it involved a tedious horseback ride of some distance, and they did not go upon the ground and see the improvements of the settlers. I think they acted upon the representation of the agent as to the value of these improvements; at any rate, the appraisal they made of the improvements was not satisfactory to the settlers, and they considered the amount tendered was insufficient, and they refused to accept it. An action was then commenced in the United States circuit court against the settlers, and the case was tried by Judge Sawyer, and the Government was represented by the United States district attorney and his assistants. The case was decided in favor of the settlers, and they were, by decree of the court, left in possession, and they have remained in possession ever since. Under the instructions of the United States Government, the district attorney took the case to the Supreme Court on a writ of error; and last winter the case came up here. I was an attorney in the court below and also here, and prepared myself to argue the case before the Supreme Court, but after getting myself into a great state of perspiration over the matter, the Attorney-General came into the court and said he could find no error in the proceedings of the court below, and the judgment of the lower court was ordered to stand.

Q. Have you the opinion of the court below?—A. I do not know whether it is in the record or not, but I think you will find in the pamphlet I hold in my hand very full and elaborate evidence which will give the ground upon which the case was determined below. Gentle-

men, I am aware that this testimony was taken during the heat of the political canvass when I was a candidate for Congress, and I know just as well as if I heard it, that various propositions were made to the committee by my Republican friends to see if something could not be done which would be detrimental to me. The idea seems to have been in the mind of some of the committee, judging from some of the interrogatories, that persons who have entered upon unsurveyed land are trespassers. The United States Government in extending the act of 1841 over the State of California precisely makes subject to pre-emption surveyed and unsurveyed land. The Government invites settlers upon unsurveyed land. The improvements upon this land and the claim are assessed and taxed in California as any other property. If you have a claim fenced in and improvements on it the assessor taxes the improvements, and in addition he taxes your claim and estimates the chance of your holding it by homestead or otherwise. That is the system of taxation in California. At the time this reservation was enlarged the necessity for a reservation at all was diminishing every year, and it was apparent to everybody that it would not be many years before there would be no necessity for a reservation at all, and for some unknown purpose the reservation was enlarged to take in over 120,000 acres. This enlarged reservation included the improvements of a number of settlers who had gone out there and built houses, fences, &c., and had taken cattle and sheep upon this land for the purpose of acquiring in the course of time title to this land by pre-emption, homestead, or scrip, as the case might be, and this act of Congress recognized the fact that these settlers had rights there upon this land. They recognized the fact that these people having gone there and put improvements upon the land for the purpose of acquiring a title had rights and equities there. Therefore this Commission was created to appraise the improvements these parties had upon this reservation. I state this for the purpose of drawing attention of the committee to the fact that Congress has heretofore recognized the equities of these settlers. The law, if the committee desires to see it, is stated in the case of *Sherman vs. Buick* (93 U. S. Reports). Rather than give the statute, I simply point to the law.

Now, gentlemen, I want to state my connection with this land. George W. Henley was my brother. He died some years since. Long before this reservation was enlarged a gentleman named Gibson settled within the exterior limits of the enlarged reservation for the purpose of raising sheep and cattle. He associated with him my deceased brother. They constructed various improvements upon the land. The place is in the name of Mr. Gibson, and therefore, Mr. Gibson was a defendant in the action I spoke of, instead of my brother. I do not live in Round Valley, but in Sonoma County, California, which is 150 miles from Round Valley, but in time it takes three days' travel to get there from where I live. About my brother's association with Mr. Gibson I know nothing. Three years ago my brother died, leaving me two-thirds of his estate, and in that way I became connected with the ownership of these improvements, whatever that ownership may amount to. There has been some effort to show that Henley Brothers have fenced in some public land on this Round Valley Reservation. I do not know anything about that, but in order to inform myself accurately about this matter, during the last campaign, when I was in Round Valley, I inquired of Mr. Wiltsee as to whether George W. Henley and Mr. Gibson had ever fenced in any portion of the public domain. His reply was, "No, except a few acres around the house, but they have used the reservation fence as an inclosure to keep their sheep from straying"; and this statement of

Mr. Wiltsée I believe to be absolutely and wholly true. I have stated to the committee all I know about it. Mr. Gibson is now there in *statu quo*. The other settlers are also there, and they all think they have some equities upon this land, and they think they should not be dispossessed without some compensation, and claim that the tender made to them was grossly inadequate. Something has been said by some of the witnesses who testified before the committee about the value of this land. In the valley the land is worth from \$20 to \$50 an acre. Some of the witnesses testified that the mountain land is worth from \$5 to \$8 an acre. These witnesses all spoke with reference to land that is entered.

Q. What do you mean by that?—A. Well, sir, you take a range of 10,000 acres, and there will be one-third or a half of it that is brush that nobody wants, and it is not entered, but the portion that they do enter will be worth in some places what has been stated. Now, to illustrate that—south of Round Valley, and on both sides of the Eel River, there is a piece of land belonging to the estate of a Mr. Freedman. He entered 12,000 acres himself, and perhaps about eighteen months ago we conceived the idea of purchasing that range, and we made some calculations as to the number of sheep it would feed and the amount of interest it would yield on the money we invested. We found that we could not afford to give \$1.25 an acre for it, taking it all through, but we offered to give that much for two-thirds of it. That offer was rejected. That land is no better or worse than the reservation which is in the occupancy of these settlers. So, as a general proposition, this mountain land, except about Humboldt Bay, taken in a compact form, is not worth more than \$1.25 an acre. An inquiry was made as to whether this land in the occupancy of these settlers, Gibson and Henley, is taxed or not. Of course it is not taxed, but I presume that that question has been answered heretofore by what I have stated.

Now I want to say something about a proposition that is pertinent to this inquiry, and that is as to the policy of the Government in reference to these Indians. The Coke bill, which allots land in severalty, meets my entire approbation. I think that the most successful attempt ever made in California to civilize the Indians has been made in Round Valley, on our ranch. Perhaps you noticed, to the left of the road as you passed our house, fifteen or twenty cabins. In those cabins you will find beds, fireplaces, and you will find chickens running around the house, and also fruit trees in front of the house, but as far as the fruit is concerned we permit the Indians to take the fruit from our orchard. These cabins are the winter quarters of the Indians. During the summer time they move into the valley, and there they raise their corn and "truck," as the Missourians say.

Q. What title have they to this land?—A. They have no title to it; it is on our ranch, to which we obtained title after this land was thrown open to settlers. I think we pay the Indians on our ranch more than any white laboring men get on this side of the continent. We pay them from \$20 to \$25 a month, and there is one man to whom we pay \$40 a month. We pay these wages to the Indians and give them their food. If you keep liquor from these Indians they are very good workmen and are very trustworthy, but the baser element of the white people sell them liquor and then they get to fighting and have all sorts of trouble.

Q. Are they as good laborers as the white people?—A. Yes, sir; some of them are as good as white farm hands. Their progress in the last fifteen years has been such that if any one had told me that such would be the case, I would have received it with a great deal of skepticism.

Q. You employ Indians upon your ranch?—A. Yes, sir; most of our labor is Indian labor. I wish to state further that there is a witness named Handy employed on the Round Valley Reservation. I want to indorse right here the expediency of his plan of civilizing the Indians.

Q. You approve of his scheme?—A. Yes, sir.

Q. What amount of territory do you understand, under the laws of California, each one of these men could claim as a settler on which he could get the value of the improvements if he was obliged to move as that statute requires?—A. He could only pre-empt 160 acres and homestead 160 acres of this land; but he might acquire as much as he chose to if he could get the scrip.

Q. Do you understand that since the passage of the statute of 1873 any one can acquire a new title there within the limits of the reservation?—A. I think not; because I understand that the order extending the limits of the reservation suspended all further entries upon the land. No man could claim any equities after that, because if he entered upon this land he would do so with his eyes open.

Q. What is your understanding of the nature of the title these men have since that suit was decided?—A. It left them *in statu quo*.

Q. Suppose the United States should provide some new method of ascertaining the value of the improvements of these parties and should pay for them, from that time would they have any right to stay there?—A. They could set up no claim after that—none in the world.

Q. How do you understand that they claim to have enlarged it into sheep ranges?—A. They have not done so that I know of.

Q. How do they keep so many sheep on it?—A. They went there and built their houses and corrals, and took as many sheep as they could pasture, and those sheep have occupied a certain amount of range, but there has been no enlargement.

Q. If they were settlers laying claim to only 160 acres as pre-emption, and 160 acres homestead, how could they keep upon this land any such number of sheep as they now have?—A. They would not be able to do it except by scrip locations. When these parties went upon this land and made their improvements their intention was to acquire a title to the land.

Q. I understand that the statute went upon the ground that they were honest settlers upon this land which they expected to obtain a title to when the proper land offices were opened, and that the United States recognized the equity of such a claim?—A. That is so.

Q. Do you understand that their occupancy was confined to the limits of the pre-emption and homestead claims?—A. Yes, sir; but they occupied this land because nobody else did.

Q. Would you abolish the reservation entirely, and leave no land there for the Indians?—A. I would abolish the reservation, and do not think there is any necessity for retaining any portion of it except that in the valley, and I think that is the testimony of the majority of the witnesses.

Q. What would you do with this valley land?—A. I would allot it in severalty to the Indians and make it absolutely inalienable.

Q. How much land would you allot to a head of a family?—A. Mr. Handy, who has been on the reservation a long time, stated, if I remember his testimony correctly, that 20 acres would be sufficient.

Q. Do you think that is enough?—A. Yes, sir; I think so. The valley land is of extraordinary fertility.

Q. One man, who told me that he had been a justice of the peace there for years, told me that the valley land, outside of the reservation

was worth from \$30 to \$100 an acre.—A. I think that witness must have been speaking in reference to Ukiah Valley.

Q. He did not testify; he was only talking to me about it. Do you think 20 acres would be enough for the head of a family?—A. Yes, sir.

Q. What provision would you make for the children?—A. I do not think the increase of population would be such as to require more.

Q. Would you reserve any portion of the reservation for future exigencies?—A. I would reserve a few hundred acres, perhaps.

Q. How would you dispose of the upland on the reservation?—A. One way would be to throw it open the same as any other land in the public domain; another way would be to sell it in certain quantities for the benefit of the Indians.

Q. Suppose you were looking entirely after the interest of the Indians and the Government?—A. If I were looking out for the welfare of both the Indians and the Government I should say the land ought to be sold.

Q. In what manner would you offer it for sale?—A. I would sell it at auction after it was appraised and a minimum fixed.

Q. In what quantities would you sell it?—A. I think we could realize the most for the Indians and for the Government by selling it in 640-acre sections.

Q. You think 640 acres would be about the right quantity?—A. Yes, sir; and for the reason that you cannot find 640 acres of good land in a compact body—a great deal of it consists of chaparral or impenetrable brush.

Q. Is not that capable of being brought into use?—A. No, sir; the land I speak of is that portion to be found on the sides of rugged and precipitous cañons.

Q. What plan would you recommend by which to dispose of these settlers?—A. I do not know of any way to dispose of these claims, except by appraisement.

Q. Do you understand that the judgment in the suit you described gave these parties any permanent title to this land?—A. No, sir; I do not think that anybody can claim that that judgment invested the settlers with any legal rights at all.

By Mr. MORGAN:

Q. Would it not be a good plan to make the title to these lands inalienable for twenty-five years, and at the expiration of that time to have some one designated by the Government to determine the capacity of an Indian to take the fee?—A. It would not be a bad idea.

I would like to state to the committee that I have known the agent at Round Valley, when he got notice that an inspector was coming to the agency to examine and report upon the condition of things there, and the number of Indians upon the reservation, &c., to send to the coast and drag Indians from the saw-mills, where they were making \$30 per month, and carry them to Round Valley for the purpose of making a show.

Q. Are you acquainted with the Indians in Southern California?—A. Yes, sir; and I think the Indians in Northern California are more disposed to work than those in the southern part of the State. The Indians in Southern California are more disposed to roam about on horseback. They are more nomadic than the Indians in Northern California.

Q. Have you any knowledge of how the Indians in Round Valley have been enabled to earn money by hop-picking and the like?—A. I know there is a great demand for their labor. The hops of Round

Valley are celebrated for their excellence, and the crop is increasing every year, and every available Indian during the hop-picking season is brought into requisition. They make \$2, \$3, and \$4 a day during the picking season.

Q. How long does the season continue?—A. About a month.

Q. Do you think they have the capacity to raise hops themselves and to go through with the process of taking them to market?—A. I do not think these Indians in Round Valley could be safely trusted in the cultivation of the hops without some kind of supervision; but they do raise corn and garden truck and everything of that kind.

Q. How many pounds are there in a bale of hops?—A. I do not know; but I know that hop-raising is highly profitable in a good year.

I stated in the early portion of my testimony that as to the fencing of this land by Henley & Gibson I knew nothing; and I believe that I further stated that I had no further connection with this whole matter than what I have already stated. I desire to state now that I do not make this disclaimer because I believe that Henley & Gibson have done anything wrong, or to relieve myself of any odium. My brother is dead, and I do not think that he did anything more than was right.

APPENDIX.

DEPARTMENT OF THE INTERIOR,
Washington, August 27, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of 19th instant, informing this Department that, under the direction of the Senate, the Committee on Indian Affairs would soon visit Round Valley Agency, California, and the Indian Territory.

In response to your request for suggestions as to investigation, I inclose certain papers from the Office of Indian Affairs relating to the Round Valley Reservation in California.

Further matters will be communicated if you will kindly furnish an address to which papers may be forwarded, as memoranda is now in preparation in the Indian Office for the use of the committee.

An order addressed to the Indian agents, similar to that furnished to the committee on a previous occasion, is also herewith inclosed.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

Hon. H. L. DAWES,
Chairman Senate Committee on Indian Affairs, Pittsfield, Mass.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, August 27, 1884.

SIR: I have the honor to acknowledge the receipt by Department reference, for early report, of a communication from Hon. H. L. Dawes, dated August 19, 1884, in which he states that the Senate Committee on Indian Affairs is about to visit the Round Valley Indians in California, and afterwards in the Indian Territory, and states that if you can make any suggestions to them as to any of their investigations that will tend to aid them, or render the result more profitable, you will do the committee a favor.

In response to this request I have the honor to submit for the information of the committee a statement showing the history of the establishment of the Round Valley Indian Reservation, and the trouble arising from settlers thereon claiming rights under the "swamp act" or other sources.

The facts relating to the selection of this reservation are set out in office report dated January 29, 1872 (H. R. Ex. Doc. No. 224, Forty-second Congress, second session), from which it appears that Round Valley was first selected for Indian purposes by Superintendent Henley, in 1836, and in 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.

In letter dated January 6, 1860, from this office to the General Land Office, after reciting the facts in regard to 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 respect the same upon the books of that office, and notify the local office in California accordingly.

May 3, 1860, the surveyor-general of California, acting under instructions from the General Land Office, reported a survey of 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, under date of 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 appraisement of the claims and improvements of settlers in this valley was reported, the value of the same being placed at \$75,000.

By the act of Congress approved April 8, 1864 (13 Stats., 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 be authorized to 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.

An appraisement of the improvements of settlers in the valley was submitted to this office by Superintendent McIntosh, December 27, 1869, amounting in the aggregate to \$109,555.

He also transmitted, February 18, 1870, the field-notes and plat of survey, showing the proposed boundaries of the Round Valley Reservation, as extended to the summits of the surrounding mountains.

The executive order for such enlargement was given March 30, 1870, but no allusion was made to settlers or their improvements.

On the 23d of October, 1871, the Attorney-General of the United States gave directions to the district attorney for California to institute proceedings against all persons within the valley in all cases where he should be of the opinion that action for trespass could be maintained.

The act of Congress approved March 3, 1873 (17 Stats., 633), 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 twenty-two and twenty-three north of ranges twelve and thirteen 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 one dollar and twenty-five cents 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 north of the southern boundary of the reservation as established by the act, and authorized the Secretary of the Interior to pay for these improvements out of the money reserved for that 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.

On the 8th of April, 1873, the President issued an order withdrawing from sale and entry the lands described in the third section of the act of March 3, 1873.

On the 21st of March, 1873, the Department designated Hon. J. P. C. Shanks, Charles Marsh, and J. L. Burchard a commission to make the appraisement of the improvements and to fix the northern boundary, Hon. B. R. Cowen being afterwards substituted for J. L. Burchard.

On the 1st of November, 1873, this commission submitted a report of their appraisement of the improvements, with their recommendations 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.

On the 18th of May, 1875, an executive order was issued defining the boundaries of 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 occupancy of the Indians of this reservation, making its area 102,118 acres. (The outboundaries of the reservation were surveyed in December, 1876, and January, 1877, and approved January 17, 1877.)

A portion of these claims, as appraised, were paid in full, while tender of payment was made to others who refused to accept the payments.

Among the parties who accepted payment for their improvements were the following: C. H. Eberle paid \$2,925; C. H. Bourne paid \$5,130; David Thompson paid \$1,940.

By a recent decree of the United States courts these parties have obtained title to 1,080 acres of land within the reservation as "swamp and overflowed lands." It is remarked that the commissioners under the act of March 3, 1873, reported that they were not in any sense of the term swamp lands, and General J. B. McIntosh, under date of December 27, 1869, stated that he believed these claims are a fraud and should be resisted by the Government.

It is also remarked that the State of California, by act of May 14, 1862, granted all lands belonging to the State and within an Indian reservation to the United States. None of the certificates of purchase for these lands were issued before the passage of this act.

It is reported that some of the parties declined to accept the award and vacate because the commissioners appraised only a part of their improvements; others because their improvements were not appraised at all; and still others because they have United States patents for their lands.

The court, in the ejectment cases, held that the tender of the value of the improvements by Agent Burchard was not valid, as the money was not kept in his hands and not paid into court.

During the last Congress, as also at the present session, an appropriation of \$10,285.41, being the appraised value of the improvements in excess of the amount received from sales of lands, was asked that the amount might be tendered the parties (see Sen. Ex. Doc. No. 22, Forty-eighth Congress, first session); but in view of the decisions of the courts, this would not appear to accomplish the object sought.

Special Agent Folsom, under date of June 2, 1884, reports that the available part of the reservation of which the United States has the exclusive use, for the benefit of the Indians, is very limited; that claims of range for improvements give to a number of people occupying nearly all the reservation the finest opportunity for stock-raising known in the State; that the lands were not purchased, and rangers consequently get the benefit of large capital without investing a dollar in lands; that they get the benefit of about 100,000 acres of land without the payment of taxes; and that this operates with decided disadvantage to the reservation, because the land is overstocked and the United States cattle have short cropping.

It is respectfully suggested that the committee might, with advantage, investigate the alleged rights of these parties to land within the reservation, and ascertain the proper method of ridding this reservation of the intruders who for years have vexed the Department and the Indians.

I inclose copy of this report and of Special Agent Folsom's report.

A copy of the transcript of record in the case of the United States *vs.* Fred. Bourne, administrator of C. H. Bourne *et al.*, was transmitted to the Department with office report of February 26, 1884.

A report upon the matters involved in the investigation in the Indian Territory will be submitted hereafter.

Very respectfully, your obedient servant,

E. L. STEVENS,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

WASHINGTON, D. C., June 2, 1884.

SIR: In obedience to your orders of March 5, 1884, "Accts. Letter 60, 1884," I have the honor to report that I went to the Round Valley Indian Reservation prepared to make an exhaustive examination into the affairs of the agency.

I proceeded deliberately, and passed six weeks at said agency, gathering a mass of testimony, and covering a large area of ground which involved charges, complaints, disputes, dissatisfactions, and indications of irregularities extending into every branch of the agency.

I regret to report that, after patient hearing and patient, thorough search, I found nothing whatever to indicate a healthy condition of affairs at this agency. On the other hand, mismanagement was glaringly exposed at every turn.

In summing up the evidence and presenting the same to Agent Sheldon, as I proposed to present the case to the honorable Commissioner, he tendered his resignation, which I received and forwarded for the action of the Department. The inference needs no demonstration.

The chief charges I have against Mr. Sheldon are inexcusable weakness and gross carelessness in the management of the details of the agency.

In fact I think the source of his trouble has been his disposition to accommodate those having business with him, and to give way before light reasoning or a little arguing, losing sight of the stern call of duty and the unwavering decree of law.

Notwithstanding this, and inasmuch as Agent Sheldon's resignation has been accepted, and his administration of the Round Valley Indian agency is now a matter of the past, with your permission I shall here drop personal discussion of the agent, and only draw from my findings such matter as is of living importance, and which pertains to the future concern and future welfare of the agency.

I therefore hand you herewith for file and future reference, if required, the bill of charges against Mr. Sheldon, and the evidence gathered in relation thereto, as well as the additional matter found, which, for convenience, is classified under "No. 17." The sections of the charges are numbered, and the accompanying papers referring to them are numbered and separated accordingly.

THE RESERVATION.

The available part of the reservation which the United States has the exclusive use of for the benefit of the Indians is very limited.

Claims of range for improvements give to a number of people occupying nearly all the reservation the finest opportunity for stock-raising known in the State.

First, the lands were not purchased, and the rangers consequently get the benefit of large capital without the investment of a dollar in lands. They next get the benefit of about 100,000 acres of land with no payment of taxes for the same. Thus these parties have an undue advantage over other cattle-men, and over the Indians, the State of California, and the United States Government. This operates with decided disadvantage to the reservation, because the land is overstocked, and the United States cattle have short cropping—sheep get the cream of the pasture. It is well illustrated by the fact that the reservation cattle killed in first quarter, 1884, fall in weight far below the contract cattle. There were 30 contract cattle killed in that quarter and 14 reservation cattle; total weight of contract cattle was 15,664, and of reservation cattle, 5,227 pounds. Fourteen of the lightest contract cattle weighed 6,146 pounds, against 5,227 pounds of reservation cattle; average weight, 439 pounds, against 373. Average weight of whole band of contract cattle was 522 pounds, against 373. Difference against United States cattle, 149 pounds per head. The United States stock have a very poor chance on this reservation.

The liberty of the Indians also is curtailed, because parties occupying these ranges do not of course want their own interest abridged, and having their "claims" they naturally do all they can to protect their own interests against those of the Indians. There are about 46,000 head of cattle, horses, and sheep upon the reservation being fed by the United States, I might say, gratuitously.

But this whole matter I understand to be fully before the Department already. I urgently recommend that immediate steps be taken to secure full possession of the reservation, which I believe is only a matter of an appropriation to pay for these "improvements" scattered over the range. This reservation is splendidly adapted to the purpose for which it was set aside. There are beautiful little level spots all over the reservation, susceptible of cultivation, splendid grazing land, and matchless hunting and fishing grounds.

The Indians desire to be less crowded than they are, huddled up at the agency and lower quarters. Numbers of them ask for more land and a chance to have gardens and stock.

THE GRIST-MILL.

The great store-house for grain in the flour-mill has been used by private parties. Outside parties have stored their grain at the mill for mere convenience, occupying the room built and intended for the Indians and agency, consequently the agent has to haul grain a long distance in the winter to the mill, when the roads are bad, and because the mill bins are filled with grain belonging to private people.

I recommend that the mill bins be used for the reservation, and that the other granaries, if any, be rented.

THE SAW-MILL.

I urgently recommend that all the lumber that can be produced from the saw-mill in excess of the yearly requirements of the agency be offered for sale. There is no reason why lumber should not be sold as well as hops. There is great demand for lumber in Round Valley, and I see no reason why such industry should not be taken advantage of for the purpose of helping to support the agency.

A more liberal allowance of lumber should be made to the Indians. They have been meanly restricted in the use of lumber. Many want additions to their houses, and

would do much of the work themselves if the lumber was provided. The Indians are sadly in want of privies. Lumber should be issued for that purpose at once. This leads to the

SANITARY CONDITION OF THE RESERVATION.

The sanitary condition of the reservation is miserable. For sanitary reasons the Indians should have privies *without pits*. A privy should be constructed at the guard-house or prison. Several Indians spoke to me about this matter, and I was glad to see the sentiment of the Indians in this respect.

They are inclined to be cleanly and modest in regard to such matters, and they should be encouraged.

The grounds about the agency buildings were open to the hogs; they slept in the sheds, and kept the grounds about the school-house in a filthy condition. I suggested a correction of the hog nuisance while there, and it was promptly acted upon by the agent.

Unsightly rubbish is allowed to collect all about the buildings. I was sorry to find that neither the agent nor the physician was alive to strict sanitary rules, necessary alike for the health, appearance, and cheerfulness of the grounds of the reservation.

AGENCY BUILDINGS.

The buildings upon the reservation are in want of repairs. Porches are rotted away. Buildings are ready to tumble down at the "Odell Place." The granary at headquarters is very weak. A general repair is required all over the agency.

There is great need here of some hospital accommodations. I recommend the erection of a small hospital building, with as little machinery as possible, for the temporary care of the sick; to have connected with it suitable quarters for aged Indians—for those old, feeble, decrepit Indians who have no one to look after them, no friends particularly interested in them.

There is no charity so remunerative as the provision of good care for the helpless. That old Indians need more care than they have there is no doubt in the world. I visited James Fairley, an old Indian who had been lying on his couch well onto a year; he was absolutely helpless, unable to feed himself, and unable to sit up, or even to raise up, without aid.

An old piece of blanket and his coat lay on an otherwise uncovered mattress, which was old, hard, packed, and unyielding. Upon this bed the feeble, sinking man was confined, his naked form only partially covered with a dirty blanket.

I raised the under blanket and coat when a most revolting sight met me. The mattress was sour, filthy, damp, and mildewed from decaying vomit and urine. And this sick man lay within a stone's throw of the agent's house, and so near the agent's Sunday service that the poor man could catch the sound of what must have come to him as a meaningless, soulless, Godless worship. In the same room lay a sick woman, confined to bed three or four months. Complaint was made to me that the agent had not visited these sick people, that the doctor's visits were rare. It was at all events left to a special agent to direct a change of mattresses, to provide a vessel with ashes for the sick to spit in, instead of on the floor, to tidy up the room, and to pitch the half-filled, stinking tin urinal out of doors.

I think these Indians should have been in the hospital. At the Cheyenne and Arapahoe Agency I found a boy very sick with pneumonia. The only bed for him was in the room common to all the boys. His bed was drawn near the stove, and he was in the midst of the bustle and noise of the children, almost defeating the work of the physician, and the children, on the other hand, were subjected to overheated air, unusual to them, and the enervating atmosphere of the sick-room.

The demand for some unpretending hospital arrangements suggested itself there, and they seem essential on many of the Indian reservations.

I earnestly recommend your consideration of the matter of hospitals, and at this time ask that directions may be given to the Round Valley agent to submit a plan for a small hospital which may be added to as occasion requires. A building doubly boarded could be erected without laths and plaster, and quite inexpensively, as the lumber is right there on the ground.

HOPS.

The hops, product of Indian labor, have been sold through a commission house in San Francisco, the proprietors having the matter entirely in their own hands, and they have been entirely irresponsible and entirely unaccountable. The sale of the reservation hops has been conducted in a very slipshod manner.

Now, as the agent is so far removed from San Francisco, practically cut off from the market, three days removed even by telegraph, out of business channels and beyond the current of trade, I very urgently recommend that the future sale of hops be

conducted by the Department's forwarding agent at San Francisco, who shall be held accountable to the honorable Commissioner directly for the disposition of the crop, depositing proceeds of sales with the assistant treasurer to the credit of the Indian agent, of which he shall be duly advised.

THE INDIANS.

The Indians at Round Valley are in a prosperous condition, and yet, compared with their condition some years ago, they are really not so well off as formerly. They have steadily decreased numerically; disease has done its share of the work. But there are many who have left the agency from discontent who would be glad to go back.

A fine opportunity is offered the new agent to bring in these Indians, and with a wise policy the future is bright for this reservation.

The Indians at Round Valley are naturally modest and reticent; they are reluctant to press themselves forward, but when an opportunity is given them, they talk well and intelligently.

I was surprised at their dignified bearing. They criticised the operations of the agency without mercy; and yet I did not hear one word spoken in passion; not a disrespectful epithet passed their lips; nor did they ask for anything but fair play.

They have been kept at a distance when they should have regular opportunity for conference. A matter of this kind ought to suggest itself to the agent, but as it did not, and as the Indians have no such opportunity, I recommend that the Round Valley agent, when appointed, be directed to set aside a part of a day every month for conference with the captains of the different tribes and others, together or singly, upon subjects in which they are interested. These Indians speak English well; they are good, earnest, intelligent, thoughtful men, and they deserve generous consideration.

CONCLUSION.

The field of my report was changed, and the secondary and incidental part of the visit to Round Valley has been made its prominent feature, by the summary closing of the investigation.

Every point mentioned, however, is important, and *all* the branches of this agency require careful thought and the closest, most searching attention.

In closing I desire to acknowledge the patience and gentlemanly bearing of the employes toward me through this trying ordeal, including the agent himself, and not least, by any means, the manliness of the Indians.

I am sir, very respectfully, your obedient servant,

PARIS H. FOLSOM,
Special Indian Agent.

Hon. HIRAM PRICE,
Commissioner of Indian Affairs, Washington, D. C.

OFFICE INDIAN AFFAIRS,
San Francisco, December 6, 1867.

SIR: In compliance with a request in your letter of June 6, inclosing a copy of a contract between Bishop Amat and Lewis V. Bogy, late Commissioner of Indian Affairs, concerning the education of the Mission Indians and repairing the old Mission buildings at Pala, I beg leave respectfully to report that I received your letter late in July, when my time was wholly occupied with the reservations in the northern part of the State, and with office business connected therewith. I made diligent inquiries, however, and ascertained that Bishop Amat was absent from the State and that nothing had been done by him toward the repairs mentioned in the contract. I believe he is still absent, but is expected to return soon.

I was informed by Manuellito Cota, head chief of all the Mission Indians, who resides at Pala, that with the assistance of Padre Sanchez and the Indians he had so far built up and improved the old church that they had frequently held service therein; but recently the good padre had been recalled and was no longer allowed to visit the Indians at Pala. Much more might be done to advantage, not only to repair the church and Mission buildings but also to repair the zangas, vineyard, orchard, &c.

Most of the labor can be performed by the Indians if they are well fed and clothed and materials, tools, and teams furnished them, with a good overseer.

I visited Pala, Temecula, San Luis Rey, San Pascual, and nearly all the Mission Indians in Los Angeles, San Bernardino, and San Diego counties last month, in company with J. Q. A. Stanley, acting special Indian agent, stationed at Los Angeles. At my request Mr. Stanley made a brief statement in writing relative to Pala, a copy of which I herewith inclose for your information.

The lands heretofore and for many years cultivated by the Indians at Temecula have nearly all been taken away from them by white men (squatters) who have no legal right to them. I am informed that some gentlemen in San Francisco and Santa Barbara have a confirmed grant which has been so surveyed as to cover all the valuable lands in Temecula Valley that were supposed to belong to the Indians. I presume, therefore, these Indians will ultimately be obliged to leave. Pala is only about 15 miles from there, and the Indians would be very willing to go to that place if they could have any guarantee that they would there be allowed to cultivate the soil in peace. There are still about four hundred Indians, men, women, and children, at Temecula, and perhaps as many at Pala and the immediate vicinity.

At Santa Ysabel and San Pasqual there are some six hundred. All these and many more in the adjacent country are of the same religion and speak the Spanish language, and many of them speak pretty good English. They would get along peaceably together under proper management. There is quite sufficient arable and irrigable land at Pala and in the valley of San Pasqual to subsist all the Mission Indians, besides about nine hundred "Cahuillas," who are but half civilized and are now roaming through the San Bernardino and San Jacinto Mountains without a home.

These Indians formerly lived at "San Timotis" and cultivated rich lands which their fathers had cultivated before them; but some five years ago many of them died of small pox, the balance became alarmed and fled to the mountains for temporary relief, but with no intention whatever of abandoning their long cherished homes and the graves of their fathers. Frontier settlers, who are ever on the track of the red man, immediately took possession of their lands and cultivated fields, burned their rancheros and have ever since peremptorily refused to allow the "Cahuillas" to return to their old homes. Many of these Indians are old and helpless, stricken with disease and disappointment. The younger and more healthy are becoming demoralized and sometimes troublesome, by their contact with roving bands of Mojaves and Chimehuevas. It is difficult to do much for them unless they can be gathered upon a reservation and set to work under the immediate care and supervision of a suitable white man. For more specific information relative to these Indians, I would respectfully call your attention to the able report of J. Q. A. Stanley, acting special Indian agent, dated November 9, 1865, a copy of which is on file in your office.

The Indians at San Pasqual Valley are supposed to number about 300, and they claim that the entire valley, about 3 miles long and nearly a mile wide, was given to them when the Missions were secularized. One of the old chiefs showed me an old smoky certificate to that effect, purporting to have been written and signed by one of the officials under the Mexican Government. Many of the native Californians, Don Juan Forster, and other old European and American settlers corroborate this statement. The San Pasqual Indians have been in possession of the entire valley and cultivated a considerable portion of it for sixty or seventy years.

Recently one American, three or four Sonorians, and as many native Californians have moved into the valley and taken possession of some of the best of the land. These intruders are selling liquor to the Indians and trading with them. They have already got away most of their oxen and other cattle, horses, grain, beans, and other property. The chiefs and captains complain bitterly of the demoralizing effect of the whisky traffic among them. There are but few of them who have teams left with which to cultivate the ground and put in a crop for the ensuing year.

I would respectfully recommend that the San Pasqual Valley be withdrawn from sale and set apart for the use of the Indians now there and such others as may be gathered in from Santa Ysabel and the surrounding country, and that it be made and considered a part of a reservation to be established at Pala for the Mission Indians.

The Superintendent of Indian Affairs should be fully empowered to proceed summarily to dispossess trespassers upon Indian lands or reservations. And he should be authorized to call for military aid in such cases, as well as to restrain traffic in liquor among the Indians. The traffic follows the trespass as night the day. Both should be prevented if we would maintain peace and promote civilization and religion. Local tribunals are often established in border settlements and magistrates elected by the very men who commit these trespasses upon Indian reservations; the department of Government in charge of reservations is completely ignored, and the rights of Indians disregarded.

I would, in conclusion, respectfully suggest that all that portion of the rejected claim of the Mission San Luis Rey called "Rancho of Pala," together with that portion of the rejected rancho called "Comajaby-Paloma," known as Paloma, also the whole of the valley of "San Pasqual," be immediately withdrawn from sale by the proclamation of the President of the United States, and set apart for Indian purposes, and that a law of Congress be passed as early as practicable giving the Superintendent of Indian Affairs authority to break up and abandon Smith River Indian Reservation and establish a reservation for the Mission Indians in accordance with the recommendation herein contained.

I herewith inclose a draft of a bill which I think would meet the necessities of the

case, and would thank you for a careful examination of its provisions and for any alterations or suggestions you may see fit to make, and will be obliged if you will be kind enough to call the attention of some energetic member of the California delegation in Congress to this matter and request his co-operation and that of his colleagues to carry out such of my views as you approve.

If you should not see fit to approve of the establishment of a reservation at Pala, I would most certainly feel it my duty to suggest that the contract between Bishop Amat and the late Commissioner Bogy be annulled. But if such a reservation can be established for the Mission Indians I will be most happy to co-operate with the Rev. Bishop Amat and the Commissioner of Indian Affairs in their laudable efforts to educate the younger portion of this class of Indians in California, and to repair the church and mission buildings in aid of that humane object.

Pala was only a dependence of the grand old mission of San Luis Rey, and was not confirmed to the bishop, as were the church, cemetery, orchard, &c., at San Luis Rey.

The former is 17 miles from the latter place, and is unquestionably Government land. Pioche Bayerque and others claimed the Mission lands of San Luis Rey to the extent of about 100,000 acres under a pretended purchase from Governor Pio Pico near the close of Mexican rule in California. If that claim had been confirmed it would have included the Mission buildings at Pala and some portion of the arable lands we desire for a reservation. But it was rejected by the Supreme Court of the United States, and the claimants have no legal or equitable claim to Pala. They were never in possession nor did they ever make any improvements.

I am informed that they intend to apply for detached portions of San Luis Rey, taking in all the arable land and watering places, leaving out the greater part of this great claim as worthless. By taking all the best land and water they would effectually shut pre-emptors out and thereby gain the whole 100,000 acres as a range for stock, and it is very likely they would extend their survey to Pala, if they thought the Government would buy it back for an Indian reservation. This application will be made by Pioche and others, through the land office, under the provisions of the seventh section of an act of Congress passed July 23, 1866, entitled "An Act to quiet land titles in California."

The only possession the claimants ever had to any part of the Mission lands of San Luis Rey, was simply to authorize a neighboring ranch-owner to look after the Mission and protect it. This he did by allowing his own cattle free range (which they had before) from his own ranch to San Luis Rey. He also dismantled the old Mission church and hauled away several hundred loads of timber, brick, and tile to embellish his own place.

I herewith inclose you a rough sketch of Pala; also a sketch of the valley of San Pasqual. These two places and Santa Ysabel form a triangle on the map, and are about 15 miles apart. They are the most central points for the congregation of all the christianized Indians in the southern part of the State. These Indians are now scattered over a large area, owing to their neglect and the dilapidated condition of the missions. The unchristianized Indians within my superintendency extend eastward to the Cabeson Valley and southward to the Colorado.

Many of the latter can be brought in and taught the arts of industry and civilization if suitable preparation can be made for them, which I humbly pray may be done as early as practicable.

I am, sir, very respectfully, your obedient servant,

B. C. WHITING,

Superintendent Indian Affairs, California.

Hon. N. G. TAYLOR,

Commissioner of Indian Affairs, Washington, D. C.

EXECUTIVE MANSION, *September 29, 1877.*

It is hereby ordered that the following-described lands in California, to wit, all the even-numbered sections and all the unsurveyed portions of township 4 south, range 4 east; township 4 south, range 5 east, and township 5 south, range 4 east, San Bernardino meridian, excepting sections 16 and 36, and excepting also any tract or tracts the title to which has passed out of the United States Government be, and the same hereby are, withdrawn from sale and settlement and set apart as a reservation for Indian purposes.

R. B. HAYES.

EXECUTIVE MANSION, *August 25, 1877.*

It is hereby ordered that the following lands in California, to wit, all the even-numbered sections and all the unsurveyed portions of township 2 south, range 1 east;

township 2 south, range 2 east; township 3 south, range 1 east, and township 3 south, range 2 east, San Bernardino meridian, excepting sections 16 and 36, and excepting also all tract or tracts the title to which has passed out of the United States Government be, and the same hereby are, withdrawn from sale and settlement and set apart as a reservation for Indian purposes.

R. B. HAYES.

EXECUTIVE MANSION, *May 3, 1877.*

It is hereby ordered that the following lands situate in California, viz, township 10 south, range 1 east, sections 16 and 36, San Bernardino; township 7 south, range 2 east, section 36; township 14 south, range 2 east, section 36; township 11 south, range 3 east, section 36; township 9 south, range 2 west; north half of northeast quarter, section 33, being lands withdrawn from the public domain for the Mission Indians by President's order of December 27, 1875; also the following: township 2 south, range 1 east, section 36; township 7 south, range 8 east, section 16, being lands withdrawn by President's order of May 15, 1876, for the same purpose be, and the same are hereby, restored to the public domain.

R. B. HAYES.

EXECUTIVE MANSION, *May 15, 1876.*

It is hereby ordered that the following described-lands in San Bernardino County, California, viz:

Portrero: Township 2 south, range 1 east, section 36.

Mission: Township 2 south, range 3 east, sections 12, 13, and 14.

Aqua Calienta: Township 4 south, range 4 east, section 14, and south half of south-east quarter and northeast half of section 22.

Torros: Township 7 south, range 7 east, section 2.

Village: Township 7 south, range 8 east, section 16.

Cabezons: Township 7 south, range 9 east, section 6.

Village: Township 5 south, range 8 east, section 19.

Village: Township 5 south, range 7 east, section 24, be, and the same hereby are, withdrawn from sale and set apart as reservations for the permanent use and occupancy of the Mission Indians in Southern California, in addition to the selections noted and reserved under Executive order dated December last.

U. S. GRANT.

MISSION INDIAN RESERVE.

EXECUTIVE MANSION, *December.*

It is hereby ordered that the following-described lands in the county of San Diego, California, viz:

Portrero: San Bernardino base and meridian, including Rincon, Gapich, and La Joya, township 10 south, range 1 east, sections 16, 23, 25, 26, 30, 31, 32, 33, 34, 35, 36, and fractional sections 17, 18, 19, 20, 21, 22, 27, 28, and 29.

Coahuila: Township 7 south, range 2 east, sections 25, 26, 27, 28, 33, 34, 35, and 36; township 7 south, range 3 east, sections 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35; township 8 south, range 2 east, sections 1, 2, 3, and 4; township 8 south, range 3 east, sections 2, 3, 4, 5, and 6.

Capitan Grande: Township 14 south, range 2 east, sections 25, 26, 27, 34, 35, and 36; township 14 south, range 3 east, sections 31 and 32; township 15 south, range 2 east, sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10; township 15 south, range 3 east, sections 5 and 6.

Santa Ysabel: Including Mesa Grande, township 11 south, range 2 east, south half of township 11 south, range 3 east, sections 25, 26, 27, 28, 33, 34, 35, 36, and fractional section 13; township 12 south, range 3 east, sections 1, 2, 12, and fractional sections 3, 4, 10, 11, 13, and 14.

Pala: Township 9 south, range 2 west, northeast quarter of section 33 and north half of the north half of 34.

Aqua Calienta: Township 10 south, range 3 east, southeast quarter of section 23, southwest quarter of 24, west half of 25, and east half of 26.

Sycuan: Township 16 south, range 1 east, section 13.

Maja: Township 13 south, range 3 east, northeast quarter of section 35.

Cosmit: Township 13 south, range 3 east, north half of northeast quarter of section 25, be, and the same are hereby, withdrawn from sale and set apart as reservations for the permanent use and occupancy of the Mission Indians in Lower California.

U. S. GRANT.

ROUND VALLEY RESERVE.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 30, 1870.

SIR: I have the honor to transmit herewith a communication dated the 4th instant from the Commissioner of Indian Affairs, and accompanying papers, map, &c., recommending the enlargement of Round Valley Indian Reservation in Mendocino County, California, to the extent indicated by the Commissioner, and as delineated on the said map. I concur with the Commissioner in the opinion that the Indian service in California requires that all of "Round Valley" be reserved for Indian purposes, and have the honor to request that said valley be set apart as an Indian reservation, as the same is enlarged in accordance with the report of Superintendent McIntosh, plat, field-notes, and schedule of lands, marked A, B, and C, which are herewith inclosed.

With great respect, your obedient servant,

J. D. COX, *Secretary.*

[Office of the Superintendent of Indian Affairs, California.]

SAN FRANCISCO, February 18, 1870.

SIR: I have the honor to inclose to you the field-notes of the recent survey of the Round Valley Indian reservation. I also forward a proposed description of lands to be set apart for an Indian reservation at Round Valley, Mendocino County, California.

I am, sir, very respectfully, your obedient servant,

J. B. MCINTOSH,
Brevet Major-General, U. S. A., Superintendent of Indian Affairs.

MON. E. S. PARKER,
Commissioner of Indian Affairs.

PROPOSED DESCRIPTION OF LANDS TO BE RESERVED FOR INDIAN PURPOSES, IN ROUND VALLEY, MENDOCINO COUNTY, CALIFORNIA.

All that piece or tract of land situated in Round Valley, Mendocino County, California, being a portion of the four (4) townships hereinafter mentioned, namely:

Townships 22 and 23 north, range 12 west, and 22 and 23 north, range 13 west, Mount Diablo meridian, and contained within the boundaries hereinafter described.

Beginning at white-oak post, the southeast corner section 23, township 23 north, range 13 west, Mount Diablo meridian; thence south $72^{\circ} 22'$ west for 5,330 feet (magnetic variation $17^{\circ} 38'$ east) to a white-oak post; thence south for 3,154 feet, to a white-oak post in stone mound; thence south 23° east for 2,073 feet to a white-oak post; thence south $7^{\circ} 35'$ east for 4,491 feet to a white-oak post; thence south $37^{\circ} 25'$ east for 13,324 feet to a white-oak post on rock mound; thence south $41^{\circ} 40'$ east for 4,763 feet to an oak post in rock mound; thence south $71^{\circ} 20'$ east for 2,845 feet to an oak post; thence south $20^{\circ} 30'$ east for 4,098 feet to a black-oak tree, blazed on four (4) sides four (4) feet from the ground; thence south $80^{\circ} 15'$ east for 2,730 feet, to a pine tree 100 feet in height, bushy top, blazed as above; thence south $53^{\circ} 10'$ east for 937 feet, to a pine tree 20 inches in diameter, forked 10 feet above ground, blazed as above; thence south $45^{\circ} 10'$ east for 2,333 feet, to a black-oak tree 30 inches in diameter, blazed as above; thence south $72^{\circ} 58'$ east for 9,120 feet, to an oak post on high knoll; thence north $39^{\circ} 33'$ east for 4,627 feet, to a white-oak tree 30 inches in diameter, blazed as above; thence north $28^{\circ} 30'$ east for 2,485 feet to a pine tree 30 inches in diameter, blazed as above; thence north $16^{\circ} 42'$ east for 3,300 feet, to a black-oak tree 32 inches in diameter and blazed as above; thence north $51^{\circ} 40'$ east for 3,797 feet to a white-oak tree 15 inches in diameter and blazed as above; thence north $23^{\circ} 32'$ east for 3,053 feet to a white-oak tree 10 inches in diameter, and blazed as above; thence north $70^{\circ} 35'$ east for 6,150 feet to a white-oak tree 20 inches in diameter and blazed as above; thence north $48^{\circ} 40'$ east for 1,088 feet, to a pine tree 30 inches in diameter and blazed as above; thence north 15° east for 719 feet, to a pine tree 20 inches in diameter, and blazed as above; thence north $71^{\circ} 25'$ east for 962 feet, to a forked black-oak 20 inches in diameter, and blazed as above; thence $0^{\circ} 15'$ east for 13,930 feet, to a white-oak 30 inches in diameter, and blazed as above; thence north $45^{\circ} 25'$ west for 1,678 feet, to a pine tree 15 inches in diameter and blazed as above;

thence north $45^{\circ} 25'$ west for 4,616 feet, to a white-oak tree 40 inches in diameter and blazed as above; thence north $76^{\circ} 55'$ west for 2,935 feet, to a white-oak tree 22 inches in diameter and blazed as above; thence north $81^{\circ} 45'$ west for 5,670 feet, to a black-oak tree 20 inches in diameter and blazed as above; thence north $89^{\circ} 15'$ west for 1,874 feet, to a pine tree 35 inches in diameter and blazed as above; thence north $83^{\circ} 15'$ west for 849 feet, to a pine tree 40 inches in diameter and blazed as above; thence north $71^{\circ} 15'$ west for 1,257 feet, to a pine tree 30 inches in diameter and blazed as above; thence north $60^{\circ} 40'$ west for 1,337 feet, to a pine tree 28 inches in diameter and blazed as above; thence north $52^{\circ} 25'$ west for 1,530 feet, to a pine tree 30 inches in diameter and blazed as above; thence north $64^{\circ} 40'$ west for 5,525 feet, to a pine tree 35 inches in diameter and blazed as above; thence south $38^{\circ} 30'$ west for 604 feet, to a pine tree 30 inches in diameter and blazed as above; thence north $87^{\circ} 35'$ west for 3,356 feet, to a pine tree 9 inches in diameter and blazed as above; thence north $71^{\circ} 40'$ west for 3,013 feet, to a pine tree 40 inches in diameter, and near a boulder, and blazed as above; thence north $87^{\circ} 35'$ west for 4,842 feet, to a black-oak tree 40 inches in diameter and blazed as above; thence south $66^{\circ} 20'$ west for 2,423 feet, to a pine tree 60 inches in diameter and blazed as above; thence south $3^{\circ} 37'$ east for 3,314 feet, to a maderone tree 40 inches in diameter and blazed as above; thence south $34^{\circ} 10'$ west for 9,170 feet, to a white-oak tree 30 inches in diameter and blazed as above; thence south $23^{\circ} 10'$ west for 1,768 feet, to a white-oak tree 50 inches in diameter and blazed as above; thence south $16^{\circ} 50'$ west for 734 feet, to a pine tree 40 inches in diameter and blazed as above; thence south $35^{\circ} 40'$ west for 993 feet, to a double pine tree 60 inches by 25 inches at butt, and blazed as above; thence south $0^{\circ} 25'$ west for 409 feet, to a pine tree 32 inches in diameter and blazed as above; thence south $61^{\circ} 15'$ east for 1,046 feet, to a pine tree 40 inches in diameter and blazed as above; thence north $48^{\circ} 14'$ east for 1,347 feet, to a white-oak tree 30 inches in diameter and blazed as above; thence north $41^{\circ} 50'$ east for 1,043 feet, to a white-oak tree 25 inches in diameter and blazed as above; thence north $32^{\circ} 40'$ east for 735 feet, to point of beginning.

The total length of said boundary being 31 miles and 1,039 feet, and including an area of 31,683 acres, said tract of land being more minutely described in the field-notes and plat of the survey of said tract executed in December, 1869, and January, 1870, under the superintendence of Bvt. Maj. Gen. John B. McIntosh, U. S. Army, by Bvt. Second Lieut. R. U. Varazo, Corps of Engineers, U. S. A.

WASHINGTON, D. C., *March 30, 1870.*

I hereby order that Round Valley, in Mendocino County, California, be set apart as an Indian reservation, in accordance with the recommendation of the Secretary of the Interior, as the same is delineated on the map accompanying his letter of the 30th March, 1870.

U. S. GRANT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
March 29, 1873.

SIR: I have the honor to invite your attention to the terms of an act of Congress approved March 3, 1873, entitled "An act to restore a part of the Round Valley Indian reservation in California to the public lands, and for other purposes."

Section 2 of said act provides "that said township line between townships 22 and 23 north, extending from the middle fork of Eel River on the east to Eel River on the west, shall hereafter be the southern boundary of the Indian reservation in Round Valley, and the center of the middle fork of Eel River shall be the eastern boundary, and the center of Eel River shall be the western boundary of said reservation, with the privilege of fishing in said streams."

Section 3 of the same act further provides "that immediately after the passage of this act the President shall cause to be withdrawn from sale or entry under the homestead and pre-emption laws, all the land lying north of the southern boundary of the reservation as herein defined, and bounded north by the Eel River, and the north fork of said river, east by the middle fork, and west by Eel River."

I compliance with the provisions of said act, I have the honor to recommend that the President be requested to issue his order directing that the tract of country described in said section 3 thereof be withdrawn, and reserved from sale or entry as public lands until after the report of the commissioners appointed to fix the northern boundary of said reservation shall have been received and approved.

Very respectfully, your obedient servant,

H. R. CLUM,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 8, 1873.

SIR: I have the honor to hand you herewith a letter dated the 29th ultimo, from the Acting Commissioner of Indian Affairs, wherein it is recommended that an order be issued by the Executive directing that the tract of country described in the third section of the act approved March 3, 1873, entitled "An act to restore a part of the Round Valley Indian Reservation in California to the public lands, and for other purposes," be withdrawn and reserved from sale and entry as public land until the report of the commissioners appointed under said act to fix the northern boundary of said reservation and, &c., shall have been received and action had thereon.

The recommendations of the Acting Commissioner are approved, and I have respectfully to request that an order may be issued setting apart the lands referred to for the purpose named.

I have the honor to be, sir, your obedient servant,

C. DELANO, *Secretary.*

To the PRESIDENT.

EXECUTIVE MANSION, April 8, 1873.

Let the lands described in the third section of the act of 3d March, 1873, for the restoration to market of a part of the Round Valley Indian Reservation in California be withdrawn from sale and entry, as recommended in the within letter of the honorable Secretary of the Interior of this date.

U. S. GRANT.

EXECUTIVE MANSION, May 18, 1875.

Whereas an 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, 1873 (Stats. at Large, vol. 17, p. 633), defines the south, east, and west boundaries of said reservation and authorizes and directs the Secretary of the Interior to appoint a commission to report its northern boundary, and said commission having made their report, which was approved by the Secretary of the Interior August 4, 1874, I hereby order and proclaim the following as the boundaries of the Round Valley Indian Reservation in California, conformable to said act of Congress, viz:

Beginning for the same at a point in section 36, of township 23, range 12 west, Mount Diablo meridian, where the township line crosses Eel River, being at a point about eighty rods west of the southeast corner of said township and section; thence following the courses of Eel River up said stream, in the center thereof, to a point where the same is intersected by the stream known as Williams' Creek or Bland Mountain Creek; thence following up the center of said creek to its extreme northern source on the ridge dividing the waters of said creek from the waters of Hall's Cañon or Creek, a tributary of the north fork of Eel River, at the foot of Bland Mountain, crossing said dividing ridge at a point on a line where a small white-oak tree and a cluster of arbor vitæ trees are branded with the letters U. S. R.; thence in a direct line to the center of said Hall's Cañon or Creek; thence following down the center of the same to its intersection with the north fork of Eel River; thence down the center of said North Fork to its intersection with the main fork; thence following up the main fork of the Eel River, in the center thereof, where the township line between townships 22 and 23 north, range 13 west, would intersect said river if produced; thence east along said township line through ranges 13 and 12 to the place of beginning.

U. S. GRANT.

EXECUTIVE MANSION, July 26, 1876.

The military reservation in California known as Camp Wright, embracing the west half of section 1 and the east half of section 2, township 22 north, range 13 west, and containing 1 square mile of land, be the same more or less, having been, with its buildings, improvements, &c., relinquished by the War Department, the Executive order of April 28, 1869, creating said military reservation, is hereby revoked, and the said tract of land, with its buildings, improvements, &c., is hereby withheld from public sale, and reserved for the use and occupancy of the Indians located on the Round Valley Reservation, as an extension thereof, until otherwise ordered.

U. S. GRANT.

AN ACT to provide for the better organization of Indian affairs in California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of April, anno Domini eighteen hundred and sixty four, the State of California shall, for Indian purposes, constitute one superintendency, for which there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a superintendent of Indian affairs for said superintendency, at a salary of three thousand six hundred dollars per annum, who shall reside at a point within said State, to be selected by the Secretary of the Interior, and who, upon executing a bond, upon such terms and such sum as may be prescribed by the Secretary of the Interior, and taking the usual oath of office, shall have under his control and management, in like manner and subject to like rules and regulations as are prescribed for superintendents of other superintendencies, the Indians and Indian reservations that are or may hereafter be established in said State: *Provided,* That the superintendent shall be authorized to appoint a clerk, at a compensation not to exceed eighteen hundred dollars per annum.

SEC. 2. *And be it further enacted,* 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, to be retained by the United States for the purposes of Indian reservations, which shall be of suitable extent for the accommodation of the Indians of said State, and shall be located as remote from white settlements as may be found practicable, having due regard to their adaptation to the purposes for which they are intended: *Provided,* That at least one of said tracts shall be located in what has heretofore been known as the northern district: *And provided, further,* That if it shall be found impracticable to establish the reservations herein contemplated without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior is hereby authorized and empowered to contract for the purchase of such improvements, at a price not exceeding a fair valuation thereof, to be made under his direction. But no such contract shall be valid, nor any money paid thereon, until, upon a report of said contract and of said valuation to Congress, the same shall be approved and the money appropriated by law for that purpose: *And provided, further,* That said tracts to be set apart as aforesaid may, or may not, as in the discretion of the President may be deemed for the best interests of the Indians to be provided for, include any of the Indian reservations heretofore set apart in said State, and that in case any such reservation is so included, the same may be enlarged to such an extent as in the opinion of the President may be necessary, in order to its complete adaptation to the purposes for which it is intended.

SEC. 3. *And be it further enacted,* That the several Indian reservations in California which shall not be retained for the purposes of Indian reservations under the provisions of the preceding section of this act, shall, by the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, be surveyed into lots or parcels of suitable size, and as far as practicable in conformity to the surveys of the public lands, which said lots shall, under his direction, be appraised by disinterested persons at their cash value, and shall thereupon, after due advertisement, as now provided by law in case of other public lands, be offered for sale at public outcry, and thence, afterward shall be held subject to sale at private entry, according to such regulations as the Secretary of the Interior may prescribe: *Provided,* That no lot shall be disposed of at less than the appraised value, nor at less than one dollar and twenty-five cents per acre: *And provided, further,* That said sale shall be conducted by the register and receiver of the land-office in the district in which such reservation or reservations may be situated, in accordance with the instructions of the department regulating the sale of public lands.

SEC. 4. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint an Indian agent for each of the reservations which shall be established under the provisions of this act, which said agent shall reside upon the reservation for which he shall be appointed, and shall discharge all the duties now or hereafter to be required of Indian agents by law; or by rules and regulations adopted, or to be adopted, for the regulation of the Indian service, so far as the same may be applicable. Each of the agents appointed as aforesaid shall, before entering upon the duties of his office, give bond in such penalties and with such conditions and such security as the President or Secretary of the Interior may require, and shall hold his office for the term of four years, unless sooner removed by the President, and shall receive an annual salary at the rate of eighteen hundred dollars.

SEC. 5. *And be it further enacted,* That there may be appointed, in the manner prescribed by law, for each of said reservations, if in the opinion of the Secretary of the Interior the welfare of said Indians shall require it, one physician, one blacksmith, one assistant blacksmith, one farmer, and one carpenter, who shall each receive compensation at rates to be determined by the Secretary of the Interior, not exceeding fifty dollars per month.

SEC. 6. *And be it further enacted*, That hereafter, when it shall become necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the General Land Office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed.

SEC. 7. *And be it further enacted*, That all Indian agents shall reside at their respective agencies, and shall in no case be permitted to visit the city of Washington except when ordered to do so by the Commissioner of Indian Affairs. And it is hereby made the duty of the said Commissioner to report all cases of the violation of this section to the President, with the request that the agents disregarding the provisions herein contained be at once removed from office.

SEC. 8. *And be it further enacted*, That all acts or parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed; and all offices and employments connected with Indian Affairs in California not provided for in this act be, and the same are hereby, abolished.

Approved, April 8, 1864.

AN ACT to restore a part of the Round Valley Indian Reservation, in California, to the public lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 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 twenty-two and twenty-three north, of ranges twelve and thirteen 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 one dollar and twenty-five cents 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, who shall have priority of right to purchase not exceeding three hundred and twenty acres of land in adjacent quarter-sections, containing and adjoining said improvements; and all said lands shall be sold and disposed of for cash only, the same to be done through the local land office—within the jurisdiction of which these lands are situated; *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 for 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 appraisal approved, as hereinafter provided.

SEC. 2. That said township line between townships twenty-two and twenty-three north, extending from the Middle Fork of Eel River on the east to Eel River on the west, shall hereafter be the southern boundary of the Indian reservation in Round Valley; and the centre of the Middle Fork of Eel River shall be the eastern boundary, and the centre of Eel River shall be the western boundary of said reservation; with the privilege of fishing in said streams. And the Secretary of the Interior is hereby authorized and directed to appoint three commissioners, who shall proceed to make an examination of the country in that locality and report their views in regard to where the northern line of this reservation should be located; they shall also make an appraisal of all improvements of white persons north of said southern boundary of the reservation, as established by this section of this act, within the limits proposed by them for a reservation, and of all Indians south of said line, and report the same to the Secretary of the Interior, who shall cause the same to be paid to such settlers or Indians out of the money hereinbefore reserved for such purpose.

SEC. 3. That immediately after the passage of this act the President shall cause to be withdrawn from sale or entry under the homestead and pre-emption laws all the land lying north of the southern boundary of the reservation, as herein defined, and bounded north by the Eel River and the North Fork of said river, east by the Middle Fork, and west by Eel River; and the report of said commission fixing the north boundary of said reservation shall have been approved; and all settlers now residing upon the tract herein described lying north of the south boundary of 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.

SEC. 4. That there shall hereafter be appropriated out of any money in the Treasury of the United States not otherwise appropriated, the sum of five thousand dollars, or so much thereof as may be necessary, for the purpose of defraying the expenses of the commission provided for in this act.

Approved March 3, 1873.

[Senate Ex. Doc. No. 49, Forty-eighth Congress, first session.]

Message from the President of the United States, transmitting a communication of the 11th instant, from the Secretary of the Interior, submitting a draft of bill "for the relief of the Mission Indians in the State of California."

JANUARY 14, 1884.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith a communication of the 11th instant, from the Secretary of the Interior, submitting, with accompanying papers, a draft of a bill "for the relief of the Mission Indians in the State of California."

The subject is presented for the consideration of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
January 14, 1884.

DEPARTMENT OF THE INTERIOR,
Washington, January 11, 1884.

SIR: I have the honor to submit herewith a copy of a letter of the 10th instant, from the Commissioner of Indian Affairs, with its inclosures, including the draft of a bill for the relief of the Mission Indians in the State of California.

The facts presented by the Commissioner and in the report of the special agents on the subject show clearly the urgent necessity for some such legislation as is proposed in behalf of those Indians.

I have the honor to respectfully request that the matter may be presented for the favorable consideration of the Congress.

I have the honor to be, very respectfully, your obedient servant,

H. M. TELLER,

Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 10, 1884.

SIR: I have the honor to transmit herewith a printed copy of the report on the condition and needs of the Mission Indians in California, made by Special Agents Helen Jackson and Abbot Kinney, under instructions from this office, dated July 7, 1882, November 23, 1882, and January 12, 1883; the appointment of Mrs. Jackson having been authorized by you June 30, 1882. Mr. Kinney was authorized to assist in the work upon the request of Mrs. Jackson.

The injustice done the Mission Indians, and their deplorable condition, have been set forth by several commissions, and treated of at length in various annual reports of this office, especially in those of 1875 and 1880; and Congress has been repeatedly solicited to interfere in their behalf.

Through the failure of Congress to afford any relief their condition has been rapidly growing worse, until, at the present time, they are threatened with the total loss of the lands they have cultivated for years, and from which they have derived their support with but trifling aid from the Government.

Under the treaty of Guadalupe Hidalgo (9 Stat., 922) the rights of these Indians were guaranteed, and, in accordance with the decision of the Supreme Court of the United States in the case of the United States *vs.* Ritchie (17 Howard, 525), it is probable that they are citizens of the United States, and entitled to all the privileges and immunities of such citizens.

Instead of being accorded the rights of citizens, however, they have not received as much consideration as the wild tribes found in occupation of other parts of the country.

Before the acquisition of California by the United States it was provided by the Mexican Government that in making grants or distribution of land (now known as Mexican grants) the rights of the Indians should be protected.

How this provision of the Mexican Government has been observed may be learned from the report of the Commissioner of Indian Affairs for 1875 (p. 9), the information in that report being compiled from the report of Special Commissioner J. G. Ames, made in 1873, and of Commissioner C. A. Wetmore, of California, made in 1874. In this report it is stated that—

"Gradually, however, for the past eight years, Southern California has been filling

up by emigration; Spanish and Mexican grants have been 'determined' in such a way as to cover choice tracts wherever found; large ranches have been cut up and the desirable portions of public domain pre-empted; and thus all available agricultural lands have been seized or occupied by individual owners, who, in conformity to law, have become possessed of the lands on which the remnants of a few thousand Mission Indians are making their homes in San Diego and San Bernardino Counties. So long as the pre-emptors and purchasers did not require the lands for use or sale the Indians were allowed to remain undisturbed and in blissful ignorance of the fact that the place they called home had by law passed to the ownership of another. Of late, under the increasing demands for these lands, writs of ejectment are being procured by which the Indians are forcibly dispossessed and turned adrift in poverty and wretchedness."

This work of spoiling the Indians has been done under the forms of law, but, as is believed, in violation of the terms of the law and of the stipulations contained in the original grants. By the fundamental laws of the Mexican Republic of 1824, the regulation of 1828, and the regulation of the departmental legislature, one condition was that in making private grants of lands, the lands granted must be vacant lands. Lands occupied by and in possession of Indians were not such vacant lands, for by the same laws and regulations it was provided that such grants must be without prejudice or damage to the Indians, and that such land granted to the damage and injury of the Indians should be returned to the rightful owners. It is believed that a clause was inserted in all of the Mexican grants protecting the Indians in the possession of the lands occupied by them. The patents issued for confirmed grants contain a clause that said patents shall be conclusive between the United States and the claimants only, and shall not affect the interests of third persons, in accordance with the provisions of section 15 of the act of March 3, 1851 (9 Stat., 634).

An act for the government and protection of Indians, passed by the California State legislature April 22, 1850, provides that persons and proprietors of lands on which Indians are residing shall permit such Indians peaceably to reside on such lands unmolested, and that the white person or proprietor may apply to have a sufficient amount of land for the necessary wants of such Indians, including their village, set off for such Indians.

Owing to their ignorance and poverty the Indians have never availed themselves of this provision or of their rights under the grants.

In most cases they have been wholly unadvised of any proceedings against them until forced to vacate their homes.

From the report of Mrs. Jackson and Mr. Kinney, as well as from frequent reports from the agent in charge of the Mission Agency, it appears that this work of spoliation has continued and still threatens these long-suffering and much-abused people, until starvation and vagabondage appears to be the inevitable result, unless the Government immediately takes some steps to improve their situation.

Mrs. Jackson and Mr. Kinney, in the exhibits to their report, give a detailed account of the situation and condition of each village of these Indians, to which reference is made.

They recommend, as the first and most essential step, without which there is no possibility of protecting these Indians or doing anything intelligently for them, the determining, resurveying, rounding out, and distinctly marking their reservations already existing. They state:

"The only way of having this done honestly and accurately is to have it done by a surveyor who is under the orders and constant supervision of an intelligent and honest Commissioner; not by an independent surveyor who runs or 'floats' reservation lines where he and his friends or interested parties choose, instead of where the purpose of the United States Government, looking to the Indians' interests, had intended. There have been too many surveys of Indian reservations in Southern California of this sort. (See Exhibits C, H, I, J, L.) All the reservations made in 1876, and that comprises nearly all now existing, were laid off by guess, by the surveyor in San Diego, on an imperfect county map. These sections, thus guessed at by the surveyor, were ordered by the Commissioner to the Interior Department, set aside by Executive order, and ordered to be surveyed. When the actual survey came to be made, it was discovered that in the majority of cases the Indian villages intended to be provided for were outside the reservation lines, and that the greater part of the lands set apart were wholly worthless."

They state that the reservation lines when thus defined should be marked plainly and conspicuously by monuments and stakes. They also refer to the fact that certain lands will fall within the limits of the Southern Pacific Railroad grant, and others within the limits of the grant to the Texas Pacific, should that be confirmed, and state that the odd sections should be secured for the Indians. Also, that there are a few claims (of white persons) to lands within reservation boundaries, which are legal on account of their having been made before the reservations were set off, which claims should be extinguished.

In order to carry out this recommendation, which I consider of the greatest importance, a commission should be appointed to select a reservation for each band or village of these Indians, which reservations should include, as far as practicable, the lands and villages occupied by them for many years, and sufficient in extent for their actual requirements. Lien lands should be given to railroads where they have valid claims to lands within a reservation so selected, and the improvements of persons who may have valid existing claims under the public land laws within such reservation should be appraised in order that Congress may hereafter be asked for an appropriation to pay for the same.

The employment of a competent surveyor will be necessary to assist the commission in their work.

Second. Mrs. Jackson and Mr. Kinney recommend the removal of all white settlers now on the reservations.

When the reservations shall be correctly defined and established, as suggested, and valid claims extinguished, this recommendation can be carried out under existing laws. In this connection the special agents state that the amount of land set off in Indian reservations in Southern California appears by the record to be very large, but that the proportion of it really available is very small, at least four-fifths being desert and mountain.

They say by resurveying, rounding out, and freeing from white settlers the present reservations, adding to them all Government lands now actually in occupation by Indians, there will be nearly land enough for the accommodation of all the Mission Indians, except those whose settlements are on grants.

Third. In regard to this latter class, *i. e.*, those whose villages are now within the boundaries of confirmed grants, they state that the Government has to choose between two courses of action, either to remove them and make other provision for them, or to uphold and defend their right to remain where they are.

As before remarked, it is believed that the original grants and the law of the State of California give this class of Indians the right to remain on the lands they occupied at the date of the grant. Their rights in this respect, however, are valueless, if they are left to their own resources. The grantees have intelligence and wealth to command the best legal talent to assert their rights, while the Indians have no means with which to defend themselves.

I think the question should be tested before the proper courts, and that the Indians should have the assistance of the Government. To this end the Attorney-General should be authorized, upon the request of the Secretary of the Interior, to defend the Indians through special counsel or otherwise. In order that the location of the Indians within these grants may be definitely known, the commission should define the boundaries of such locations, and should also ascertain whether there are any available lands to which the Indians can be removed in case it becomes necessary or is deemed advisable.

In this connection it may be remarked that Agent McCallum, in his monthly report for November, 1883, states that the owner of Warner's ranch, within the limits of which are five Indian villages, is about to have the Indians ejected, and that he, the agent, has examined the original grant and found that it contains the usual exception in favor of the Indians who were on the grant.

Fourth. They recommend that all these Indians' reservations, those already set off by Executive order and all new ones made for them, whether of Government lands now in their occupation, or of lands which may be hereafter by legal process reclaimed for them from the grant lands on which they are now living, be patented to the several bands occupying them; the United States to hold the patent in trust for twenty-five years, at the expiration of that time the United States to convey the same by patent to said Indians, as has been done for the Omahas.

They also recommend that a provision be inserted in the patents, providing for allotments in severalty whenever the same shall be desirable.

I think the reservations *selected and defined* by the commission should be patented as recommended.

In no other way can Indians be made secure in the possession of their lands, and it is especially desirable in the case of these Indians, who have suffered so much from the insecurity of their titles. The patents, however, should not include any tracts to which existing valid rights have attached, unless such rights be first extinguished in the manner heretofore indicated.

The Government cannot convey title for lands embraced in confirmed private grants even if the right of the Indians should be affirmed, such right being that of occupancy only, the fee being in the grantee.

Provision for allotments should be made whenever the same appear to be desirable, and for patents to allottees in the manner adopted in the Omaha bill (22 Stat., 341).

The fifth and sixth recommendations relate to the establishment of more schools and the value of itinerant labor among the Indians, which may be carried out without special legislation.

Seventh. They recommend that there be secured the appointment of a lawyer or law firm in Los Angeles, to act as special United States attorney in all cases affecting the interest of these Indians.

This recommendation has already been acted upon, and Messrs. Brunson and Wells, appointed by the Attorney-General as special assistants to the United States district attorney for the purposes indicated.

Eighth. They recommend that there should be a judicious distribution of agricultural implements among these Indians.

An estimate of \$29,000, for the support and civilization of these and other Indians in California, has been submitted to Congress. Should the appropriation be made the implements can be supplied as recommended.

Ninth. They state that there should always be provided a small fund for the purchase of food and clothing for the very old and sick in times of special destitution.

They say that these Indians are proud-spirited and averse to assistance, but that at times, as in seasons of drought, or a failure of crops, the distress is great.

I think a small fund, say \$2,000, should be appropriated for this purpose, to be expended under the direction of the mission agent.

Tenth. They recommend the purchase of two ranches, at an aggregate cost of \$126,000, for the use of these Indians, there being no considerable tract of Government land in Southern California available for the purpose.

With this recommendation I do not at present concur. Before the appropriation of so large a sum is recommended, other efforts should be exhausted, and it is hoped that the commission herein recommended will be able to locate these Indians upon their existing reservation and vacant Government lands. Should this be found impossible, this recommendation can then be considered.

I have prepared the draft of a bill embodying the measures hereinbefore suggested, and have the honor to recommend that the same be laid before Congress with an urgent appeal for favorable action.

Former neglect to provide for these Indians has increased the complications which existed over ten years ago, and longer neglect will increase them beyond extrication.

Sound policy, as well as justice and humanity, demand that something should be done for these neglected wards of the nation, degraded from citizenship to this dependent position.

It is not intended that the just rights of any white citizen shall be infringed, but it is confidently hoped that Congress may be induced to render equal and exact justice to all.

I inclose three printed copies of the report of Mrs. Jackson and Mr. Kinney, two copies of this report, and two copies of the proposed bill.

Respectfully, your obedient servant,

H. PRICE,
Commissioner.

The SECRETARY OF THE INTERIOR.

A BILL for the relief of the Mission Indians in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That immediately after the passage of this act the Secretary of the Interior shall appoint three disinterested persons as commissioners to arrange a just and satisfactory settlement of the Mission Indians, residing in the State of California, upon reservations which shall be secured to the them as hereinafter provided.

SEC. 2. That it shall be the duty of said commissioners to select a reservation for each band or village of the Mission Indians residing within said State, which reservations shall include, as far as practicable, the lands and villages which have been in the actual occupation and possession of said Indians, and which shall be sufficient in extent to meet their just requirements. They shall also appraise the value of the improvements belonging to any person to whom valid existing rights have attached under the public-land laws of the United States, or to the assignee of such person, where such improvements are situated within the limits of any reservation selected and defined by said commissioners. In cases where the Indians are in occupation of lands within the limits of confirmed private grants, the commissioners shall determine and define the boundaries of such lands, and shall ascertain whether there are vacant public lands in the vicinity to which they may be removed. And the said commission is hereby authorized to employ a competent surveyor and the necessary assistants.

SEC. 3. The commissioners, upon the completion of their duties, shall report the result to the Secretary of the Interior, who, if no valid objection exists, shall cause a patent to issue for each of the reservations selected by the commission and approved by him, which patent shall be of the legal effect and declare that the United States

does and will hold the land thus patented for the period of twenty-five years in trust for the sole use and benefit of the band or village to which it is issued, and that at the expiration of said period the United States will convey the same by patent to said band or village, in fee, discharged of said trust and free of all charge or incumbrance whatsoever: *Provided*, That no patent shall embrace any tract or tracts to which existing valid rights have attached in favor of any person under any of the United States laws providing for the disposition of the public domain, unless such person has been paid the value of his improvements as appraised by the aforesaid commission. And a separate patent in similar form may be issued for any tract or tracts at any time after the appraised value of the improvements thereon shall have been paid: *And provided further*, That in case any lands shall be selected under this act to which it shall hereafter be determined that any railroad company is entitled to receive a patent, such railroad company shall be allowed to select an equal quantity of other lands in lieu thereof.

SEC. 4. That whenever any of the Indians residing upon any reservation patented under the provisions of this act shall desire allotments of lands in severalty, the Secretary of the Interior may cause allotments to be made to such Indians in quantity as follows: To each head of a family, one hundred and sixty acres; to each single person over twenty-one years of age, eighty acres.

SEC. 5. That upon the approval of the allotments provided for in the preceding section by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which shall be of the legal effect and declare that the United States does and will hold the land thus allotted for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State of California, and that at the expiration of said period the United States will convey the same by patent to the said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever. And if any conveyance shall be made of the lands set apart, and allotted as herein provided, or any contract made touching the same before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That the foregoing conditions, restrictions, and limitations shall not extend beyond the expiration of the time expressed in the patent herein authorized to be issued to the band or village in common: *And provided further*, That these patents, when issued, shall override the patent authorized to be issued to the band or village as aforesaid, and shall separate the individual allotment from the lands held in common, which proviso shall be incorporated in each of the village patents.

SEC. 6. That in cases where the lands occupied by any band or village of Indians are wholly or in part within the limits of any confirmed private grant or grants, it shall be the duty of the Attorney-General of the United States, upon request of the Secretary of the Interior, through special counsel or otherwise, to defend such Indians in the rights secured to them in the original grants from the Mexican Government and in an act for the government and protection of Indians passed by the legislature of the State of California, April twenty-second, eighteen hundred and fifty.

SEC. 7. That each of the commissioners authorized to be appointed by the first section of this act shall be paid at the rate of eight dollars per day for the time he is actually and necessarily employed in the discharge of his duties, and necessary traveling expenses; and for the payment of the same and of the expenses of surveying the sum of eight thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 8. That the sum of two thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the United States Indian agent at the Mission agency, in California, in the purchase of food and clothing for old and destitute Indians.

SEC. 9. That this act take effect from and after the date of its passage.

REPORT ON THE CONDITION AND NEEDS OF THE MISSION INDIANS OF CALIFORNIA, MADE BY SPECIAL AGENTS HELEN JACKSON AND ABBOT KIRNEY TO THE COMMISSIONER OF INDIAN AFFAIRS.

COLORADO SPRINGS, COLO., July 13, 1883.

SIR: In compliance with our instructions bearing dates November 28, 1882, and January 12, 1883, we have the honor to submit to you the following report on the subject of the Mission Indians in Southern California:

The term "Mission Indians" dates back over one hundred years, to the time of the Franciscan missions in California. It then included all Indians who lived in the mission establishments, or were under the care of the Franciscan fathers. Very naturally

the term has continued to be applied to the descendants of those Indians. In the classification of the Indian Bureau, however, it is now used in a somewhat restricted sense, embracing only those Indians living in the three southernmost counties of California, and known as Serranos, Cahuillas, San Luisenos, and Dieguinos; the last two names having evidently come from the names of the southernmost two missions, San Luis Rey and San Diego. A census taken in 1880, of these bands, gives their number as follows:

Serranos.....	381
Cahuillas.....	675
San Luisenos.....	1,120
Dieguinos.....	731
Total.....	2,907

This estimate probably falls considerably short of the real numbers, as there are no doubt in hiding, so to speak, in remote and inaccessible spots, many individuals, families, or even villages, that have never been counted. These Indians are living for the most part in small and isolated villages; some on reservations set apart for them by Executive order; some on Government land not reserved, and some upon lands included within the boundaries of confirmed Mexican grants.

Considerable numbers of these Indians are also to be found on the outskirts of white settlements, as at Riverside, San Bernardino, or in the colonies in the San Gabriel Valley, where they live like gypsies in brush huts, here to-day, gone to-morrow, eking out a miserable existence by days' work, the wages of which are too often spent for whisky in the village saloons. Travelers in Southern California, who have formed their impressions of the Mission Indians from these wretched wayside creatures, would be greatly surprised at the sight of some of the Indian villages in the mountain valleys, where, free from the contaminating influence of the white race, are industrious, peaceable communities, cultivating ground, keeping stock, carrying on their own simple manufactures of pottery, mats, baskets, &c., and making their living—a very poor living, it is true, but they are independent and self-respecting in it, and ask nothing at the hands of the United States Government now, except that it will protect them in their ownership of their lands, lands which, in many instances, have been in continuous occupation and cultivation by their ancestors for over one hundred years.

From tract after tract of such lands they have been driven out, year by year, by the white settlers of the country, until they can retreat no farther; some of their villages being literally in the last tillable spot on the desert's edge or in mountain fastnesses. Yet there are in Southern California to-day many fertile valleys, which only thirty years ago were like garden spots with these same Indians' wheat-fields, orchards, and vineyards. Now there is left in these valleys no trace of the Indians' occupation, except the ruins of their adobe houses; in some instances these houses, still standing, are occupied by the robber whites who drove them out. The responsibility for this wrong rests, perhaps, equally divided between the United States Government, which permitted lands thus occupied by peaceful agricultural communities to be put "in market," and the white men who were not restrained either by humanity or by a sense of justice from "filing" homestead claims on lands which had been fenced, irrigated, tilled, and lived on by Indians for many generations. The Government cannot justify this neglect on the plea of ignorance. Repeatedly in the course of the last thirty years both the regular agents in charge of the Mission Indians and special agents sent out to investigate their condition have made to the Indian Bureau full reports setting forth these facts.

In 1873 one of these special agents, giving an account of the San Pasquale Indians, mentioned the fact that a white man had just pre-empted the land on which the greater part of the village was situated. He had paid the price of the land to the register of the district land office, and was daily expecting his patent from Washington. "He owned," the agent says, "that it was hard to wrest from these well-disposed and industrious creatures the homes they had built up, but," said he, "if I had not done it somebody else would; for all agree that the Indian has no right to public lands." This San Pasquale village was a regularly organized Indian pueblo, formed by about one hundred neophytes of the San Luis Rey Mission, under and in accordance with the provisions of the secularization act in 1834. The record of its founding is preserved in the Mexican archives at San Francisco. These Indians had herds of cattle, horses, and sheep; they raised grains, and had orchards and vineyards. The whole valley in which this village lay was at one time set off by Executive order as a reservation, but by the efforts of designing men the order was speedily revoked, and no sooner had this been done than the process of dispossessing the Indians began. There is now on the site of that old Indian pueblo a white settlement numbering 35 voters. The Indians are all gone, some to other villages, some living near by in

cañons and nooks in the hills, from which, on the occasional visits of the priest, they gather and hold services in the half-ruined adobe chapel built by them in the days of their prosperity.

This story of the San Pasquale Indians is only a fair showing of the experiences of the Mission Indians during the past fifty years. Almost without exception they have been submissive and peaceable through it all, and have retreated again and again to new refuges. In a few instances there have been slight insurrections among them and threatenings of retaliation, but in the main their history has been one of almost incredible long-suffering and patience under wrongs.

In 1851 one of the San Luiseno bands, the Aqua Caliente Indians, in the north part of San Diego County, made an attack on the house of a white settler, and there was for a time great fear of a general uprising of all the Indians in the country. It is probable that this was instigated by the Mexicans, and that there was a concerted plan for driving the Americans out of the country. The outbreak was easily quelled, however; four of the chiefs were tried by court-martial and shot by order of General Heintzelman, and in January of the following year a treaty was made with the San Luiseno and Dieguino Indians, setting off for them large tracts of land. This treaty was made by a United States commissioner, Dr. Wozencraft, and Lieutenant Hamilton, representing the Army, and Col. J. J. Warner, the settler whose house had been attacked. The greater part of the lands which were by this treaty assigned to the Indians are now within the boundaries of grants confirmed and patented since that time; but there are many Indian villages still remaining on them, and all Indians living on such lands are supposed to be there solely on the tolerance and at the mercy of the owners of said ranches, and to be liable to ejection by law. Whether this be so or not is a point which it would seem to be wise to test before the courts. It is certain that in the case of all these Mission Indians the rights involved are quite different from and superior to the mere "occupancy" right of the wild and uncivilized Indian.

At the time of the surrender of California to the United States these Mission Indians had been for over seventy years the subjects, first of the Spanish Government, secondly of the Mexican. They came under the jurisdiction of the United States by treaty provisions, the treaty of Guadalupe Hidalgo, between the United States and Mexico, in 1848. At this time they were so far civilized that they had become the chief dependence of the Mexican and white settlers for all service indoors and out. In the admirable report upon these Indians made to the Interior Department in 1853 by the Hon. B. D. Wilson, of Los Angeles, are the following statements:

"These same Indians had built all the houses in the country, planted all the fields and vineyards. Under the Missions there were masons, carpenters, plasterers, soap-makers, tanners, shoemakers, blacksmiths, millers, bakers, cooks, brick-makers, carters and cart-makers, weavers and spinners, saddlers, shepherds, agriculturists, horticulturists, vineros, vaqueros; in a word, they filled all the laborious occupations known to civilized society."

The intentions of the Mexican Government toward these Indians were wise and humane. At this distance of time, and in face of the melancholy facts of the Indians' subsequent history, it is painful to go over the details of the plans devised one short half century ago for their benefit. In 1830 there were in the twenty-one missions in California some 20,000 or 30,000 Indians living comfortable and industrious lives under the control of the Franciscan fathers. The Spanish colonization plan had, from the outset, contemplated the turning of these mission establishments into pueblos as soon as the Indians should have become sufficiently civilized to make this feasible. The Mexican Government, carrying out the same general plan, issued in 1833 an act called the secularization act, decreeing that this change should be made. This act provided that the Indians should have assigned to them cattle, horses, and sheep from the mission herds; also lands for cultivation. One article of Governor Figueroa's regulations for the carrying out of the secularization act provided that there should be given to every head of a family, and to all above twenty-one years of age, though they had no family, a lot of land not exceeding 400 varas square, nor less than 100. There was also to be given to them in common enough land for pasturing and watering their cattle. Another article provided that one-half the cattle of each mission school should be divided among the Indians of that mission in a proportionable and equitable manner; also one-half of the chattels, instruments, seeds, &c. Restrictions were to be placed on the disposition of this property. The Indians were forbidden "to sell, burden, or alienate under any pretext the lands given them. Neither can they sell the cattle." The commissioners charged with the carrying out of these provisions were ordered "to explain all the arrangements to the Indians with suavity and patience"; to tell them that the lands and property will be divided among them so that each one may "work, maintain, and govern himself without dependence on any one." It was also provided that the rancherías (villages) situated at a distance from the missions, and containing over twenty-five families, might, if they chose, form separate pueblos, and the distribution of lands and property to them should take place in the same manner provided for those living near the missions.

These provisions were in no case faithfully carried out. The administration of the Missions' vast estates and property was too great a temptation for human nature, especially in a time of revolution and misrule. The history of the thirteen years between the passing of the secularization act and the conquest of California is a record of shameful fraud and pillage, of which the Indians were the most helpless victims. Instead of being permitted each one to work, maintain, and govern himself without dependence on any one, as they had been promised, their rights to their plats of land were in the majority of cases ignored; they were forced to labor on the mission lands like slaves; in many instances they were hired out in gangs to cruel masters. From these cruelties and oppressions they fled by hundreds, returning to their old wilderness homes. Those who remained in the neighborhood of the pueblos became constantly more and more demoralized and were subjected to every form of outrage. By a decree of the Los Angeles ayuntamiento, about the time of our taking possession of California, all Indians found without passes, either from the alcalde of the pueblos in which they lived, or from their "masters [significant phrase], were to be treated as horse-thieves and enemies." At this time there were, according to Mr. Wilson's report, whole streets in Los Angeles where every other house was a grog-shop for Indians; and every Saturday night the town was filled with Indians in every stage of intoxication. Those who were helpless and insensible were carried to the jail, locked up, and on Monday morning hound out to the highest bidder at the jail gates. "The Indian has a quick sense of justice," says Mr. Wilson, "he can never see why he is sold out to service for an indefinite period for intemperance, while the white man goes unpunished for the same thing, and the very richest and best men, to his eye, are such as tempt him to drink, and sometimes will pay him for his labor in no other way." Even the sober and industrious and best skilled among them could earn but little, it having become a custom to pay an Indian only half the wages of a white man.

From this brief and necessarily fragmentary sketch of the position and state of the Mission Indians under the Mexican Government at the time of the surrender of California to the United States, it will be seen that our Government received by the treaty of Guadalupe Hidalgo a legacy of a singularly helpless race in a singularly anomalous position. It would have been very difficult, even at the outset, to devise practicable methods of dealing justly with these people and preserving to them their rights. But with every year of our neglect the difficulties have increased and the wrongs have been multiplied, until now, it is, humanly speaking, impossible to render to them full measure of justice. All that is left in our power is to make them some atonement. Fortunately for them, their numbers have greatly diminished. Suffering, hunger, disease, and vice have cut down more than half of their numbers in the last thirty years; but the remnant is worth saving. Setting aside all question of their claim as a matter of atonement for injustice done, they are deserving of help on their own merits. No one can visit their settlements, such as Aqua Caliente, Saboba, Cahuilla Valley, Santa Ysabel, without having a sentiment of respect and profound sympathy for men who, friendless, poor, without protection from the law, have still continued to work, planting, fencing, irrigating, building houses on lands from which long experience has taught them that the white man can drive them off any day he chooses. That drunkenness, gambling, and other immoralities are sadly prevalent among them cannot be denied; but the only wonder is that so many remain honest and virtuous under conditions which make practically null and void for them most of the motives which keep white men honest and virtuous.

Having thus given as brief a presentation as possible of the general situation and nature of these Indians, we will proceed to state what, to the best of our judgment, are the steps which ought to be taken by the United States Government in their behalf. The descriptions of the most important villages we visited, and the detailed accounts of circumstances and situations on which our suggestions are based, are given for convenience of reference in separate exhibits.

1st. The first and most essential step, without which there is no possibility of protecting these Indians, or doing anything intelligently for them, is the determining, resurveying, rounding out, and distinctly marking their reservations already existing. The only way of having this done accurately and honestly is to have it done by a surveyor who is under the orders and constant supervision of an intelligent and honest commissioner; not by an independent surveyor, who runs or "floats" reservation lines where he and his friends or interested parties choose, instead of where the purpose of the United States Government, looking to the Indians' interests, had intended. There have been too many surveys of Indian reservations in Southern California of this sort. (See Exhibits C, H, I, J, L.) All the reservations made in 1876, and that comprises nearly all now existing, were laid off by guess by the surveyor in San Diego on an imperfect county map. These sections, thus guessed at by the surveyor, were reported by the Commissioner to the Interior Department, set aside by Executive order, and ordered to be surveyed. When the actual survey came to be made, it was discovered that in the majority of cases the Indian villages intended to be provided for were outside the reservation lines, and that the greater part of the lands set apart were wholly worthless. The plats of these

reservations are in the surveyor-general's office at San Francisco. On each of them was marked by the surveyor an additional line in color, showing what tracts ought to be added to take in the Indian villages and fields. So far as we could learn, no action was taken in regard to these proposed additions.

The reservation lines, when thus defined, should be marked plainly and conspicuously by monuments and stakes, leaving no room for doubt. A plat of each reservation should then be given to the Indians living on it. It was pathetic, in our visits to village after village, to hear the Indians' request reiterated for this thing—"a paper to show to the white men where their lands were." Every fragment of writing they had ever received, which could by any possibility bear on their title to their lands, they had carefully preserved; old tattered orders from Army officers thirty years back, orders from justices of the peace, &c., all worthless of course, but brought forward with touching earnestness to show us. In no single instance had the reservation lines ever been pointed out to them. One band, the Sequan Indians, who had never seen any agent, said they had been told that they were on a reservation, but they did not know if it were true or not. They had been obliged to give up keeping stock, because they could not find any place where the whites would let them pasture cattle. (See Exhibit J.)

There are some settlements of Indians on Government lands not set off as reservations, in some instances not surveyed. These tracts should all be surveyed, their boundaries marked, and the lands withdrawn from market to be permanently set aside for the Indians' use. We use the term "rounding out" in regard to these reservations chiefly on account of the complication which results from their being in some cases within the limit of railroad grants, and made subsequent to those grants. Some are actually within the limits of the Southern Pacific Railroad grant; others will be within the limits of the Texas Pacific grant, should that be confirmed. The odd sections thus belonging to the railroads should be secured to the Indians. There are also a few claims to land within reservation boundaries, which are legal on account of their having been made before the reservations were set off. These should be extinguished. (See Exhibit O.)

2d. All white settlers now on reservations should be removed. For the last four years stray settlers have been going in upon reservation tracts. This is owing to the lack of boundary definitions and marks as aforesaid, also to the failure of the surveys to locate the reservations so as to take in all the ground actually occupied by Indian villages. Thus, in many instances, the Indians' fields and settlements have been wrested from them, and they in their turn have not known where they could or could not go. There is not a single reservation of any size which is free from white settlers. It would seem that agents in charge of these Indians should have been authoritatively instructed in no case to allow squatters to settle on lands known to be within reservation lines, whether they were occupied by Indians or not. (See Exhibits H, I, O.)

The amount of land set off in Indian reservations in Southern California appears by the record to be very large, but the proportion of it which is really available is very small. San Diego County itself is four-fifths desert and mountain, and it is no exaggeration to say that the proportion of desert and mountain in the reservation is even larger than this. By thus resurveying, rounding out, and freeing from white settlers the present reservations, adding to them all Government lands now actually in occupation by Indians, there will be, according to the best of our judgment, nearly land enough for the accommodation of all the Mission Indians, except those whose settlements are on grants.

3d. In regard to this latter class, *i. e.*, those whose villages are now within the boundaries of confirmed grants, the Government has to choose between two courses of action; either to remove them and make other provisions for them, or to uphold and defend their right to remain where they are. In support of the latter course we believe a strong case could be made out, and we have secured from one of the ablest firms in Southern California a written legal opinion on this point. (See Exhibit A.) It seems clear that this contest should be made by the Government itself. It is impossible for these poverty-stricken and ignorant people to undertake, on their own account and at their own expense, the legal settlement of this matter. It would be foolish to advise it; inhuman to expect it. A test case could be made which would settle the question for all. (See Exhibit B.) In case the decision be favorable to the Indians remaining, the ranch owners should then be called on to mark off the boundaries of the Indians' lands according to the California State law governing such cases. (See Exhibit B.) Whether the lands thus reverting to the Indians could properly be considered as Government lands or not would be a question to be determined. Probably the surest way of securing them for the Indians' permanent use would be to consider them as such and have them defined as reservations by act of Congress.

4th. And this brings us to our fourth recommendation, which is, that all these Indians' reservations, those already set off by Executive order, and all new ones made for them, whether of Government lands now in their occupation, or of lands which may be hereafter by legal process reclaimed for them from the grant lands on which they are

now living, be patented to the several bands occupying them; the United States to hold the patent in trust for the period of twenty-five years; at the expiration of that time the United States to convey the same by patent to said Indians, as has been done for the Omaha Indians. The insecurity of reservations made merely by Executive order is apparent, and is already sadly illustrated in Southern California by the history of the San Pasquale Reservation, that of Agua Caliente, and others. The insecurity of reservations set apart by act of Congress is only a degree less. The moment it becomes the interest and purpose of white men in any section of the country to have such reservation tracts restored to the public domain, the question of its being done is only a question of influence and time. It is sure to be done. The future of these industrious, peaceable, agricultural communities ought not to be left a single day longer than is necessary, dependent on such chances, chances which are always against and never for Indians' interests in the matter of holding lands. The best way and time of allotting these Indians' lands to them in severalty must be left to the decision of the Government, a provision being incorporated in their patent to provide for such allotments from time to time as may seem desirable, and agents and commissioners being instructed to keep the advantages of this system constantly before the Indians' minds. Some of them are fit for it now, and earnestly desire it, but the majority are not ready for it. The communal system, on which those now living in villages use their lands, satisfies them, and is apparently administered without difficulty. It is precisely the same system as that on which the pueblo lands were cultivated by the early Spanish settlers in Southern California. They agree among themselves to respect each other's right of occupancy, a man's right to a field this year depending on his having cultivated it last year, and so on. It seems not to occur to these Indians that land is a thing to be quarreled over.

In the village of Agua Caliente, one of the most intelligent of the young men was so anxious to show us his fields that we went with him a little distance outside the village limits to see them. He had some eight acres in grain, vine, and fruit trees. Pointing first in one direction, then in another, he indicated the places where his ground joined other men's ground. There was no line of demarkation whatever, except it chanced to be a difference of crops. We said to him, "Alessandro, how do you know which is your land and which is theirs?" He seemed perplexed, and replied: "This was my mother's land. We have always had it." "But," we persisted, "suppose one of these other men should want more land and should take a piece of yours?" "He couldn't," was all the reply we could get from Alessandro, and it was plain that he was greatly puzzled by the suggestion of the possibility of neighbors trespassing on each other's cultivated fields.

5th. We recommend the establishment of more schools. At least two more are immediately needed, one at the Rincon, and one at Santa Ysabel. (See Exhibits G, L.) As the reservations are gradually cleared, defined, and assured for the Indians' occupancy, hundreds of Indians who are now roving from place to place, without fixed homes, will undoubtedly settle down in the villages and more schools will be needed. It is to be hoped, also, that some of the smaller bands will unite with the larger ones for the sake of the advantages of the school, and other advantages of a larger community. The isolated situation of many of the smaller settlements is now an insuperable difficulty in the way of providing education for all the children. These Indians are all keenly alive to the value of education. In every village that we visited we were urged to ask the Government to give them a school. In one they insisted upon ranging the children all in rows that we might see for ourselves that there were children enough to justify the establishing of a school.

In this connection we would suggest that if a boarding and industrial school, similar to those at Hampton and Carlisle, could be established in Southern California, it would be of inestimable value, and would provide opportunities for many children who, owing to the isolation of their homes, could not be reached in any other way.

We would further suggest that, in our judgment, only women teachers should be employed in these isolated Indian villages. There is a great laxity of morals among these Indians, and in the wild regions where their villages lie the unwritten law of public sentiment, which in more civilized communities does so much to keep men virtuous, hardly exists. Therefore the post of teacher in these schools is one full of temptations and danger to a man. (See Exhibit M.) Moreover, women have more courage and self-denying missionary spirit, sufficient to undertake such a life, and have an invaluable influence outside their school-rooms. They go familiarly into the homes, and are really educating the parents as well as the children in a way which is not within the power of any man, however earnest and devoted he may be.

We would also suggest that great good might be accomplished among these Indians by some form of itinerant religious and educational labor among them. In the list of assignments of Indian agencies to different religious denominations, as given in the report of the Indian Bureau for 1882, the Mission agency is assigned to the Evangelical Lutheran; but we could not learn that this denomination had done any work among them. So far as the Mission Indians have any religion at all they are Catholics. In

many of the villages are adobe chapels, built in the time of the missions, where are still preserved many relics of the mission days, such as saints' images, holy-water kettles, &c. In these chapels, on the occasions of the priest's visits, the Indians gather in great numbers, women sometimes walking two days' journey, bringing their babies on their backs to have them baptized. There are also in several of the villages old Indians, formerly trained at the missions, who officiate with Catholic rites at funerals, and on Sundays repeat parts of the mass. As these Indians are now situated in isolated settlements, so far apart and so remote from civilized centers, the only practicable method of reaching them all would be by some form of itinerary labor. A fervent religious and practical teacher who should spend his time in going from village to village, remaining in each a few days or weeks, as the case might be, would sow seed which would not cease to grow during the intervals of his absence. If he were a man of sound common sense and knowledge of laws of life, fitted to instruct the Indians in matters of hygiene, cleanliness, ventilation, &c., and in a few of the simple mechanical arts, as well as in the doctrines of religion and morality, he would do more for the real good of these people at present than can be accomplished by schools.

6th. The suggestion of the value of itinerary labor among the Indians leads to our next recommendation, which we consider of great importance, viz, that it should be made the duty of any Government agent in charge of the Mission Indians to make a round of inspection at least twice a year, visiting each village or settlement, however small. In no other way can anything like a proper supervision of these Indians' interests be attained. This proof of the Government's intention to keep a sharp eye on all that might occur in relation to the Indians would have a salutary moral effect, not only on the Indians but on the white settlers in their neighborhood. It would also afford the means of dealing with comparative promptitude with the difficulties and troubles continually arising. As it is now, it is not to be wondered at that the Indians feel themselves unprotected and neglected, and the white settlers feel themselves safe in trespassing on Indians' property or persons. In some of the villages where pre-emption claims have been located within the last four years no agent has ever been. It is safe to say that had an agent been on the ground each year, with the proper authority to take efficient measures, much of the present suffering and confusion would have been prevented. In the case, for instance, of the La Coyotes village, filed on a few months ago (see Exhibit F), there was no reason why those lands should not have been set apart for the Indians long ago, had their situation been understood; so in the San Ysidro case, and others. The whole situation of an agent in regard to the Mission Indians is totally different from that of ordinary agency on a reservation. The duties of an Indian agent on a reservation may be onerous, but they are in a sense simple. His Indians are altogether, within comparatively narrow limits, and, so to speak, under his hand, and dependent largely on the Government. The Mission Indians, on the contrary, are scattered in isolated settlements thirty, forty, a hundred miles away from the agency headquarters, many of them in regions difficult of access. Moreover, the Indians are in the main self-supporting and independent. Protection or oversight worth anything to them can only be given by a systematic method of frequent visitation.

What is true in this respect of the agent's work is, if possible, still truer of the physician's. If there is to be an agency physician for the Mission Indians at all he should be a young, strong, energetic man, who is both able and willing to make at least four circuits a year through the villages, and who will hold himself bound to go when called in all cases of epidemics, serious illness, or accidents occurring among Indians within one day's journey of the agency headquarters. Whatever salary it is necessary to pay to secure such service as this should be paid, or else the office of agency physician to the Mission Indians should be abolished. Anything less than this is a farce and a fraud.

7th. We recommend that there be secured the appointment of a lawyer, or a law firm in Los Angeles, to act as special United States attorney in all cases affecting the interests of these Indians. They have been so long without any protection from the law that outrages and deprivations upon them have become the practice in all white communities near which they live. Indians' stock is seized, corraled, and held for fines, sometimes shot, even on the Indians' own reservation or in the public domain. In seasons of dearth roving stockmen and shepherds drive their herds and flocks into Indians' grain fields, destroying their subsistence for a whole year. Lands occupied by Indians or by Indian villages are filed on for homestead entry precisely as if they were vacant lands. This has been more than once done without the Indians receiving any warning until the sheriff arrived with the writ for their ejectment. The Indians' own lives are in continual danger, it being a safe thing to shoot an Indian at any time when only Indian witnesses are present. (See Exhibits C, E.) It is plain that all such cases as these should be promptly dealt with by equal means. One of the greatest difficulties in the position of the Mission Indians' agent is, that in all such cases he is powerless to act except through the at best slow and hitherto unsatisfactory channel of reporting to the Interior Department. He is in the embarrassing position of a guardian of wards with

property and property rights, for the defense of which he is unable to call in prompt legal assistance. In instances in which the Indians themselves have endeavored to get redress through the courts, they have, in the majority of cases, to the shame of the Southern California bar be it spoken, been egregiously cheated. They are as helpless as children in the hands of dishonest, unscrupulous men. We believe that the mere fact of there being such a United States legal authority near at hand to act for the Indians would in a short time, after a few effective illustrations of its power, do away with the greater proportion of the troubles demanding legal interference.

The question of the rights of Indians living on grant lands to remain there will, if the Department decides to test it by law, involve some litigation, as it will no doubt be contested by the ranch owners; but this point once settled and the Indians secured in the ownership of their lands, a very few years will see the end of any special need of litigation in their behalf. We recommend in this connection and for this office the firm of Brunson & Wells, of Los Angeles. We have obtained from this firm a clear and admirable opinion on these Indians' right to their present homes (see Exhibit A), and we know them to be of high standing at the bar and to have a humane sympathy for Indians.

8th. We recommend that there should be a judicious distribution of agricultural implements among these Indians. No village should be omitted. Wagons, harness, plows, spades, and hoes are greatly needed. It is surprising to see what some of these villages have accomplished with next to no implements. In the Santa Ysabel village the Indians had 300 acres in wheat; there were but three old broken plows in the village, no harness, and no wagon. (See Exhibit G.) There is at present much, and not unfounded, sore feeling in some of the villages which have thus far received no help of this kind, while others of the villages have been supplied with all that was needed.

9th. There should always be provided for the Mission Indians' agency a small fund for the purchase of food and clothing for the very old and sick in times of especial destitution. The Mission Indians as a class do not beg. They are proud-spirited, and choose to earn their living. They will endure a great deal before they will ask for help. But in seasons of drought or when their little crops have, for any cause, failed, there is sometimes great distress in the villages. Last winter the Cahuillas, in the Cahuilla Valley (see Exhibit C), were for many weeks without sufficient food. The teacher of their school repeatedly begged them to let her write to the agent for help, but they refused. At last one night the captain and two of the headmen came to her room and said she might write. They could no longer subdue the hunger. She wrote the letter; the next morning at daylight the Indians were at her door again. They had reconsidered it, they said, and they would not beg. They would rather starve, and they would not permit her to send the letter.

10th. The second and third special points on which we were instructed to report to the Department were, whether there still remains in Southern California any Government land suitable for an Indian reservation, and if not, in case lands must be bought for that purpose, what lands can be most advantageously purchased. There is no Government land remaining in Southern California in blocks of any size suitable for either white or Indian occupancy. The reason that the isolated little settlements of Indians are being now so infringed upon and seized, even at the desert's edge and in stony fastnesses of mountains, is that all the good lands, i. e., lands with water or upon which water can be developed, are taken up.

We recommend two purchases of land: one positively, the other contingently. The first is the Panma ranch, now owned by Bishop Mora, of Los Angeles. (See Exhibit P.) This ranch, lying as it does between the Rincon and Pala Reservations on the north and south and adjoining the La Jolla Reservation, affords an admirable opportunity to consolidate a large block of land for Indian occupancy. It is now, in our opinion, a desirable tract. While it is largely hilly and mountainous, there is considerable good sheep and cattle pasturing on it and a fair amount of bottom land for cultivation along the river. The price asked for it is, as lands are now selling in Southern California, low. If the already existing reservations are cleared of whites, unfilled, and made ready for Indian occupancy, and the Government lands now in actual occupation by Indians be assured to them, the addition of this Panma ranch will be, in our opinion, all that will be required to make comfortable provision for all the Indians, except those living within the boundaries of confirmed grants.

Should the Department decide to remove all these and provide them with new homes, we recommend the purchase of the Santa Ysabel ranch. (See Exhibit Q.) The purchase of this ranch for an Indian reservation was recommended to the Government some years ago, but it was rejected on account of the excessive price asked for it. It is now offered to the Government for \$95,000. During the past ten years the value of lands in Southern California has in many places quadrupled; in some it is worth more than twenty times what it was then. We have no hesitation in saying that it is not now possible to buy an equally suitable tract for any less money. The ranch contains 17,719.40 acres; is within the rain belt of San Diego County; is well watered, and,

although it is largely mountainous, has good pasture, some meadow land, and some oak timber. It is, moreover, in the region to which the greater proportion of these Indians are warmly attached and in the vicinity of which most of them are now living. One large Indian village is on the ranch. (See Exhibit G.) Father Ubach, the Catholic priest of San Diego, who has known these Indians for seventeen years, says of it, "it is the only tract to which human power can force these Indians to remove." We recommend this purchase as a last resort in the event of the Department's being compelled to provide new homes for all the Indians now living within the boundaries of confirmed grants.

In conclusion, we would make the suggestion that there are several small bands of Mission Indians north of the boundaries of the so-called Mission Indians' Agency, for whom it would seem to be the duty of the Government to care as well as for those already enumerated. One of these is the San Carlos Indians, living near the old San Carlos Mission at Monterey. There are nearly one hundred of these, and they are living on lands which were given to them before the secularization act of 1834. These lands are close to the boundaries of the ranch San Francisquito of Monterey. These boundaries have been three times extended, each time taking in a few more acres of the Indians' lands, until now they have only ten or twelve acres left. There are also some very destitute Indians living in the neighborhood of the San Antonio-Mission, some 60 miles south of Monterey, and of San Miguel, 40 miles farther south, and of Santa Suez near Santa Barbara. These Indians should not be overlooked in arrangements made for the final establishing of the Mission Indians in Southern California.

Hoping that these recommendations may be approved by the Department, we are, very respectfully, yours,

HELEN JACKSON.
ABBOT KINNEY.

Hon. H. PRICE,
Commissioner of Indian Affairs.

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EXHIBIT A.

LOS ANGELES, CAL., May 12, 1883.

SIR: In response to your verbal request asking our opinion as to the following questions, viz:

1st. Have civilized Indians and those who are engaged in agriculture or labor of any kind, and also those who are known as Pueblos or Rancheros Indians in California, a right to occupy and possess lands which they and their predecessors had continuously occupied, possessed, and enjoyed while said lands were under the jurisdiction of the Mexican Government, up to and at the date of the ratification of the treaty Guadalupe Hidalgo between the United States and the Mexican Republic, March, 1848, notwithstanding that said lands so occupied and enjoyed by the Indians aforesaid had been while they were so occupying and possessing the same, by the proper Spanish and Mexican authorities before the ratification of said treaty granted to certain Span-

ish and Mexican citizens, and since the acquisition by the United States of the territory embracing said lands so granted been by the United States confirmed, surveyed, and patented to the grantees or their legal representatives?

2d. Has the United States Government the right to condemn lands within the State of California for the purpose of giving Indians homes thereon?

We have the honor to submit the following as our reply and answer to the above interrogatories. Before and at the date of the treaty of Guadalupe Hidalgo, all the territory now known as California was a part of and under the jurisdiction of the Mexican Republic. We do not regard it as necessary in order to answer the questions propounded to give a history of the land laws of Spain and Mexico, nor the method of acquiring land prior to August 18, 1824.

On August 18, 1824, the Mexican Congress enacted a general colonization law prescribing the mode of granting lands throughout the Mexican territory. This law was limited and defined by a series of regulations ordained by the Mexican Government, November 21, 1823. By these laws and regulations, which have ever since continued in force, the governors of Territories were authorized to grant with certain specified exceptions vacant land. By the fundamental laws of 1824, the regulations of 1824, and the regulations of the departmental legislature consistent therewith, all Mexican grants in California have been determined, and by this have been determined the validity of every grant of land in California. (*Lesse and Vallejo vs. Clark*, 3 Cal., 17.) The limitations, as well as the fundamental laws mentioned, provided that in making grants or distribution of land (such as are now known as Mexican grants)—

1st. It must be vacant land, and if occupied by Indians then without prejudice to them.

2d. That such land as would be granted to the damage and injury of the Indians should be returned to the rightful owners.

The Mexican Government reserved from private grant all lands occupied and possessed by the Indians. Great care was taken to make strict reservation of such land, and by law no valid grant of land occupied or possessed by Indians could be made so as to dispossess them. When California was ceded to the United States the rights of property of its citizens remained unchanged. By the law of nations those rights were sacred and inviolable, and the obligations passed to the new government to protect and maintain them. The term property, as applied to lands, embraces all titles, legal or equitable, perfect or imperfect. (*Teschemacher vs. Thompson*, 18 Cal., 12.) The United States never had, and does not now possess, any power under or by virtue of said treaty whereby it could or can confer upon a citizen holding and claiming property granted by the Mexican Government other or different property rights than those conferred by such Government, and such as were possessed, enjoyed, and held by him while under the jurisdiction of such Government. It cannot abridge or enlarge the right to enjoy and to possess property held by virtue of Mexican law at the date of said treaty, nor can it deprive persons of any right to property which belonged to them at the date of said treaty.

A mere grant of land by the Mexican governor without compliance by the grantee with the further requisitions of the Mexican laws forms but an inchoate title, and the land passed to the United States, which hold it subject to the trust imposed by the treaty and the equities of the grantee. *The execution of the trust is a political power.* (*Lesse vs. Clark*, 3 Cal., 17.)

By the fundamental laws of 1824, the regulation of 1823, and the regulation of the departmental legislature, one condition was that in making private grants of lands the lands granted must be vacant lands. Lands occupied by and in possession of Indians were not such vacant lands, for by the same laws and regulations it was provided that such grants must be without prejudice or damage to the Indians, and that such land granted to the damage and injury of the Indians should be returned to the rightful owners. (New Code, law 9, title 12, book 4.)

The Mexican authorities recognized the rights of Indians to hold, enjoy, and possess lands, and there are of record a number of grants made by the Mexican authorities to Indians. They not only had the right to receive grants of land under the Mexican laws, but also to convey the lands so granted. (*United States vs. Sinnol*, Hoffman's Reports, 110.)

It will be observed that at the date when private grants of land were made with some regard for law, the limitation and conditions required by law to be observed were inserted in such grants, viz: L. C., No. 342-6, S. D., 398; L. C., No. 254-219, S. D., 228-407; L. C., No. 740-372, N. D., 208; L. C., No. 326-359, N. D., 389; Hoffman's Report land cases, pp. 25 *et seq.*; surveyor-general's letter, dated San Francisco, March 14, 1883, and addressed to Mrs. Wm. S. Jackson.

The Indians and their descendants, who occupied and now occupy lands within the grants above named, as well as grants containing claims of a similar character, are in our opinion possessed and seized of the lands which were and have been and now are in their possession, and they can hold the same against persons claiming the same by

virtue of a United States patent, issued upon a confirmed Mexican grant. This leaves to be answered the following question: Can the Indians hold lands for which a United States patent has issued conditioned as set out in the first question, provided no conditions or limitations are contained or expressed in the grant? This is a question beset and surrounded by many difficulties, nor do we deem it necessary to do more than refer to restrictions and limitations contained in the laws of Mexico concerning private grants of lands upon which Indians were residing, lands which were occupied by them. It is certain that if such lands were granted by a Mexican official, and the authorities omitted to recite the conditions and limitations required by law, and reserve from the operation of such grant such lands as the law conditioned could not be conveyed by such grant, such a grant would and could not take it out of the operation of the law. It could not defeat the rights of those whose rights attached by reason of law. If the officers of the Mexican Government to whom was confided the trust exceeded their authority as regulated by the solemnities and formalities of the law, the courts are bound to take notice of it and cannot shield those claiming under such title from the necessary consequence of ignorance, carelessness or arbitrary assumption of power. (*Lesse & Vallejo vs. Clarke*, 3 Cal., 17.)

It is now necessary to inquire how far and to what extent will the issuance to the grantee of the United States patent change or modify this rule. We shall not discuss, as we do not deem it necessary, the decision of the United States Supreme Court that "a United States patent cannot be attached collaterally, but may be by a direct proceeding," as we did not regard these decisions as in any way affecting the question submitted and now before us.

In 1851, March 3, Congress passed an act entitled "An act to ascertain and settle the private land claims in the State of California." By said statute it was enacted "that it shall be the duty of the commission herein provided for to ascertain and report to the Secretary of the Interior the tenure by which the Mission lands are held, and those held by civilized Indians, and those who are engaged in agriculture or labor of any kind, and also those which are occupied and cultivated by Pueblos or Rancheros Indians. (U. S. Statutes at Large, vol. 9, p. 634, sec. 16, Little & Brown's ed.) We have no means of ascertaining whether such a report was made, or if made, its contents. We have no doubt the commission did their duty and complied with the law, and that their report will be found on file in the Department of the Interior. This report, if in our hands, would greatly aid us in reaching a correct conclusion. By the same act it is further provided that the patent of the United States issued to parties holding Mexican grants is conclusive between the United States and the said claimants only, and shall not affect the interest in that person. (*Ib.*, p. 634.) If the report of the commission established the fact that the Indians were residing upon and occupying lands within the boundaries of claimed grants, which grants have no conditions or limitation inserted therein that they claimed such lands by virtue of the laws of Mexico, this evidence, with such other evidence as we understand can be furnished, is in our opinion enough to establish under the law, as we regard it, a right in the Indians to hold and occupy such lands against the conferee or patentee. If, however, no such report has been made, we are of the opinion, if conclusive evidence can be furnished proving that these Indians were in possession of these lands at the time these grants were made by the Mexican authorities, that they continued in possession, and were in possession at the date of the treaty, and have since continued in possession, the law will entitle them to hold such land against all persons claiming under the patent.

We answer the second question propounded as follows:

By the fifth amendment to the Constitution of the United States it is provided: * * * "Nor shall private property be taken for public use without just compensation." Would the taking of land belonging to citizens for the purpose of giving the same to Indians be such a public use as is contemplated by the Constitution? We are of the opinion it would not. (*Walter vs. Warner*, 25 Mo., 277; *Board of Education vs. Hockman*, 48 Mo., 243; *Buffalo and New York Railroad Company vs. Brannan*, 9 N. Y., 100; *Bradley vs. New York, &c., Railroad Company*, 21 Conn., 294; *Fisher vs. Horicon Iron Work, &c., Company*, 10 Wis., 354; *New Orleans and Railroad Company vs. Railroad Company*, 53 Ala., 211; *Conn vs. Horrigan*, 2 Allen, 159; *Chambers vs. Sattler*, 40 Cal., 497; *Railroad Company vs. City of Stockton*, 41 Cal., 149; *Channel Company vs. Railroad Company*, 51 Cal., 269; *Gilmer vs. Lime Point*, 18 Cal., 229; *Conn vs. Tewksbury*, 11 Metcalf, 55; *Manufacturing Company vs. Head*, 56 N. H., 386; *Olmstead vs. Camp*, 33 Conn., 532; *Buckman vs. Saratoga Railroad Company*, 3 Paige Ch., 45; *Memphis Freight Company vs. Memphis*, 4 Cold., 419; *Enfield Toll Bridge Company vs. Hartford Railroad Company*, 17 Conn., 42.)

We are, very respectfully,

BRUNSON & WELLS,
Attorneys at Law.

ABBOTT KINNEY, Esq.,
Los Angeles, Cal.

EXHIBIT B.

SABOBA.

Saboba is the name of a village of Indians of the Serrano tribe, one hundred and fifty-seven in number, living in the San Jacinto Valley, at the base of the San Jacinto Mountains, in San Diego County. The village is within the boundaries of a Mexican grant, patented to the heirs of J. Estudillo, January 17, 1880. The greater part of the grant has been sold to a company which, in dividing up its lands, allotted the tract where the Saboba village lies to one M. R. Byrnes, of San Bernardino, who proposes to eject the Indians unless the United States Government will buy his whole tract of 700 acres at an exorbitant price. The Saboba village occupies about 200 acres, the best part of Mr. Byrnes's tract. The Indians have lived in the place for over a hundred years. They have adobe houses, fenced fields and orchards, and irrigating ditches. There is in the village a never-failing spring, with a flow of about 25 miner's inches. It is claimed by the Indians that the first surveys did not take in their village. This is probably true; the resurveying of grants and "floating" their lines so as to take in lands newly discovered to be of value, and leave out others discovered to be worthless, being a common practice in California. In a country where water is gold, such a spring as these Saboba Indians owned could not long escape notice or be left long in the undisturbed possession of Indians. These Indians support themselves now, and have always done so, by farming, and by going out in organized bands as sheep-shearers and vintagers. They are industrious and peaceable, and make in good seasons a fairly comfortable living. They formerly kept stock, but since the new occupancy, allotting and fencing of the valley, have been obliged to give it up. There is a Government school in this village, numbering from thirty to forty pupils, who have made remarkable progress in their studies. The school is taught by a Pennsylvania lady, formerly a teacher of the freedmen. Her gentleness and refinement have excited an influence all through the village, and her self-denying labors among the people in times of sickness and suffering have been the work of a missionary rather than of a teacher. The following letters were written by two of the children in this school, both under fourteen years of age. They were written without the teacher's knowledge or aid, and brought to her with the request that she would send them. The handwritings are clear and good:

To the President of the United States:

MR. PRESIDENT—DEAR SIR: I wish to write a letter for you, and I will try to tell you some things. The white people call San Jacinto rancho their land, and I don't want them to do it. We think it is ours, for God gave it to us first. Now I think you will tell me what is right, for you have been so good to us, giving us a school and helping us. Will you not come to San Jacinto some time to see us, the school, and the people of Saboba village? Many of the people are sick, and some have died. We are so poor that we have not enough good food for the sick, and sometimes I am afraid that we are all going to die. Will you please tell what is good about our ranches, and come soon to see us?

Your friend,

RAMON CAVAVI.

Mrs. JACKSON:

MY DEAR FRIEND: I wish to write you a letter about the American people that want to drive us away from our village of Saboba. I don't know what they can be about. I don't know why they do so. My teacher told me she was very sorry about the town, and then my teacher said, I think they will find a good place for you if you have to go; but I do hope they will not drive you away. Then it will be very good for all the people of Saboba. It is a very good town for the people. They have all the work done on their gardens, and they are very sorry about the work that is done. My work is very nicely done also. The people are making one big fence to keep the cows and the horses off their garden.

Your true friend,

ANTONIO LEON.

The Saboba Indians are greatly dispirited and disheartened at the prospect of being driven out of their homes, and feel that the Government ought to protect them. The captain of the village, a very sensible and clear-headed man, said, "If the Government says we must go, we must; but we would rather die right here than move." The right of these Indians to the tract they have so long occupied and cultivated is beyond question. That this right could be successfully maintained in the courts is the opinion of the law firm of Brunson & Wells, whose admirable paper covering all cases of this kind is given herewith. (See exhibit.)

We found 3 miles from this village on Government land a narrow cañon called Indian cañon, in which half a dozen Indian families were living. The cañon is but 5 or 6 miles long and very narrow; but it has a small, never-failing brook in it, and some good bottom land, on which the Indians had excellent wheat crops growing. The sides of it are moderately well wooded. It was surprising that so desirable a nook had been overlooked or omitted by the surveyors of the San Jacinto Ranch. We wrote to the Department immediately recommending its being set aside for Indians' use. In another beautiful cañon, also with a never-failing stream running through it, we found living the old chief, Victoriano, nearly one hundred years old. The spot was an oasis of green, oak and willow trees, a wheat field, and apricot orchard and vineyard, the latter planted by Victoriano's father. This place has been given by Victoriano to his grandson, who we were told is taking steps to secure it to himself under the Indian homestead act.

EXHIBIT C.

THE CAHUILLA RESERVATION.

The Cahuilla Valley is about 40 miles from Saboba, high up among the peaks and spurs of the San Jacinto Mountains; a wild, barren, inaccessible spot. The Cahuilla village, situated here, was one of the most interesting that we visited, and the Indians seemed a clear-headed, more individual and independent people than any other we saw. This is partly due to their native qualities, the tribe having been originally one of the most warlike and powerful in the country, as is indicated by their name, which signifies "master." The isolation of this village has also tended to keep these Indians self-respecting and independent. There is no white settlement within 10 miles, there being comparatively little to tempt white men into these mountain-fastnesses. The population of the village numbers from one hundred and fifty to two hundred. The houses are of adobe, thatched with reeds; three of the houses have shingled roofs, and one has the luxury of a floor. These Indians make the greater part of their living by stock-raising. They also send out a sheep-shearing band each year. They have sixteen fields, large and small, under cultivation, and said they would have had many more except for the lack of plows, there being but one plow for the whole village. They raise wheat, barley, corn, squashes, and watermelons. Sometimes the frost kills the corn, and occasionally the grasshoppers descend on the valley, but aside from these accidents their crops do well. All through the village were to be seen their curious out-door granaries—huge baskets made of twisted and woven twigs and set up on poles. The women were neatly dressed, the children especially so, and the faces of all, men, women, and children, had an animation and look of intellectual keenness very uncommon among the Southern California Indians. On the outskirts of the village is a never-failing hot spring. In this water the Indians, old and young, are said to be continually bathing. It was the Indians' impression that the lines of their reservation ran directly through the center of this hot spring. They had been told so by some white men, but they knew nothing certainly. The lines had never been shown to them. On subsequent examination at the surveyor-general's office in San Francisco, we discovered that this spring and the village itself are entirely outside the reservation lines; also that another Indian settlement called Duasno, a few miles distant, and intended to have been included in the reservation, is outside the lines. The Cahuilla Reservation stands recorded as containing 26 sections of land; so far as we could judge of the region, it seemed to us a generous estimate to say that there might be possibly 500 acres of cultivatable land in it. In good years there would be considerable pasturage on the sides of the mountains; but far the greater part of the tract is absolutely worthless, being bare and stony mountains. The Cahuillas, however, are satisfied with it. They love the country and would not exchange it for fertile valleys below. They said that they would be perfectly contented if the Government would only mark their land off for them, and set up boundaries so that they could know where they might keep their own stock and keep the white men's stock out. All they asked for in addition to this was some harnesses, wagons, and agricultural implements, especially plows. Of these last the captain reiterated, and was not satisfied till he saw the figures written down, that ten was the smallest number that would be sufficient for the village.

A few rods from the hot spring there stood a good adobe house, shut up, unoccupied. The history of this house is worth telling, as an illustration of the sort of troubles to which Indians in these remote regions, unprotected by the Government, and unable to protect themselves, are exposed. Some eight years ago the Cahuillas rented a tract of their land as pasture to two Mexicans named Machado. These Machados, by permission of the Indians, built this adobe house, and lived in it when looking after their stock. At the expiration of the lease the house was to be the property of the Indians.

When the Machados left they said to the Cahuilla captain, "Here is your house." The next year another man named Thomas rented a pasture tract from the Indians and also rented this house, paying for the use of it for two years six bulls, and putting into it a man named Cushman, who was his overseer. At the end of the two years Thomas said to the Cahuillas, "Here is your house; I now take my cattle away." But the man Cushman refused to move out of the house; said it was on railroad land which he had bought of the railroad company. In spite of the Indians' remonstrances he lived on there for three or four years. Finally he died. After his death his old employer, Thomas, who had once rented this very house from the Indians, came forward, claimed it as his own, and has now sold it to a man named Parks. Through all this time the Indians committed no violence on the trespassers. They journeyed to Los Angeles to find out from the railroad company whether Cushman owned the land as he said, and were told that he did not. They laid the matter before their agent, but he was unable to do anything about it. It would seem of the greatest importance in the case of this reservation, and of all others similarly placed, that the odd section claimed or owned by the railroad companies should be secured and added to the permanent reservation. Much further trouble will in this way be saved.

An incident which had occurred on the boundaries of the Cahuilla Reservation a few weeks before our arrival there is of importance as an illustration of the need of some legal protection for the Indians in Southern California. A Cahuilla Indian named Juan Diego had built for himself a house and cultivated a small patch of ground on a high mountain ledge a few miles north of the village. Here he lived alone with his wife and baby. He had been for some years what the Indians call a "locoed" Indian, being at times crazy; never dangerous, but yet certainly insane for longer or shorter periods. His condition was known to the agent, who told us that he had feared he would be obliged to shut Juan up if he did not get better. It was also well known throughout the neighboring country, as we found on repeated inquiry. Everybody knew that Juan Diego was "locoed." (This expression comes from the effect a weed of that name has upon horses, making them wild and unmanageable.) Juan Diego had been off to find work at sheep-shearing. He came home at night riding a strange horse. His wife exclaimed, "Why, whose horse is that?" Juan looked at the horse, and replied confusedly, "Where is my horse, then?" The woman, much frightened, said, "You must take that horse right back; they will say you stole it." Juan replied that he would as soon as he had rested; threw himself down and fell asleep. From this sleep he was awakened by the barking of the dogs, and ran out of the house to see what it meant. The woman followed, and was the only witness of what then occurred. A white man, named Temple, the owner of the horse which Juan had ridden home, rode up, and on seeing Juan poured out a volley of oaths, leveled his gun and shot him dead. After Juan had fallen on the ground Temple rode closer and fired three more shots in the body, one in the forehead, one in the cheek, and one in the wrist, the woman looking on. He then took his horse, which was standing tied in front of the house, and rode away. The woman, with her baby on her back, ran to the Cahuilla village and told what had happened. This was in the night. At dawn the Indians went over to the place, brought the murdered man's body to the village, and buried it. The excitement was intense. The teacher, in giving us an account of the affair, said that for a few days she feared she would be obliged to close her school and leave the village. The murderer went to the nearest justice of the peace and gave himself up, saying that he had in self-defense shot an Indian. He swore that the Indian ran towards him with a knife. A jury of twelve men was summoned, who visited the spot, listened to Temple's story, pronounced him guiltless, and the judge so decided. The woman's testimony was not taken. It would have been worthless if it had been, so far as influencing that jury's minds was concerned. Her statement was positive that Juan had no knife, nor weapon of any kind; sprang up from his sleep and ran out hastily to see what had happened, and was shot almost as soon as he had crossed the threshold of the door. The district attorney in San Diego, on being informed by us of the facts in the case, reluctantly admitted that there would be no use whatever in bringing a white man to trial for murder of an Indian under such circumstances, with only Indian testimony to convict him. This was corroborated, and the general animus of public feeling vividly illustrated to us by a conversation we had later with one of the jurors in the case, a fine, open-hearted, manly young fellow, far superior in education and social standing to the average Southern California ranchman. He not only justified Temple's killing the Indian, but said he would have done the same thing himself. "I don't care whether the Indian had a knife or not," he said; "that didn't cut any figure at all the way I looked at it. Any man that'd take a horse of mine and ride him up that mountain trail, I'd shoot him whenever I found him. Stockmen have just got to protect themselves in this country." The fact that Juan had left his own horse, a well-known one, in the corral from which he had taken Temple's; that he had ridden the straight trail to his own door, and left the horse tied in front of it, thus making it certain that he would be tracked and caught, weighed nothing in this young man's mind. The utmost concession that he would make was finally to say, "Well, I'll

agree that Temple was to blame for firin' into him after he was dead. That was mean, I'll allow."

The account of our visit to the Cahuilla Reservation would be incomplete without a brief description of the school there. It numbers from forty to fifty scholars, and is taught by a widow who, with her little daughter ten years of age, lives in one small room built on at the end of the school-house. Part of the room is curtained off into a recess, holding bed, washstand and bureau. The rest of the room is a sitting-room, kitchen, and store-room, and barely holds the cooking stove, table, and chairs. Here alone, with her little daughter, in a village of near two hundred Indians, 10 miles from any white man's home, this brave woman has lived more than a year, doing a work of which the hours spent in the school-room are the smallest part. The Indians come to her with every perplexity and trouble; call on her for nursing when they are ill; for food when they are destitute. If she would allow it her little room could always be crowded with women and men also, eager to watch and learn. The Cahuillas have good brains, are keen, quick, and persevering. The progress that these children have made in the comparatively short time since their school was opened was far beyond that ordinarily made by white children in the same length of time. Children who two years ago did not know a letter, read intelligently in the second and third readers, spelled promptly and with remarkable accuracy, and wrote clear and legible hands, their copy-books being absolutely free from blots or erasures; some of the older pupils went creditably through a mental arithmetic examination, in which the questions were by no means easy to follow. They sang songs in fair tune and time and with great spirit, evidently enjoying this part of the exercises more than all the rest. We had carried to them a parcel of illustrated story books, very kindly contributed by some of the leading publishers in New York and Boston, and the expression of the rows of bright dark eyes as the teacher held up book after book was long to be remembered. The strain on the nervous system of teachers in such positions as this can hardly be estimated by ordinary standards. The absolute isolation, the ceaseless demand, the lack, not only of the comforts but of many of the necessities of life, all mount up into a burden which it would seem no woman could long endure. Last winter there was a snow-storm in the Cahuilla Valley lasting two days and nights. A fierce wind drove the dry snow in at every crevice of the poorly-built adobe house, like sand in a sand-storm. The first day of the storm the school had to be closed early in the day, as the snow fell so fast on books and slates nothing could be done. The last night of the storm the teacher and her little girl spent the entire night in shoveling snow out of the room. They would pile it in a blanket, open the door, empty the blanket, and then resume shoveling. They worked hard all night to keep pace with the storm. When the snowing stopped the school-room was drifted full, and for many days after was wet and damp. It would seem as if the school term in such places as this ought not to be over eight months in the year. The salaries, however, should not be reduced, for they are barely living salaries now, every necessary of life being procured at a great disadvantage in these wild regions. One of these teachers told us she had been obliged to give an Indian \$1 to ride to the nearest store and bring her one dollar's worth of sugar. It was the opinion of the Cahuilla teacher (a teacher of experience at the East before her marriage) that the Indians would accomplish more in eight months than in the nine. The strain upon them also is too great—of the unwonted confinement and continuous brain work. Should this change be made the vacation should be so arranged as to be taken at the sheep-shearing season, at which times all the schools are much broken up by the absence of the elder boys.

EXHIBIT D.

THE WARNER'S RANCH INDIANS.

The tract known as Warner's ranch lies in the northern part of San Diego County, about 40 miles from the Cahuilla Valley. It contains two grants, the San José del Valle and the Valle de San José; the first containing between 26,000 and 27,000 acres, confirmed to J. J. Warner, patented January 16, 1880; the second containing between 17,000 and 18,000 acres, confirmed to one Portilla, patented January 10, 1880. The whole property is now in the possession of Governor Downey, of Los Angeles. There are said to be several conflicting claims yet unsettled. The ranch is now used as a sheep and stock ranch, and is of great value. It is a beautiful region, well watered and wooded. There are within its boundaries five Indian villages, of Sau Luisenos and Diegmans: Aqua Caliente, Puerta de la Cruz, Puerta de San José, San José, and Mataquay. The last four are very small, but Aqua Caliente has long been the most flourishing and influential village in the country. It was formerly set apart as a reservation but the Executive order was canceled January 17, 1880, immediately after the

patenting of the San José del Valle ranch, within the boundaries of which it was then claimed that the village lay, although to the best information we could get the first three surveys of that ranch did not take the village in. The aged captain of the Aqua Caliente Indians still preserves a paper giving a memorandum of the setting off of this reservation of about 1,120 acres for this people. It was by Executive order, 1875. He also treasures several other equally worthless papers—a certificate from a San Diego judge that the Indians are entitled to their lands; a memorandum of a promise from General Kearney, who assured them that in consideration of their friendliness and assistance to him they should retain their homes without molestation, “although the whole State should fill with white men.” It is not to be wondered at that these Aqua Caliente Indians find it difficult to-day to put any faith in white men’s promises.

It will be seen from the above brief statement of the situation that they have an exceedingly strong claim on the Government for protection in their rights to their lands. Since the restoration of their village and fields “to the public domain,” the patenting of the ranches and their sale to Governor Downey, the Indians have been in constant anxiety and terror. Governor Downey has been considerate and humane in his course toward them and toward all the Indians on his estate. And his superintendent also is friendly in his treatment of them, permitting them all the liberty he can consistently with his duty to the ranch. He finds their labor invaluable at sheep-shearing time, and is able throughout the year to give them occasional employment. But the Indians know very well that according to the usual course of things in San Diego County they are liable any day to be ejected by process of law; and it is astonishing that under the circumstances they have so persevered in their industries of one sort and another. They have a good number of fields under cultivation. They also make saddle mats and hats out of fibrous plants; the women make baskets and lace. It is said to be the most industrious village in the county; the old captain dealing severely with any Indian found idle. They have also a small revenue from the hot springs, from which the village takes its name. These bubble up in a succession of curious stone basins in the heart of the village. They are much resorted to in summer by rheumatic and other patients, who rent the Indians’ little adobe houses and pay them a small tax for the use of the waters. The Indians themselves at these times move into bush huts in a valley or cañon some 2 miles above the village, where their chief cultivated fields lie. They were very earnest to know from us if we would advise their planting more of this ground. They said they would have planted it all except that they were afraid of being driven away. This upper valley and these planting fields were said to be on Government land, but on examination of the surveyor’s plats in the Los Angeles land office we could find no field-notes to indicate their location. These Indians have in use another valley called Lost Valley, some 15 miles from their village, high up in the mountains, and reached only by one very steep trail. Here they keep their stock, being no longer able to pasture it below. They were touchingly anxious to have us write down the numbers of cattle, horses, sheep each man had and report to Washington that the President might see how they were all trying to work. There are probably from one hundred and twenty-five to one hundred and fifty head of cattle owned in the village, about fifty horses, and one hundred sheep.

There is here a Government school, taught by a young German lady of excellent education and much enthusiasm in her work. At great cost and risk she has carried her piano up into these wilds, and finds it an invaluable assistance in training and influencing her pupils. It was a scene not to be forgotten, when after their exercises in reading, arithmetic, &c., in all of which they showed a really wonderful proficiency, the children crowded into the teacher’s little room and sang their songs to the piano accompaniment, played by her with spirit and feeling. “My country, ‘tis of thee, sweet land of liberty,” was the song they seemed to like best; all unaware how little applicable to their own situation were its strains of exultant joy and freedom. In this one tiny room adjoining the school-room this young lady lives, sleeps, prepares her own food, frequently having a “cooking-class” of Indian women, whom she is teaching to make soups, bread, &c., and to do fine washing. It is impossible to put too much appreciative sympathy on these women teachers in Indian schools in Southern California. Their situation and their work are unique in isolation and difficulty.

The other Indian villages on Warner’s ranch do not demand separate description, consisting of not more than half a dozen houses each, and numbering only from fifteen to thirty Indians. Each village, however, has its own captain, and its cultivated fields, orchards, &c., to which the Indians are profoundly attached, and from which it would be very hard to induce them to move, spite of their poverty, and the difficulty of making a living, as they are now placed.

During our stay at Warner’s ranch the captain of the San José village had an experience which will illustrate the helplessness of these Indian farmers in Southern California. He had on a piece of Government land, a short distance from his village, a fenced wheat field of some fifty acres; it was his chief dependence for his year’s sup-

port. Going away one day, he left his aged father in charge at home; the old man wandered away, and during his absence one of the roving sheep herders, of whom the country is full, broke down the fence, turned in his flock, and when Domingo came home at night the whole field was eaten close to the ground. Hearing of our being at the superintendent's house Domingo came over to ask if we could help him in the matter. The quiet, matter-of-course way in which he told the story was more impressive than any loudness of complaint would have been. He said very simply, "What can I do for food this winter?" Mr. Kinney rode over to the village, saw the field, and after some trouble found the herder, who, much frightened, said he did it by his master's orders. This master, an Italian, lived some 20 miles away, the nearest justice of the peace, 16 miles. On seeing the justice we found that nothing could be done in the way of securing damages from the sheep-owner, until two white men, residents of the county, should inspect the premises and estimate the damages. Domingo rode 16 miles in the night in a fierce storm of sleet and rain, with letters from us to white men on the ranch, asking them to do this. He was back again at daylight with a note from one of them, saying that he could not induce a man to go with him. Finally, the justice, at our request, hired two men at day's wages to go and inspect the Indian's field. They estimated the damages at about one-tenth of the real amount, and thus we were obliged to leave the matter. We afterwards received a letter from the Italian stating that he had settled with Domingo, but not mentioning the sum paid. It was plain that except for our taking hold of the affair the Indian would never have recovered a cent. This is by no means an exceptional instance.

EXHIBIT E.

THE SAN YSIDRO INDIANS.

In the San Ysidro Cañon, about 8 miles from Warner's ranch, has been living from time immemorial a band of San Luiseno Indians, numbering from fifty to seventy-five, and called by the name of their cañon. We first saw the captain of these Indians, in Los Angeles, in the office of the United States court commissioner, Mr. H. T. Lee, of whose kindness and humane sympathy in dealing with all Indian matters which come under his notice it is not out of place here to make grateful mention. This Captain Pablo, with two of his headmen, had walked a three day's journey to Los Angeles to see if he could get any help in the matter of lands which had been wrested from his people. His story was a pitiful one. Some six years ago a white man named Chatham Helm had come in at the head of their cañon, 3 miles above the site of their village, taken up a homestead claim there, cutting off the greater part of their water supply and taking some of their cultivated fields, and leaving them restricted room for their stock. Since that time they have been growing poorer and poorer, but had managed to live by cultivating lands below the village near the mouth of the cañon, where there was another small stream. But now a new squatter had appeared below them and filed on all the remaining lands, including the site of the village itself. The man Helm, above them, had patented his lands, built a good house, and was keeping considerable stock. The Indians could have no water except what he permitted to come down the cañon. Three years ago one of their number had been shot dead by Helm, who was set free on the usual plea of self-defense. Since then the Indians had been in continual terror. The new squatter had threatened them with the same fate if they came near his inclosures. Between these two squatters the Indian village was completely hemmed in and cut off, and starvation stared them in the face. In fact, in the course of the last winter one little girl had actually died for want of food. Their countenances corroborated the tale. They were gaunt with hunger and full of despair. It would exceed the limits of this paper to give a full report of the interview with these Indians. It will not soon be forgotten by any one taking part in it—the solemn tones in which the Indians replied to the interpreter's questions, the intent and imploring gaze with which they studied all our faces and listened to all the words, unintelligible to them, with which we spoke with one another.

It was finally decided to forward to the Interior Department the affidavits of these Indians; setting forth the manner in which they had been robbed of their lands, and requesting that Cloos's entry be held for cancellation, and that Helm's patent be reopened. It was found, on looking the matter up in Washington, that several years ago this cañon had been withdrawn from market with a view to having it set off as a reservation for the Indians living in it, but the matter had slipped everybody's mind. On visiting the San Ysidro Cañon ourselves a few weeks later we found that Cloos, taking time by the forelock, had sold out his homestead claim, his house, and what he was pleased to call his "improvements," for \$610 to a poor old widow, Mrs. Pamela Hagar by name. We found Mrs. Hagar, with her son, on the ground, preparing to go

into the bee business. She appeared very little surprised at hearing that the claim she had bought was a questionable one, remarking: "Well, I mistrusted something was wrong; Cloos seemed in such a hurry to get his money." This woman appeared nearly as helpless as the Indians themselves. The deed she had taken from Cloos was not acknowledged; she had not got it recorded; her name was misspelled in it; and the enumeration of the sections, &c., in it did not agree with the list in the land-office certificate. She begged us to ask the Government to refund to her the sum she had paid to Cloos, and signed by her mark a paper saying she would accept it. It is a small sum, and as the poor old woman made the transaction in good faith, knowing nothing about the Indians' presence on the place, it would seem not unreasonable that she should be paid. The next morning Cloos himself appeared on the scene, very angry and resentful. He said he had "a perfect right to file on that land;" that "Indians were not citizens," and "had no right to public lands," and that "the stockmen of San Diego County were not going to stand the Indians killing their stock much longer;" that "the Government ought to put the Indians all together somewhere and take care of them," and that "there'd be a big fight with Indians in San Diego County before long, we might rest assured of that," and much more of the same sort, which would not be worth repeating, except that it is a good illustration of the animus of the greater portion of Southern California ranchmen toward Indians. A few days after this we were gladdened by the news from Washington that Cloos's filing was held for cancellation, and that the Attorney-General had ordered proceedings to be begun in San Francisco for the vacating of Chatham Helm's patent. A few instances of such promptitude as this would change the whole status of the South California Indians, giving courage to them, and, what is still more important, making it clear to the perception of white men that the Indians' rights are no longer to be disregarded as they have been.

EXHIBIT F.

THE LOS COYOTES.

Five miles up from the head of the San Ysidro Cañon, to be reached only by a steep and narrow trail, lies a small valley on the desert side of the mountains. It is little more than a pocket on a ledge. From its rim one looks down directly into the desert. Few white men have ever penetrated to it, and the Indians occupying it have been hitherto safe, by reason of the poverty and inaccessibility of their home. No agent has ever visited them; they have supported themselves by keeping stock and cultivating their few acres of land. There are not more than 80 acres all told in the valley. About three weeks before our arrival at Warner's ranch a man named Jim Fane, a comrade of Helm, who had usurped the San Ysidro Cañon, having, no doubt, learned through Helm of the existence of Los Coyotes Valley, appeared in the village and offered the Indians \$200 for their place. They refused to sell, upon which he told them that he had filed on the land, should stay in any event, and proceeded to cut down trees and build a corral. It seems a marvelous forbearance on the part of a community numbering twenty-six able-bodied men and twenty-one women not to take any forcible measures to repel such an intruder as this. But the South California Indians have learned by long experience that in any contest with white men they are sure to be found in the wrong. Not an Indian laid violent hands on Fane. He seems to have gone about as safely in the heart of this Indian village, which he was avowedly making ready to steal, as if he had been in an empty wilderness. Mr. Kinney found him there, hard at work, his belt full of cartridges and pistols. He was a rough fellow, at first disposed to be defiant and blustering, but on being informed of the Department's action in the case of Cloos's filing, he took a milder tone, and signed a paper saying that he would take \$75 for his "improvements." Later in the day, after consulting with his friend Helm, he withdrew the paper and announced his determination to stay in the valley. On inquiry at the land office at Los Angeles we found that his filing had been returned to him for correction of errors. We were therefore in time to secure the stopping of all further proceedings on his part through the land office. Nothing, however, but authorized and authoritative action on the part of the agent representing the Interior Department will stop his proceedings on the ground. Just before leaving California we received an urgent letter from the Los Coyotes' captain, saying that Fane was still there—still cutting down their trees and building corrals.

The Indians of this band are robust, active, and finely made, more nearly in the native health and strength of the race than any other band in the country. The large proportion of children also bore testimony to their healthful condition, there being thirty-five children to twenty-one women and twenty-six men. The captain had the lists of his people kept by three lines of notches on a stick, a new notch being made for each birth and crossed out for each death. They could count only up to

five. Everything beyond that was "many." Their houses were good, built of hewn pine timber, with thatched roofs made from some tough fibrous plant, probably the yucca. Each house had a thatched bower in front of it and stood in a fenced inclosure. These Indians raise beans, pumpkins, wheat, barley, and corn. They have twenty-five head of cattle and more horses. They say they have lived in this valley always and never desire to leave it. The only things they asked for were a harness, chain, coulter, and five plows. They have now one plow.

This village is one of the best illustrations of our remarks on the need of itinerary labor among the Mission Indians. Here is a village of eighty-four souls living in a mountain fastness which they so love they would rather die than leave it, but where the ordinary agencies and influences of civilization will never reach, no matter how thickly settled the regions below may come. A fervent religious and practical teacher spending a few weeks each year among these Indians might sow seed that would never cease growing during the intervals of his absence.

EXHIBIT G.

THE SANTA YSABEL RANCH.

The Santa Ysabel ranch is adjoining to Warner's ranch. It is a well-wooded, well-watered, beautiful country, much broken by steep and stony mountains. The original grant of this ranch was confirmed March 17, 1858, to one José Ortego and the heirs of Edward Stokes. The patent was issued May 14, 1872. It is now owned by a Captain Wilcox, who has thus far not only left undisturbed the Indian village within the boundaries of his estate, but has endeavored to protect the Indians by allowing to the ranch lessee a rebate of \$200 yearly on the rent on account of the Indians' occupancy. There is in the original grant of this ranch the following clause: "The grantees will leave free and undisturbed the agricultural lands which the Indians of San Diego are actually occupying."

We found on arriving at the Santa Ysabel village that an intelligent young Indian living there had recently been elected as general over the Dieguino Indians in the neighborhood. He showed to us his papers and begged us to wait till he could have all his captains gathered to meet us. Eight villages he reported as being under his control, Santa Ysabel, Mesa Grande, Mesa Chilquita, San José, Matagnay, La Puerta, Laguna, and Anaha. He was full of interest and inquiry and enthusiasm about his people. "I want know American way," he said in his broken English. "I want make all my people like American people. How I find out American laws? When white men lose cow, lose pig, they come here with pistol and say we must find or give up man that stole. How we know? Is that American law. We all alone out here. We got nobody show us. Heap things I want ask about. I make all my people work. We can't work like American people; we ain't got work with; we ain't got wagon harness; three old broken plows for all these people. What we want, some man right here to go to. While you here white man very good; when you go away trouble same as before."

There are one hundred and seventy-one Indians in this village. They are very poor. Many of their houses are of tule or brush; their clothes were scanty and ragged, some of the older men wearing but a single garment. That they had not been idle their big wheat field proved; between three and four hundred acres fenced and the wheat well up. "How do you divide the crops?" we asked. "Every man knows his own piece," was the reply. They sell all of this wheat that they can spare to a storekeeper some 3 miles away. Having no wagon they draw the wheat there on a sort of sledge or wood triangle, about 4 feet long, with slats across it. A rope is tied to the apex of this, then fastened to the horn of a saddle on a horse ridden by a man, who steers the sledge as best he may. The Indians brought this sledge to show us, to prove how sorely they needed wagons. They also made the women bring out all the children and arrange them in rows, to show that they had enough for a school, repeating over and over that they had many more, but they were all out digging wild roots and vegetables. "If there was not great many them, my people die hungry," said the general; "them most what we got eat." It is a sore grievance to these Santa Ysabel Indians that the Aqua Caliente Indians, only 20 miles away, have received from the Government a school, plows, wagons, &c., while nothing whatever has been done for them. "Them Aqua Caliente Indians got everything," said the general; "got hot springs, too; make money on them hot springs; my people got no chance make money."

On the second day of our stay in this region we saw four of the young general's captains those of Puerta San Felipe, San José, Anaha, and Laguna. In Puerta San Felipe, are sixty-four people. This village is on a confirmed grant, the "Valle de San Felipe," confirmed to Felipe Castillo. The ranch is now leased to a Frenchman, who is taking away the water from the Indian village, and tells the captain that the whole

village belongs to him, and that if anybody so much as hunts a rabbit on the place he will put him in prison. These people are in great destitution and trouble, being deprived of most of their previous means of support. The Anaha captain reported fifty-three people in his village. White men had come in and fenced up land on both sides of him. "When he plants his wheat and grain the white men run their hogs into the fields;" and "when the white men find anything dead they come to him to make him tell everything about it, and he has not got anything to tell." The San José captain had a similar story. The Laguna captain was a tall, swarthy, well-to-do-looking Indian, so unlike all the rest that we wondered what there could have been in his life to produce such a difference. He said nobody troubled him. He had good land, plenty of water, raised grain and vegetables, everything he wanted, except watermelons. His village contained eleven persons; was to be reached only by a steep trail the last 4 miles. We expressed our pleasure at finding one Indian captain and village that were in no trouble and wanted for nothing. He smiled mysteriously, as we afterward recalled, and reiterated that nobody troubled him. The mystery was explained later, when we discovered accidentally in San Diego that this Laguna village had not escaped, as we supposed, the inroads of white men, and that the only reason that the Laguna Indians were not in trouble was that they had peaceably surrendered half their lands to a white man, who was living amicably among them under a sort of contract or lease.

EXHIBIT H.

MESA GRANDE.

Mesa Grande lies high up above the Santa Ysabel village and 15 miles west of it. The tract adjoins the Santa Ysabel ranch, and is, as its name indicates, a large table land. There was set off here in 1876 a large reservation, intended to include the Mesa Grande Indian village, and also a smaller one of Mesa Chilquita; but, as usual, the villages were outside of the lines, and the lands reserved were chiefly worthless. One of the settlers in the neighborhood told us he would not take the whole reservation as a gift and pay the taxes on it. The situation of the Indians here is exceedingly unfortunate and growing more and more so daily. The good Mesa Grande lands, which they once owned and occupied, and which should have been secured to them have been fast taken up by whites, the Indians driven off, and, as the young general said, "all bunched up till they haven't got any room." Both the Mesa Chilquita and Mesa Grande plateaus are now well under cultivation by whites, who have good houses and large tracts fenced in.

They have built a good school-house, which we chanced to pass at the hour of recess, and noting Indian faces among the children, stopped to inquire about them. There were, out of twenty-seven scholars, fifteen Indians or half-breeds, some of them the children of Indians who had taken up homesteads. We asked the teacher what was the relative brightness of the Indian and white children. Supposing that we shared the usual prejudice against Indians, the teacher answered in a judiciously deprecating tone, "Well, really there isn't so much difference between them as you would suppose." "In favor of which race?" we asked. Thus suddenly enlightened as to our animus in the matter, the teacher changed his tone, and said he found the Indian children full as bright as the whites; in fact, the brightest scholar he had was a half-breed girl.

On the census list taken of Indians in 1880, Mesa Grande and Mesa Chilquita are reported as having, the first, one hundred and three Indians, the second, twenty-three. There are probably not so many now, the Mesa Chilquita tract being almost wholly in possession of the whites. The Mesa Grande village has a beautiful site on a small stream, in a sort of hill basin, surrounded by higher hills. The houses are chiefly adobe, and there is on one of the slopes a neat little adobe chapel, with a shingled roof nearly done, of which the Indians were very proud. There were many fields of grain and a few fruit orchards. The women gathered around our carriage in eager groups, insisting on shaking hands, and holding up their little children to shake hands also. They have but once seen an agent of the Government, and any evidence of real interest in them and their welfare touches them deeply.

The condition of the Indians in this district is too full of complications and troubles to be written out here in detail. A verbatim copy of a few of our notes taken on the spot will give a good picture of the situation:

"Chrysanto, an Indian, put off his farm two months ago by white man named Jim Angel, with certificate of homestead from Los Angeles land office. Antonio Douro, another, put off in same way from his farm near school-house. He had built good wooden house; the white man took that and half his land. He was plowing when the white man came and said: 'Get out! I have bought this land.' They have been to the agent. They have been ten times, till they are tired to go. Another American

named Hardy ran an Indian off his farm, built a house on it, then he sold it to Johnson, and Johnson took a little more land, and Johnson sold it to Stone, and he took still more. They used to be well fixed; had plenty of stock and hundreds of horses. Now they are all penned up, and have had to pay such fines they have got poor. Whites take their horses and cattle and corral them and make them pay 25 cents, 50 cents to get them out. 'Is that American law?' they asked; 'and if it is law for Indians' horses is it not same for white men's horses?' But one Indian shut up some of the white men's horses that came on his land, and the constable came and took them all away, and made the Indian pay money. The Americans so thick now they want all the Indians away, so to make them go they keep accusing them of stealing."

This is a small tithe of what we were told. It was pitiful to see the hope die out of the Indians' faces as they laid grievance after grievance before us, and we were obliged to tell them we could do nothing except to "tell the Government." On our way back to Santa Ysabel we were waylaid by several Indians, some of them very aged, each with the same story of having been driven off or being in imminent danger of being driven off his lands.

On the following day we had a long interview with one of the white settlers of Mesa Grande, and learned some particulars as to a combination into which the Mesa Grande whites had entered to protect themselves against cattle and horse-thieves. The young Indian general was present at this interview. His boots were toeless; he wore an old gingham shirt and ragged waistcoat, but his bearing was full of dignity. According to the white man's story this combination was not a vigilance committee at all. It was called "The Protective League of Mesa Grande," and had no special reference to Indians in any way. According to the Indian general's story it was a vigilance committee, and all the Indians knew very well that their lives were in danger from it. The white man protested against this, and reiterated his former statements. To our inquiry why, if the league were for the mutual protection of all cattle owners in the region, the captains of the Indian villages were not invited to join it, he replied that he himself would have been in favor of that, but that to the average white settler in the region such a suggestion would be like a red rag to a bull; that he himself, however, was a warm friend to the Indians. "How long you been friend to Indians?" asked the boy-general with quiet sarcasm. We afterward learned by inquiry of one of the most influential citizens of a neighboring town that this protective league was in fact nothing more or less than a vigilance committee, and that it meant short shrift to Indians; but being betrayed by one of its members it had come to an untimely end, to the great relief of all law-abiding people in the vicinity. He also added that the greater part of the cattle and horse stealing in the region was done by Mexicans and whites, not by Indians.

Whether it is possible for the Government to put these Mesa Grande Indians into a position to protect themselves and have anything like a fair chance to make their living in their present situation is a question; but that it ought to be done, if possible, beyond question. It is grievous to think that this fine tract of land, so long owned and occupied by these Indians, and in good faith intended by the Government to be set aside for their use, has thus passed into other hands. Even if the reservation tract, some three hundred acres, has been by fraudulent representations restored to the public domain, and occupied now by a man named Clelland, who has taken steps to patent it, the tract, by proper investigation and action, could probably be reclaimed for the Indian' use.

EXHIBIT I.

CAPITAN GRANDE.

Capitan Grande is the name of the cañon through which the San Diego River comes down from the Cuyumaca Mountains, where it takes its rise. The cañon is thirty-five miles from the city of San Diego; is fifteen miles long, and has narrow bottom lands along the river in some places widening out into good meadows. It is in parts beautifully wooded and full of luxuriant growths of shrubs and vines and flowering plants. In 1853 a band of Dieguino Indians were, by the order of Lieutenant Magruder, moved from San Diego to this cañon (see paper No. 1, appended hereto). These Indians have continued ever since to live there, although latterly they have been so much pressed upon by white settlers that their numbers have been reduced. A large reservation, showing on the record nineteen full sections, was set off here in 1876 for these Indians. It is nearly all on the bare sides of the mountain walls of the cañon. As usual, the village site was not taken in by the lines. Therefore white settlers have come in and the Indians been driven away. We were informed that a petition was in circulation for the restoration to the public domain of a part of this reservation. We could not succeed in finding a copy of this petition; but it goes without saying that any such

petition means the taking away from the Indians the few remaining bits of good land in their possession. There are now only about sixty Indians left in this cañon. Sixteen years ago there were from one hundred and fifty to two hundred—a flourishing community, with large herds of cattle and horses and good, cultivated fields. It is not too late for the Government to reclaim the greater part of this cañon for its rightful owners' use. The appended affidavits, which we forwarded to Washington, will show the grounds on which we earnestly recommended such a course.

Paper No. 1.—Copy of Colonel Magruder's order locating the Indians in Capitan Grande.

MISSION SAN DIEGO, *February 1, 1853.*

Permission is hereby given to Patricio and Leandro, alcalde and captain, to cultivate and live at the place called Capitan Grande, about four leagues to the south and east of Santa Ysabel, as it is with extreme difficulty that these Indians can gain a subsistence on the lands near the mission in consequence of the want of sufficient water for irrigation. It is understood that this spot, called as above, Capitan Grande, is a part of the public domain. All persons are hereby warned against disturbing or interfering with the said Indians, or their people, in the occupation or cultivation of said lands. Any complaints in reference to said cultivation or to the right of occupancy must be laid before the commanding officer of this post, in the absence of the Indian agent for this part of the country.

(Signed by Colonel Magruder.)

Paper No. 2.—Copy of affidavit of the captain of Capitan Grande Indians and one of his head men.

STATE OF CALIFORNIA,
County of San Diego:

In the application of Daniel C. Isham, James Meade, Mary A. Taylor, and Charles Hensley.

Ignacio Curo and Marcellino, being duly sworn by me through an interpreter, and the words being interpreted to each and every one of them, each for himself deposes and says:

"I am an Indian belonging to that portion of the Dieguino Indians under the captainship of Ignacio Curo, and residing in the rancheria of Capitan Grande, being also a part and portion of the Indian people known as Mission Indians; our said rancheria was located at Capitan Grande, where we all now reside in A. D. 1853, by an order issued by Colonel Magruder, of the United States Army, located at the post of San Diego on February 1 of said year, 1853. That since that time we and our families have resided on and possessed said lands. That said lands are included in Township 14 south, Range 2 East, of San Bernardino Meridian, in San Diego County, State of California.

That affiants are informed and believe that Daniel C. Isham, James Meade, Mary A. Taylor, and Charles Hensley have each of them filed in the land office of Los Angeles their application for pre-emption or homestead of lands included in the lands heretofore possessed by affiants, and now occupied by the rancheria of affiants as a home for themselves and families. That said affiants and their tribe have constantly occupied and partly cultivated the land so claimed by said Isham, Meade, Taylor, and Hensley since the year 1853. That they nor their tribe have ever signed any writing yielding possession or abandoning their rights to said lands; but that said parties heretofore mentioned are attempting by deceit, fraud, and violence to obtain said lands from affiants and the Government of the United States. Affiants therefore pray that the land officers of the United States Government will protect them in their right and stay all proceedings on the part of said claimants until the matter is thoroughly investigated and the rights of the respective parties adjudicated.

IGNACIO CURO, his + mark.
MARCELLINO, his + mark.

Witness—
M. A. LUCE.

Paper No. 3.—Copy of affidavit of Anthony D. Ubach, in regard to Capitan Grande Indians, and in the matter of the application of Daniel Isham, James Meade, Mary A. Taylor, and Charles Hensley.

Anthony D. Ubach, being first duly sworn, on oath deposes and says: I am now, and have been continuously for the last seventeen years, Catholic pastor at San Diego, and have frequently made official visitations to the various Indian villages or rancherias

in said county; that I have frequently during said time visited the Capitan Grande Rancheria, on the San Diego River, in said county of San Diego; that when I first visited said rancharia, some seventeen years ago, the Indians belonging to the rancharia cultivated the valley below the falls on the San Diego River and herded and kept their stock as far up as said falls; that I know the place now occupied and claimed by the above-named applicants and each of them, and also the place occupied and claimed by Dr. D. W. Strong; that from the time I first visited said rancharia until the lands were occupied by the aforesaid white men, said lands were occupied, cultivated, and used by the Indians of Capitan Grande Rancheria as a part of their rancharia; that upon one occasion I acted as interpreter for Capitan Ignacio Curo in a negotiation between said Capitan Ignacio and D. W. Strong, and that said Strong at that time rented from said Ignacio a portion of the rancharia lands for bee pasture; I also know that Capt. A. P. Knowles and A. S. Grant also rented the lands from the Indians of the rancharia when they first located there.

ANTHONY D. UBACH.

SAN DIEGO, *State of California.*

Paper No. 4—Copy of the deposition of J. S. Manasse in the matter of the Capitan Grande Indians and the application of Daniel Isham, James Meade, Mary A. Taylor, and Charles Hensley.

STATE OF CALIFORNIA,
San Diego County:

J. S. Manasse, being first duly sworn, on oath deposes and says: I am now, and have been continuously since the year 1853, a resident of said county of San Diego; that I have known these certain premises on the San Diego River, said county, known as the Capitan Grande Rancheria, since the year 1856; that at that time and for many years thereafter the Indians belonging to said Capitan Grande Rancheria occupied and cultivated their fields as far up as the falls on the San Diego River; that the premises now occupied by the above-named applicants were so occupied and cultivated by the Indians belonging to said rancharia during the time aforesaid; I know that about one year ago Capt. A. P. Knowles paid rent to Ignacio Curo for a portion of the land now claimed by the above-named applicant, Charles Hensley; also that when I first knew of the rancharia, and for many years thereafter, the Indians of that rancharia owned and kept there a considerable number of cattle, horses, and sheep.

J. S. MANASSE.

The lands above referred to as claimed by Dr. D. W. Strong were patented by him September 15, 1882. They include all the lands formerly cultivated by the Indians and used for stock pasturage at the head of the cañon. When, at the expiration of his first year's lease of the tract for bee pasturage, the Indians asked if he wished to renew the lease, he informed them that he should stay and file on the land. His lines are as follows: NE. $\frac{1}{4}$ of NE. $\frac{3}{4}$, S. $\frac{1}{2}$ of NE. $\frac{1}{4}$, and NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$, Sec. 2, T. 14 S., R. 2 E., S. B. M., Home. No. 969.

Charles Hensley's homestead entry is as follows: No. 986, March 29, 1882. S. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and W. $\frac{1}{4}$ of SW. $\frac{1}{4}$, Sec. 22, T. 14 S., R. 2 E., S. B. M. This is on the original site of the Indian village, and Hensley is living in Capitan Ignacio Curo's house, for which, after being informed that he had to leave it at any rate and might as well get a little money for it, Ignacio took a small sum of money.

James Meade's entry, which included Mary Taylor's interest, is as follows: No. 987, March 29, 1882. N. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and N. $\frac{1}{4}$ of NE. $\frac{1}{4}$, Sec. 22, T. 14 S., R. 2 E., S. B. M. Captain Knowles's lines we did not ascertain. He claims, and in one way or another occupies, several tracts in the cañon.

EXHIBIT J.

THE SEQUAN INDIANS.

The Sequan Indians are a small band of Dieguino Indians living in a rift of the hills on one side of the Sweetwater Cañon, about twenty miles from San Diego. There are less than fifty of them all told. They are badly off, having for the last ten years been more and more encroached on by white settlers, until now they can keep no cattle, and have little cultivable land left. There is a small reservation of one section set off for them, but the lines were never pointed out to them, and they said to us they did not know whether it were true that they had a reservation or not. They had heard also that there was an agent for the Indians, but they did not know whether that were true or not. As nearly as we could determine, this village is within the reservation lines; and if it is some of the fields which have been recently taken away from the Indians by the whites must be also. They had the usual bundle of "tattered" papers to show, some of which were so old they were hardly legible. One of them was a cer-

tificate from a justice of the peace in San Diego, setting forth that this justice, by virtue of power in him vested by the California State law, did "permit hereby all these Indians to occupy peaceably and without disturbance all the certain land and premises heretofore occupied and held by these Indians aforesaid, including all their right and title to all other necessary privileges thereto belonging, mainly the water necessary for the irrigation of their lands."

These Indians are much dispirited and demoralized, and wretchedly poor. Probably the best thing for them would be, in case the Capitan Grande Cañon is cleared of whites and assured to the Indians, to remove there and join the Capitan Grande band.

EXHIBIT K.

THE CONEJOS.

The Conejos are of the Dieguino tribe. Their village is said to be partly on the Capitan Grande Reservation. One man familiar with the region told us that the reservation line ran through the center of the Conejos village. The village is reached only by a nine-mile horseback trail, and we did not visit it. The captain came to San Diego to see us, and we also learned many particulars of the village from an intelligent ranchwoman who has spent eleven summers in its vicinity. There are thirty-two men, twenty-six women, and twenty-two children in the band. They have good fields of wheat, and raise corn, squashes, and beans; yet there is not a plow in the village. The captain is very strenuous in his efforts to make all his Indians work. When strange Indians come to the village to visit they also are set to work. No one is allowed to remain longer than three days without lending a hand at the village labor. They are a strong and robust band. They say they have always lived in their present place. The captain asked for plows, harness, and "all things to work with," also for some clothes for his very old men and women. He also begged to be "told all the things he ought to know;" said no agent had ever visited them, and "no one ever told them anything."

In many of their perplexities they are in the habit of consulting Mrs. Gregory, and she often mounts her horse and rides nine miles to be present at one of their councils. Not long ago one of their number, a very young Indian, having stabbed a white man living near Julian, was arrested, put in jail, and in imminent danger of being lynched by the Julian mob. They were finally persuaded, however, to give him up to his tribe to be tried and punished by them. Mrs. Gregory was sent for to be present at the trial. The facts in the case were that the Irishman had attempted to take the young Indian's wife by force. The husband interfering, the Irishman, who was drunk, fired at him, upon which the Indian drew his knife and stabbed the Irishman. Mrs. Gregory found the young Indian tied up in the snow, a circle of Indians sitting around him. Recounting the facts; the captain said to Mrs. Gregory, "Now, what do you think I ought to do?" "Would you think he deserved punishment if it were an Indian he had stabbed under the same circumstances?" asked Mrs. Gregory. "Certainly not," was the reply, "we should say he did just right." "I think so, too," said Mrs. Gregory, "the Irishman deserved to be killed." But the captain said the white people would be angry with him if no punishment were inflicted on the young man; so they whipped him and banished him from the rancharia for one year. Mrs. Gregory said that during the eleven years that they had kept their cattle ranch in the neighborhood of this village but one cow had ever been stolen by the Indians; and in that instance the Indians themselves assisted in tracking the thief, and punished him severely.

EXHIBIT L.

PALA AND ITS NEIGHBORHOOD.

In the days of the prosperity of the San Luis Rey Mission, Pala was one of its chief appanages. It lies an easy day's journey from San Luis Rey, in the valley of the San Luis Rey River. It has also a little stream of its own, the Pala Creek. It is a beautiful spot, surrounded by high hills, with wooded spurs and green bits of meadow here and there. The ruins of the old mission buildings are still standing, and services are held several times a year in the dilapidated chapel. It has always been a favorite spot with the San Luis Rey Indians, some five or six hundred of whom are living in the region. The chief settlements are Pala, Pauma, Apeche, La Jolla, and Rincon. At Pala, La Jolla, and Rincon are reservations. Of the Pala Reservation some tracts have been restored to the public domain, to be patented to whites. The remainder of this reservation, so far as we could learn its location, contains a very little good land, the greater part of it being in the wash of the creek. The Rincon Reservation is better, being at the

head of the valley, directly on the river, walled in to the south by high mountains. It is, as its name signifies, in a corner. Here is a village of nearly two hundred Indians; their fields are fenced, well irrigated, and under good cultivation in grains and vegetables. They have stock—cattle, horses, and sheep. As we drove into the village an Indian boy was on hand with his hoe to instantly repair the break in the embankment of the ditches across which we were obliged to drive. These Indians have been reported to us as being antagonistic and troublesome, having refused to have a Government school established there. Upon inquiry of them we found that the latter fact was true. They said they wanted a title to their lands, and till they had that they did not wish to accept anything from the Government; that the agent had promised it to them again and again, but that they had now lost faith in ever getting it. The captain said: "The commissioners come one day and tell us we own the lands and fields; the next day comes somebody and measures, and then we are out of our houses and fields, and have to live like dogs." On the outskirts of this village is living a half-breed, Andrew Scott, who claims some of the Indians' fields and cuts off part of their water supply. He is reported as selling whisky to them, and in this and other ways doing them great harm. It is not improbable that he would be found to be within the reservation lines.

Between the Rincon and Pala lies the Pauma village. It is on the Pauma ranch, the purchase of which for Indian occupancy we have recommended to the Government. This ranch is now rented, and the Indians are much interfered with by the lessee, who is naturally reluctant to lose the profit off a single acre of the land. There is in the original grant of the Pauma ranch the following clause: "They shall have free arable lands now occupied by the Indians who are established thereon, as also the lands they may need for their small quantity of live stock."

The La Jolla region we were unable to visit. The Indian village is said to be outside the reservation lines. There is a claim against this tract, and the La Jolla captain told us that the parties representing it had said to him that they were coming in with sheep next year, and would drive all the Indians out. Upon inquiry at the surveyor-general's office in San Francisco in regard to the La Jolla tract, we learn that there is a record on file in the archives of that department purporting to show that there was a grant made in favor of the Indians of San Luis Rey, Pablo, and José Apis for a tract of land named La Jolla, in the immediate vicinity of the Valle de San José, dated November 7, 1845, signed by Pio Pico; deposited in the archives January 31, 1878. From Mr. Chauncey M. Hayes, a resident of San Luis Rey, the agent of the Pauma ranch, we received the following letter on the subject of La Jolla:

"La Jolla was granted November 7, 1845, by the Mexican Government to José and Pablo Apis Indians, Expediente No. 242, and is recorded in the surveyor-general's office, in book No. 4, p. 17. It was not presented to the land commissioner in 1858, and remained without any action being taken. Col. Cave J. Coutts, now deceased, bought the interest of the grantees, and a contract was afterwards made between Judge E. D. Sawyer, of San Francisco, and himself, to secure its approval by a special act of Congress. About three years ago an act was passed approving the grant for about 8,848 acres, reserving therefrom all lands then occupied. If this included Indians there would not be much of La Jolla left."

It is evident that this is a claim which should be closely investigated. The probabilities are that it would not bear such investigation. In Pala some of the Indians had been ejected from their homes under circumstances of great cruelty and injustice; affidavits setting forth the facts in their case were forwarded by us to Washington (see Paper No. 1, appended hereto). It is to be hoped that the Indians can be reinstated in their homes. If the Pauma ranch be purchased for Indian occupancy, as we recommend, it will, with the present reservation tracts of the Rincon, Pala, and La Jolla, make a sizable block of land, where the Indians will be comparatively free from white intrusion, and where they will have a good chance to support themselves by agriculture and stock-raising.

Paper No. 1, appended to Exhibit L—"Affidavit of the claims of Arthur Golsh, Gaetano Golsh, and others, to a certain piece of land in township of Pala.

"Patricio Soberano and Felipe Joqua, being duly sworn by me through an interpreter, and the words hereof being interpreted to each and every one of them, each for himself deposes and says: I am an Indian belonging to that portion of the San Luiseno Indians under the captainship of José Antonio Sal, and belonging in the rancharia of Pala. I have occupied the land in question ever since my childhood, together with Geromino Lugo and Lewis Ardillo, our wives and families numbering in all twenty-nine persons. I have resided on the land in question continuously until December, 1882. About five years ago one Arthur Golsh rented of Luis Ardillo a portion of said land for three months at a rental of \$5 per month. After this, said Golsh claimed the property of Ardillo and of the three other Indians; ordered them to leave; used threats; on one occasion aimed a pistol at Patricio Soberano. He then proceeded to file on the land, and obtained a patent for the land while these Indians were still

residing upon it. The said Indians had upon the said land four houses, one of which is adobe, various inclosed fields, and a long ditch for bringing irrigation water to the said lands. In spite of the threats of Arthur Golsh and others we continued to occupy the lands until December, 1882, when we were informed by Agent S. S. Lawson that if we did not leave voluntarily we would be put off by the sheriff.

"Said affiants therefore pray that said land be returned to the said Indians by the United States Government.

"Signed by Patricio Soberano and Felipe Joqua in presence of the justice of the peace, in Pala."

EXHIBIT M.

THE PACHANGA INDIANS.

This little band of Indians is worthy of a special mention. They are San Luisenos, and formerly lived in the Temecula Valley, where they had good adobe houses and a large tract of land under cultivation. The ruins of these houses are still standing there, also their walled graveyard full of graves. There had been a settlement of Indians in this Temecula Valley from time immemorial, and at the time of the secularization of the missions many of the neophytes of San Luis Rey returned thither to their old home. At the time of the outbreak of the Aqua Caliente Indians, in 1851, these Temecula Indians refused to join in it and moved their families and stock to Los Angeles for protection. Pablo, their chief at that time, was a man of some education, could read and write, and possessed large herds of cattle and horses. This Temecula Valley was a part of the tract given to San Luisenos and Dieguinos by the treaty of January 3, 1853, referred to in the body of this report. (See page —.) In 1873 a decree of ejectment against these Indians was obtained in the San Francisco courts without the Indians' knowledge. The San Diego Union of September 23, 1875, says on the subject:

"For forty years these Indians have been recognized as the most thrifty and industrious Indians in all California. For more than twenty years past these Indians have been yearly told by the United States commissioners and agents, both special and general, as well as by their legal counsel, that they could remain on these lands. Now, without any previous knowledge by them of any proceedings in court, they are ordered to leave their lands and homes. The order of ejectment has been served on them by the sheriff of San Diego County. He is not only commanded to remove these Indians, but to take of their property whatever may be required to pay the costs incurred in the suit."

Comment on the extracts would be superfluous. There is not often so much of history condensed in the same number of newspaper paragraphs. A portion of these Temecula Indians, wishing to remain as near their old homes and graves of their dead as possible, went over in the Pachanga Cañon, only three miles distant. It was a barren, dry spot; but the Indians sunk a well, built new houses, and went to work again. In the spring of 1882, when we first visited the place, there was a considerable amount of land in wheat and barley, and a little fencing had been done. In July, 1882, the tract was set off by Executive order as a reservation for these Indians. In the following May we visited the valley again. Our first thought on entering it was, would that all persons who still hold to the belief that Indians will not work could see this valley. It would be hardly an extreme statement to say that the valley was one continuous field of grain. At least four times the amount of the previous year had been planted. Corrals had been built, fruit orchards started; one man had even so far followed white men's example as to fence in his orchard a piece of the road which passed his place. The whole expression of the place had changed; so great a stimulus had there been to the Indians in even the slight additional sense of security given by the Executive order setting off their valley as a reservation. And, strangely enough, as if nature herself had conspired at once to help and to avenge these Indians in the Temecula Valley from which they had been driven out, the white men's grain crops were thin, poor, hardly worth cutting; while the Indians's fields were waving high and green, altogether the best wheat and barley we had seen in the county. It is fortunate that this little nook of cultivable land was set aside as a reservation. Had it not been it would have been "filed on" before now by the whites in the region, who already look with envy and chagrin on the crops the Indian exiles have wrested from land nobody thought worth taking up.

A Government school has been opened here within the past year, and the scholars have made good progress. We found, however, much unpleasant feeling among the Indians in regard to the teacher of this school, owing to his having a few years before driven off four Indian families from their lands at Pala, and patented the lands to himself. There were also other rumors seriously affecting his moral character which

led us to make the suggestion in regard to the employment of female teachers in these Indian schools. (See report recommendation.) As one of the Indians forcibly said, to set such men as this over schools was like setting the wolf to take care of the lambs.

These Pachanga Indians had, before the setting aside of their tract as a reservation, taken steps towards the securing of their cañon, and the dividing it among themselves under the provisions of the Indian homestead act. They were counseled to this and assisted in it by Richard Eagan, of San Juan Capistrano, well known as a good friend of the Indians. They have expressed themselves as deeply regretting that they were persuaded to abandon this plan and have the tract set off as a reservation. They were told that they could in this way get their individual titles just as securely and without cost. Finding that they have no individual titles, and cannot get them, they are greatly disappointed. It would seem wise to allow them as soon as possible to carry out their original intention. They are quite ready and fit for it.

EXHIBIT N.

THE DESERT INDIANS.

The Indians known as the Desert Indians are chiefly of the Cahuilla tribe, and are all under the control of an aged chief named Cabezon, who is said to have more power and influence than any Indian now living in California. These Indians' settlements are literally in the desert; some of them being in that depressed basin, many feet below sea level, which all travelers over the Southern Pacific Railroad will recollect. There is in this desert one reservation, called Agua Caliente, of about 60,000 acres. From the best information that we can get this is all barren desert land, with only one spring in it. These Desert Indians are wretchedly poor, and need help perhaps more than any others in Southern California. We were unable to visit these Indians personally, but were so fortunate as to induce Capt. J. G. Stanley, a former Indian agent for the Mission Indians and a warm friend of theirs, to go out in our stead and report to us on their condition. His report is herewith given:

Mrs. H. H. JACKSON:

MADAM: In compliance with your request I proceeded to the Cabezon Valley and have endeavored as far as was possible, with the limited time at my command, to ascertain the present condition and actual necessities of these Indians that still inhabit that portion of the Colorado Basin known as the Cabezon Valley, that being also the name of the head chief, who, from the best information that can be obtained, is not less than ninety and probably one hundred years old, and who still has great influence with all the Indians in that region. I found it impracticable to visit all the rancherias, and accordingly sent out runners and called a council of all the Indians of all the villages to be held at a point on the railroad known as Walter's Station, that being the most central point. The next day there were present in council about one hundred Indians, including the captains of all the rancherias and the old chief Cabezon. Having been special agent under the old superintendent system, and well acquainted with the Indians, I was received by them with the greatest cordiality. I read and interpreted your letter to Cabezon, and also explained that you were not able to visit them in person on account of ill health. The Indians, through their spokesman or interpreter, then stated their cause of complaint. First, that Mr. Lawson had never visited their villages nor taken any interest in their welfare; that he had allowed his interpreter, Juan Morengo, to take the advantage of them; that Juan Morengo had made a contract for them with a man in San Bernardino to cut wood on land claimed by the Indians for the railroad company, he taking the lion's share on the profits, and agreeing to pay them every Saturday in money; that Juan Morengo took some \$200 belonging to the Indians and appropriated it to his own use; that the contractor did not pay as agreed, but wished the Indians to take poor flour and other articles at a great price. There may be some exaggeration of the causes of complaint, but it is evident that no one has looked after the rights of these Indians. The Indians have stopped cutting the wood, and they say the contractor tells them he will send others to cut wood if they will not do it. If I understand rightly this is Government land, and no one has a right to cut the timber. It is true, it is mesquite timber, and they profess to cut only the dry trees, but the mesquite is invaluable to the Indians. It not only makes their fires, but its fruit supplies them with a large amount of subsistence. The mesquite bean is used green and dry, and at the present time is their principal article of food. Moreover, without the mesquite tree the valley would be an absolute desert. The wood (the dead trees) could be made a source of employment and profitable revenue to the Indians if cut with proper regulations, but the present mode is destruction to the

timber and benefits but few of the Indians. I have extended my remarks on this subject as I think it very important. If the wood is to be cut the Indians should be supplied with wagons and harness that they may do all the work of delivering the wood and get the profit of their labor. I would suggest that it is very important that a tract of country be segregated and set apart for these Indians. There is a vast amount of desert land in their country, but there are spots in it that have been occupied by them for hundreds of years, where wheat, corn, melons, and other farm products can be grown. There is very little running water, but water is so near the surface that it can be easily developed. The Indians appear to know nothing of any lands being set apart for them, but claim the whole territory they have always occupied. I think that to avoid complications something should be done for these Indians immediately to protect their interests. At present there are eight villages or rancherias, each with its own captain, but all recognizing old Cabezon as head chief. I ascertained from each captain the number belonging to his village, and I found the aggregate to be 560 souls. These Indians are not what are called Christianized Indians. They never belonged to the missions and have never been received into any church. They believe in spirits and witchcraft. While I was among them I was told by a white man that the Indians intended to kill one of their number because he had bewitched a man and made him sick. I asked the interpreter about it. He acknowledged it to be true, but said they only intended to frighten him so that he would let the man alone. I told him it would be wrong to kill the Indian, and he said they would not do it. They are very anxious to have schools established among them, and are willing to all live in one village if a suitable place can be selected. I shall offer as my opinion that immediate steps should be taken to set apart lands for these Indians, that they be permitted to cut wood for sale only on the public lands in Cabezon Valley, that no one be permitted to cut any green timber in the valley, that two strong wagons and harness for twelve horses be furnished (or loaned) to the Indians for the purpose of hauling wood only, that lumber be furnished to make sheds for said wagons and harness. The Indians have horses of their own.

All of which is respectfully submitted.

J. G. STANLEY.

EXHIBIT O.

THE SAN GORGONIO RESERVATION.

This is the only reservation of any size or value in Southern California. It lies in the San Gorgonio Pass, between the San Bernardino and San Jacinto Mountains. The Southern Pacific Railroad passes through it. It is a large tract, including a considerable proportion of three townships. It is an exposed situation, open to the desert winds, and very hot in summer. A small white settlement, called Banning, lies in this district. Most of the titles to these settlements are said to have been acquired before the reservation was set off. We received from the settlers in Banning the following letter:

To Mrs. JACKSON and Mr. KINNEY, *Commissioners, &c.*:

At a public meeting of all the residents on the lands reserved for Indian purposes, held at Banning, in San Gorgonio Pass, San Bernardino County, California, it was resolved that a delegation from our inhabitants be appointed to proceed to San Bernardino and lay before the commissioners a statement of the existing status of the lands reserved for Indian purposes as affecting the citizens resident on those townships known as 2 and 3, S. R. 1 E., and 2 S. R. 2 E., in San Bernardino meridian. Believing that it is of the utmost importance that you should become conversant with the facts affecting the condition and future well-being of the Indians whom it is designed to place upon these lands, we respectfully request a hearing. Among those facts as affecting the residents directly, and more remotely the Indians, are the following:

There is in San Gorgonio Township, of which these lands are a part, a population of 250 souls. In township 3 S., R. 1 E., is the village of Banning, which is the business center of the surrounding country, and has an immediately surrounding population of 50 souls. It has post and express offices, railroad depot, district school, church organization, general merchandise store, the flume of the San Gorgonio Flaming Company, two magistrates; and during the last year there was sold or shipped from this place alone fully 20,000 bushels of wheat and barley, over 200 tons of baled hay, a large amount of honey, butter, eggs, poultry, live stock, &c., besides 200 cords of wood. Although more than half of the area of this township is in the mountains and uninhabited, from the remaining portion which is surveyed land there is at this time fully 1,200 acres in grain, and the value of the improved property is over \$50,000, exclusive of railroad property. Vested interests have been acquired to all the water

available for irrigation under the code of laws existing in this State. Wells have repeatedly been dug without success in this township. United States patents to lands were granted in this township long anterior to the Executive order reserving the lands for Indian purposes, and since then the population has not increased. No Indian has, within the memory of man, resided in this township. There are not over two entire sections of land in the entire area left available for cultivation, and on these without abundance of water no one could possibly succeed in earning a livelihood. One of these sections was occupied and was abandoned, the attempt to raise a cereal crop having failed. The extreme aridity of the climate renders the successful growth of cereals problematical, even when summer fallowing is pursued, and the amount of human casualty possessed by the average Indian does not usually embrace the period of two years. To intersperse Indians between white settlers who own the railroad land or odd sections and the remaining portions of the Government sections, where a "no-fence" law exists, as here, would not be conducive to the well-being of the Indians, and would result in a depreciation of our property alike needless and disastrous. In township 2 S., R. 2 E., there are not over eighty acres available, that in Weaver Creek Cañon, where the water was acquired and utilized before the Executive order and the legal right well established. In township 2 S., R. 1 E., settlements were made many years before the issue of the order of reservation, especially on odd-numbered sections or railroad lands as then supposed to be, and these bona fide settlers have acquired claims in equity to their improvements. On one ranch in this township, that of Messrs. Smith & Stewart, who have cultivated and improved the mesa or bench lands, there was produced several thousand sacks of grain, but this involved such an outlay of capital and knowledge, beside experience in grain growing such as Indians do not possess. In this township, embracing the three mentioned, there are upward of forty voters, and these unanimously and respectfully ask you to grant us a hearing when we can reply to any interrogatories you may be pleased to make. If you will kindly name the time when to you convenient, the undersigned will at once wait upon you.

W. K. DUNLAP.
 BEN. W. SMITH.
 S. Z. MILLARD.
 WELWOOD MURRAY.
 GEO. C. EGAN.
 D. A. SCOTT.
 G. SCOTT.

There is upon this San Gorgonio Reservation a considerable amount of tillable land. There are also on it several small but good water-rights. One of these springs, with the adjacent land, is occupied by an Indian village called the Potrero, numbering about 60 souls; an industrious little community, with a good amount of land fenced and under cultivation. These Indians are in great trouble on account of their stock, the approaches to their stock ranges having been by degrees all fenced off by white settlers, leaving the Indians no place where they can run their cattle without risk of being corraled and kept till fines are paid for their release. All the other springs except this one are held by white settlers, who, with one exception, we are informed, have all come on within the past five years. They claim, however, to have bought the rights of former settlers. One of the largest blocks of this reservation lies upon the San Bernardino Mountain, and is a fair stock range. It is now used for this purpose by a man named Hyler. The next largest available block of land on the reservation is now under tillage by the dry system by the firm of Smith & Stewart. There is also a bee ranch on the reservation belonging to Herren & Wilson. One of the springs and the land adjacent are held by a man named Jost. He is on unsurveyed land, but claims that by private survey he has ascertained that he is on an odd-numbered section, and has made application to the railroad for the same. He requested us to submit to the Department his estimate of the value of his improvements. It is appended to this exhibit. It seems plain from the above facts, and from the letter of the Banning gentleman, that a considerable number of Indians could be advantageously placed on this reservation if the whites were removed. It would be necessary to acquire whatever titles there may be to tracts included in the reservation; also to develop the water by the construction of reservoirs, &c., probably to purchase some small water-rights. Estimating roughly, we would say by an expenditure of from \$30,000 to \$40,000 this reservation could be rounded out and put into readiness for Indians. It ought to be most emphatically stated and distinctly understood that without some such preparation as this in the matter of water-rights and channels the Indians cannot be put there. It is hardly possible for one unfamiliar with the Southern California country to fully understand how necessary this is. Without irrigation the greater portion of the land is worthless, and all arrangements for developing, economizing, and distributing water are costly. This is an objection to the San Gorgonio Reservation. There are two others. The Indians for the most part have an exceeding dislike to the region, and will never go there voluntarily; perhaps only by force. The alternative of railroad sections

with the sections of the reservations will surely lead to troubles in the future between the white settlers and the Indians. These are serious objections; but it is the only large block of land the Government has left available for the purpose of Indian occupancy.

Paper No. 1, appended to Exhibit O.—Claim of C. F. Jost and wife for improvements in San Geronio Reservation, Banning, San Bernardino County.

(Settled on section 25, township 2 S., R. 1 E., S. B. M., San Bernardino County, in May, 1875. Bought out other white settlers. Hold railroad permission to settle on land; of date, November, 1875.)

IMPROVEMENTS.

House	\$300 00
Barn	150 00
Milk-house	50 00
Meat-house	50 00
Granary	50 00
Potato-house and cellar	50 00
Chicken-house	20 00
Two board flumes	50 00
Two water dams	20 00
Honey-house	10 00
Wire fencing	300 00
Other fencing	200 00
One hundred and seventy fruit trees (mostly bearing this year)	400 00
Breaking up sod land and draining land	200 00
Amount paid to first white settler for claim (no improvements)	250 00
	2, 100 00

On the 1st of June I will have \$50 worth of seed potatoes in the ground, and labor, \$100. It is necessary to plow the ground three times to properly prepare it for potatoes. This crop in December of the same year is worth \$500 to \$600 in the markets. Have about seventy stands of bees, worth, say, \$300, which if I am moved will be a dead loss.

EXHIBIT P.

THE PAUMA RANCH.

The Pauma Ranch lies on the San Luis Rey River, between the Rincon and Pala Reservations. It contains three leagues of land, largely upland and mesa, good for pasturage and dry farming. It can be irrigated by bringing water from the San Luis Rey River. There is some timber on it; also some bottom lands along the river and along the Pauma Creek. The ranch is the property of Bishop Mora, who made to us the following proposition for its sale:

"For the sum of \$31,000 in gold coin of the United States of North America I am disposed to sell to the Government of the United States, for the benefit of the Mission Indians, the ranch called 'Pauma Ranch, in the county of San Diego,' containing 3 leagues of land, more or less, reserving to myself and to my assignees: 1st, 2 acres of land whereon the present Indian chapel stands; 2d, 320 acres on one-half section on the south side of the public road leading to Pala, whereon the frame house stands formerly belonging to Joaquin Amat. Terms, cash on delivery of deed of sale. This offer is made with the proviso that the transaction is to be concluded on or before the 31st day of October of the present year.

"Santa Ynez, Santa Barbara County, May 14, 1883.

"FRANCIS MORA,
"Bishop of Monterey and Los Angeles."

Upon being informed by us that this condition of time of sale would make it impossible for us to secure these lands for the Indians, the bishop in the following note waived that condition:

SAN LUIS OBISPO, May 21, 1883.

Mrs. WILLIAM S. JACKSON:

DEAR MRS. JACKSON: Your favor of the 17th instant has been received. I feel heartily thankful for the interest you take in behalf of our Indians, and do with pleasure waive the condition as regards the time, and will let the offer stand until the proposed bill has been voted on by Congress; provided, however, that the purchase

can be brought to a close during spring or summer of the year 1884, and subject to one year's lease, which will conclude December 31, 1884, because I must try *pendente transactione* to get enough to pay taxes.

Hoping you will reach home in good health,
Yours, affectionately,

FRANCIS MORA,
Bishop of Monterey and Los Angeles.

It should be distinctly understood that Bishop Mora in making this offer, and generously allowing it to stand open for so long a time, is influenced by a warm desire for the welfare of the Indians.

EXHIBIT Q.

Proposition for the sale of the Santa Ysabel ranch to the United States Government.

LOS ANGELES, CAL., May 19, 1883.

Mrs. HELEN HUNT JACKSON and ABBOT KINNEY, Esq.,
Special Commissioners to the Mission Indians :

Should the United States Government wish to purchase the Santa Ysabel rancho, in San Diego County, California, containing four leagues of land, or about 18,000 acres, we will sell said rancho for the sum of ninety-five thousand dollars (\$95,000) gold coin.

Respectfully,

HARTSHORNE & WILCOX,
By E. F. SPENCE, *Agent.*

EXHIBIT R.

AN ACT for the government and protection of Indians, passed by the California State legislature April 22, 1850.

SECTION 1. Justices of the peace shall have jurisdiction in all cases of complaints by, for, or against Indians in their respective townships in this State.

SEC. 2. Persons and proprietors of lands on which Indians are residing shall permit such Indians peaceably to reside on such lands unmolested in the pursuit of their usual avocations for the maintenance of themselves and their families; provided the white person or proprietor in possession of such lands may apply to a justice of the peace in the township where the Indians reside to set off to such Indians a certain amount of land, and on such application the justice shall set off a sufficient amount of land for the necessary wants of such Indians, including the site of their village or residence if they so prefer it, and in no case shall such selection be made to the prejudice of such Indians; nor shall they be forced to abandon their homes or villages where they have resided for a number of years; and either party feeling themselves aggrieved can appeal to the county court from the decision of the justice, and then, when divided, a record shall be made of the lands so set off in the court so dividing them; and the Indians shall be permitted to remain thereon until otherwise provided for.

This act has never been repealed, nor, so far as we could learn, complied with in a single instance. To-day it would be held as of no value in the California courts.

[Senate Ex. Doc., No. 22, Forty-eighth Congress, first session.]

Message from the President of the United States, transmitting a communication of 3d instant from the Secretary of the Interior, submitting draft of bill for the payment of the value of certain improvements made by certain settlers on the Round Valley Indian Reservation in California.

DECEMBER 19, 1883.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication of 3d instant from the Secretary of the Interior, submitting, with accompanying papers, a draft of a bill for the payment of the value of certain improvements made by certain settlers on the Round Valley Indian Reservation in the State of California, as appraised under the act approved March 3, 1873.

The subject is presented for the consideration of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
December 17, 1883.

DEPARTMENT OF THE INTERIOR,
Washington, December 3, 1883.

SIR: I have the honor to submit herewith a copy of a letter of 20th November, 1883, from the Commissioner of Indian Affairs, with draft of a bill therein noted to provide for the payment for certain improvements made by settlers on the Round Valley Indian Reservation in California, as appraised under the act of March 3, 1873 (17 Stat., 633).

It will be perceived from House Ex. Doc. 205, Forty-seventh Congress, first session, herewith, that this subject has been heretofore presented for legislative action, but failed to become a law.

I respectfully renew the former recommendation of the Department, and respectfully request that the matter may be presented for the favorable action of the Congress.

I have the honor to be, very respectfully, your obedient servant,

H. M. TELLER,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 30, 1883.

SIR: In office report, dated May 13, 1882, it was recommended that Congress be asked to make provision to pay for the improvements made by certain settlers on the Round Valley Indian Reservation, in the State of California, as appraised under the act of Congress approved March 3, 1873 (17 Stat., 633), the sum required for this purpose being \$10,285.41, in addition to the amount of \$594.37 on the books of this office applicable to this object.

A clause to be inserted in one of the appropriation bills was submitted with the report.

On the 18th of May, 1882, you transmitted the report to Congress, through the President, concurring in the recommendation of this office.

The facts in this matter are fully set out in office report, above referred to.

The necessity for this appropriation still exists, the Round Valley Reservation being practically useless for Indian purposes while occupied in great part by the settlers thereon.

These settlers should either be paid for their improvements and compelled to remove, as contemplated by the act of March 3, 1873, or the reservation should be abandoned and the Indians removed to a new location.

I have accordingly prepared a draft of a bill, similar in effect to the clause which Congress was asked to insert in an appropriation bill, and have the honor to recommend that the same be transmitted to Congress with a request for favorable action.

I inclose two copies of this report and of the proposed bill. I also inclose two copies (printed) of House Executive Document No. 205, first session Forty-seventh Congress, which contains office report of May 13, 1882, and your letter of transmittal, dated May 18, 1882.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The SECRETARY OF THE INTERIOR.

A BILL to provide for the payment for improvements of certain settlers on the Round Valley Indian Reservation in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of ten thousand two hundred and eighty-five dollars and forty-one cents, or so much thereof as may be necessary, to pay for improvements made by certain settlers on the Round Valley Indian Reservation, in the State of California, as appraised under the act of Congress approved March third, eighteen hundred and seventy-three, which amount, in addition to the sum of five hundred and ninety-four dollars and thirty-seven cents, now on the books of the Office of Indian Affairs, applicable to that purpose, aggregates the sum of ten thousand eight hundred and seventy-nine dollars and seventy-eight cents, being the amount necessary to pay to the parties now holding the improvements aforesaid made by and appraised in the name of the following claimants, viz:

Frank Asbell, three hundred and four dollars and seventy-eight cents; Pierce Asbell, five hundred and eighty dollars; David W. Ayers, three hundred dollars; Jacob Bellvil, two hundred dollars; E. S. Gibson, one thousand dollars; Andrew Gray, one

thousand seven hundred and ninety-five dollars; Samuel Lewis, one thousand dollars; William Murphy, one thousand and four hundred dollars; Fayette Nuckles, one hundred dollars; William Pollard, six hundred and fifty dollars; school trustees, two hundred dollars; ——— Steele, two hundred and fifty dollars; Jacob Updegraff, two thousand nine hundred dollars; Frank W. Youree, two hundred dollars.

[House Ex. Doc. No. 205, Forty-seventh Congress, first session.]

Message from the President of the United States, transmitting a communication from the Secretary of the Interior relative to an appropriation for the payment for improvements made by certain settlers on the Round Valley Indian Reservation, in California.

MAY 23, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication from the Secretary of the Interior of the 18th instant, with accompanying papers, submitting the draft of a proposed clause for insertion in one of the pending appropriation bills to provide for the payment for improvements made by certain settlers on the Round Valley Indian Reservation, in California, as appraised under the act approved March 3, 1873.

The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
May 22, 1882.

DEPARTMENT OF THE INTERIOR,
Washington, May 18, 1882.

SIR: I have the honor to submit herewith copy of a communication from the Commissioner of Indian Affairs of the 13th instant in relation to payment for improvements made by certain settlers on the Round Valley Indian Reservation, in California, as appraised under the act of Congress approved March 3, 1873.

The sum of \$594.37 is now on the books of the Indian Office, applicable to the payment for said improvements.

The further sum of \$10,285.41 is required for that purpose, and a draft of a proposed clause for insertion in one of the appropriation bills now pending in Congress, to provide the amount necessary for the purpose named, is also herewith inclosed.

I concur in the recommendation of the Commissioner that the matter be presented for the favorable action of Congress.

Very respectfully, your obedient servant,

H. M. TELLER,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 13, 1882.

SIR: The act of Congress, approved March 3, 1873 (17 Stat., 633), provides for the restoration to the public domain of 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, and directs the Secretary of the Interior to cause the same to be surveyed and offered for sale in legal subdivisions at not less than \$1.25 per acre, with the proviso that the improvements owned by persons on the lands restored before the passage of the act shall be the sole property of such persons, who shall have priority of right to purchase not exceeding 320 acres of land in adjacent quarter sections containing and adjoining said improvements, the proceeds of the sale of the lands restored to be used to pay for the improvements and claims of settlers residing within the limits of the new reservation created by the act, and for improvements of Indians on land restored to the public domain after the appraisalment of such improvements, as provided by said act.

The second section of the act directs the Secretary of the Interior to appoint three commissioners to examine the country with a view to establishing the northern boundary line of the reservation, and to appraise the improvements referred to in the first section of the act. This section also authorizes the Secretary of the Interior to pay for these improvements out of the money reserved for that purpose by the first section of the act.

By reference to the report of the commission appointed to appraise these improvements (see Ex. Doc. 118, Forty-third Congress, first session), it will be seen that the following appraisement was made of the improvements of settlers within the limits of the reservation as created by said act, viz:

Asbell, Frank	\$304 78	Lewis, Samuel	\$1,000 00
Asbell, Pierce	730 00	Murphy, Samuel	1,400 00
Ayers, David W	300 00	Nuckles, Fayette	100 00
Bellvil, Jacob	200 00	Pollard, William	650 00
Bourne, C. H.	5,130 00	Pricing, G. J.	960 00
Brown, W. J.	300 00	School trustees	200 00
Dunlap, James L.	450 00	Steele	250 00
Eberlee, C. H.	2,925 00	Thompson, David	1,940 00
Gibson, E. S.	1,000 00	Updegraff, Jacob	2,900 00
Gray, Andrew	1,795 00	Vannader, Wm. P.	4,500 00
Kelley, Bernard	100 00	Wiltsee, J. O.	1,000 00
Laycock, Dryden	3,360 90	Youree, Frank W.	200 00
Leasure, Antonio	975 00		
		Total	32,669 78

Less \$150, the appraised value of Pierce Abell's fence, which he agreed to remove, leaving \$32,519.78.

A portion of these claims have been settled, amounting in the aggregate to \$21,640, of which \$17,340 was paid from the amount received from the sale of the lands as provided in the act; Vannader's mill, appraised at \$4,000, being settled from funds set apart for the incidental expenses of the Indian service, and the appraisement in favor of W. J. Brown, of \$300, being relinquished; leaving a balance yet unpaid of \$10,879.78 due the following claimants, viz:

Asbell, Frank	\$304 78	Nuckles, Fayette	\$100 00
Asbell, Pierce	580 00	Pollard, William	650 00
Ayers, David W	300 00	School trustees	200 00
Bellvil, Jacob	200 00	Steele	250 00
Gibson, E. S.	1,000 00	Updegraff, Jacob	2,900 00
Gray, Andrew	1,795 00	Youree, Frank W.	200 00
Lewis, Samuel	1,000 00		
Murphy, William	1,400 00	Total	10,879 78

It appears that the entire area subject to the operation of said act of March 3, 1873, was 15,418.83 acres, and that of this area, 14,311.50 acres were entered by parties claiming a priority of right to purchase on satisfactory proof being adduced, leaving 1,107.33 acres still vacant. The sales, as they appear on the books of the Land Office, are as follows:

Third quarter, 1873, 7,059.29 acres	\$8,869 11
Fourth quarter, 1873, 5,640.98 acres	7,051 22
July 7, 1874, to August 31, 1875, 1,131.23 acres	1,414 04
To January 31, 1876, 80 acres	100 00
To December 31, 1876, 320 acres	400 00
To February 28, 1877, 80 acres	100 00
Total, 14,311.50 acres	17,934 37

There is now a balance on the books of this office of \$594.37, proceeds of the sale of lands authorized by the first section of the act of 1873, which is applicable to the payment of the balance of the appraised improvements hereinbefore mentioned.

It does not appear that any additional sales have been made since February, 1877, and were the entire balance of 1,107.33 acres subject to the operations of the act sold at the rate provided for (\$1.25 per acre), it would realize the sum of \$1,384.16, which, added to the balance now credited to the same fund on the books of this office of \$594.37, would make a total of \$1,978.53. There is, however, no reasonable prospect of any additional sales being made under the provisions of the act of 1873.

And therefore the only amount which can be relied on for use in this connection is the \$594.37—the balance remaining on the books of this office.

The difference between this last mentioned sum and the amount of the appraised value of the unpaid improvements is \$10,285.41.

The fact that the aforesaid claimants have never been paid for their improvements has caused an endless amount of trouble and confusion upon the reservation. They refuse to move; and from time to time have increased the boundaries of their alleged claims, and at the present time, almost the whole of the best lands of the reserve are claimed by or through them, and by others who claim land through the State, under the swamp act of September 28, 1850.

These parties have many thousand head of stock upon these lands, and in fact the reservation is under their control to such an extent as to be practicably of little use to the Indians. Should an appropriation be made, these parties could be paid for their improvements, or a tender made of the appraised value thereof, in which event the Government would be in a position to proceed against them under the provisions of sections 2117 and 2118 of the Revised Statutes.

In view of the facts, I have the honor to recommend that Congress be requested to make an appropriation of \$10,285.41, to be disbursed under the direction of this office to the various unpaid claimants under the act of March 3, 1873, as hereinbefore specified.

I submit herewith, for the purpose indicated, a clause to be inserted in one of the appropriation bills now pending in Congress, with the hope that favorable action will be taken in the matter at the present session.

Very respectfully, your obedient servant,

E. L. STEVENS,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

Proposed clause.

For this amount, or so much thereof as may be necessary to pay for improvements made by certain settlers on the Round Valley Indian Reservation, in the State of California, as appraised under the act of Congress approved March 3, 1873, \$10,285.41, which amount, in addition to the sum of \$594.37, now on the books of the office of Indian Affairs, applicable to that purpose, aggregates the sum of \$10,879.78, being the amount necessary to pay the following-named claimants, viz:

Frank Asbell, \$304.75; Pierce Asbell, \$580; David W. Ayers, \$300; Jacob Bellvil, \$200; E. S. Gibson, \$1,000; Andrew Gray, \$1,795; Samuel Lewis, \$1,000; William Murphy, \$1,400; Fayette Nuckles, \$100; William Pollard, \$650; school trustees, \$200; Steele, \$250; Jacob Updegraff, \$2,900; Frank W. Youree, \$200.

[Senate Ex. Doc. No. 61, 47th Congress, 2d session.]

Message from the President of the United States, transmitting a communication from the Secretary of the Interior of the 7th instant, with accompanying papers, setting forth the urgent necessity of stringent measures for the repression of the rapidly increasing evasion and violations of the laws relating to public lands, &c.

FEBRUARY 8, 1883.—Read and referred to the Committee on Public Lands and ordered to be printed.

To the Senate and House of Representatives :

I herewith transmit a communication from the Secretary of the Interior of the 7th instant, with accompanying papers, setting forth the urgent necessity of stringent measures for the repression of the rapidly increasing evasions and violations of the laws relating to public lands, and of a special appropriation for this purpose, both in the current and approaching fiscal years.

The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
February 8, 1883.

DEPARTMENT OF THE INTERIOR,
Washington, February 7, 1883.

SIR: I have the honor to submit herewith copy of letter addressed to me, on the 3d instant, by the Commissioner of the General Land Office, with accompanying papers, in which he sets forth the urgent necessity of stringent measures to repress the rapidly increasing evasion and violation of the laws relating to public lands, and the need of a special appropriation for this purpose, both in the current and approaching fiscal years.

The evidences of fraudulent entry and illegal appropriation of public lands have of late accumulated to an alarming extent. As the quantity of public lands diminishes, their value naturally appreciates, so that now their market value frequently exceeds greatly the Government price for them. This stimulates entries for speculative purposes, and laws intended to benefit settlers in good faith are so perverted for fraudu-

lent purposes that the actual settler finds it difficult, if not impossible, to get title to public lands without first paying tribute to the dishonest claimant. No sooner is the plat of survey filed in the local land office than claims (pre-emption, homestead, and timber culture) are at once filed covering all the agricultural lands; claims that will, however, many of them, be relinquished for a consideration. This wholesale offer of relinquishment is, of course, *prima facie* proof of fraud. This class of claimants have been specially numerous and busy in the Territory of Dakota, where large bodies of public lands have recently been opened to settlement, so that the territorial governor has felt constrained to call the attention of the legislative assembly to the subject.

Under the desert-land act, too, large tracts of public lands have been unlawfully secured.

Forged soldiers' additional homestead certificates have been located on a large belt of the most valuable timber lands in California, and the timber cut and removed.

In the grazing districts thousands and even hundreds of thousands of acres have been unlawfully inclosed, and *bona fide* settlers shut out.

In the views set forth in the Commissioner's letter I fully concur.

Very respectfully,

H. M. TELLER,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 3, 1883.

Hon. H. M. TELLER,
Secretary of the Interior :

SIR: In my annual report for 1882 I made the following reference to fraudulent entries of public lands:

"Investigations made during the past year have developed the existence of much fraud under the shield of the pre-emption, homestead, and timber-culture laws.

"These investigations have been based upon complaints made to this office that great quantities of valuable coal and iron lands, forests of timber, and the available agricultural lands in whole regions of grazing country have been monopolized by persons who have caused fraudulent pre-emption and homestead entries to be made by their agents and employés.

"A proper investigation of the numerous complaints that are constantly being received would require the employment of a large force of special agents, and involve an expense far beyond the customary appropriation by Congress available for that purpose. Efforts have been made to check unlawful acts of this character in the coal and iron regions of Alabama, the timber regions of Minnesota, the grazing country of California, and on agricultural lands in the Territory of Dakota, by the special investigation of cases of alleged fraud, trials before local land officers to cancel illegal entries, and the institution of civil and criminal suits. These proceedings have, however, necessarily been confined to one or two localities in each of said States and Territories, owing to the limited facilities of this office for such service."

In my estimates prepared in July last of appropriations required by this office for the service of the fiscal year ending July 30, 1884, I did not include estimates for the expenses of special agents other than as incidentally embraced in the item of miscellaneous and contingent expenses, a very small portion of which only will be available for the expenses of inspectors of local land offices, of offices of surveyors-general, and for the expenses of clerks detailed to investigate frauds.

The amount thus available for the present fiscal year was not sufficient to pay the expenses of three inspectors authorized by the laws of the last session of Congress, and but one such officer was appointed.

Since the estimates for the next fiscal year were prepared evidences of fraudulent entry and illegal appropriation of the public lands have accumulated to such degree as to render it, in my judgment, my imperative duty to bring the matter more fully to the notice of Congress, and to ask for a special appropriation to enable this office to take some adequate steps for the protection of the public domain.

I transmit herewith copies of reports of special agents and extracts from letters received from official and other sources, which exhibit some of the methods of illegal entry which now prevail, and serve to indicate the alarming extent to which these frauds are carried.

The rapid absorption of public lands under the various acts for their appropriation and disposal has brought the remaining lands into great request, and the marketable price of unimproved land in many parts of the country much exceeds the Government price.

This fact stimulates entries for speculative purposes, and the exceedingly liberal legislation of Congress designed to favor actual settlers, has become an instrumentality for the fraudulent acquirement of titles and claims by means of which the actual settler is prevented from making settlement unless he enters into an expensive contest to clear the land from a fraudulent claim, or purchases at a speculative price the relinquishment of some claim of that character.

My information is that desirable agricultural lands in new States and Territories are, in many instances, and in some portions of the country apparently in all instances, covered with claims simultaneously with the filing in the local land office of the plats of township surveys.

These claims consist of pre-emption filings, soldiers' homestead filings, timber-culture entries and homestead entries. Such filings and entries are frequently made by professed agents or attorneys, who in many cases immediately thereafter advertise relinquishments of the same for sale. The offering of relinquishments in this wholesale manner is *prima facie* evidence of the fraudulent character of claims proposed to be so relinquished. And yet such claims hold the land until the parties controlling the relinquishments can find customers in the persons of actual settlers or other parties who will buy the relinquishments from them, unless the fraudulent claims are removed by individual contests, or by an investigation and hearing at the instance of the Government.

Settlers seeking lands cannot usually afford to expend the means or time necessary to the prosecution of a contest, and they are, therefore, compelled by the circumstances of the case either to abandon an attempt to make settlement or to buy their way to the public lands from persons who unlawfully control such lands.

In the Territory of Dakota, which cast 50,000 votes at the last election, the number of agricultural entries to the present date exceeds 150,000, and such entries are now being made at the rate of more than 50,000 yearly. As a very considerable portion of the inhabitants are settled on railroad lands and school sections, it is manifest that the number of entries of public lands is far beyond the actual occupation of such lands, and far beyond the entries that could legally have been made. The governor of this Territory in his last annual message to the legislative assembly, makes the following statement:

"The well-intended acts of Congress, allowing the entry of 160 acres of land as a tree claim, have been so completely nullified by the manipulations of land-sharks that our broad and fertile prairies are comparatively treeless."

The governor recommends that a certain number of acres of land be exempted from Territorial and local taxation in order to encourage the growth of trees and homesteads, for the reason expressly given, that frauds have been so extensively perpetrated under the timber-culture act, that the practical operation of that act has been to prevent instead of to promote the cultivation of trees.

These frauds are not confined to the Territory of Dakota, but extend to other States and Territories as well.

Under the desert-land act entries are procured to be made in the interest of others than the professed entryman, in violation of the restriction to one entry by any one person, and large tracts of land are thus unlawfully secured.

Desert entries are also frequently made upon good grass or agricultural lands which are leased for grazing or other purposes, or held for speculation. Such entries are also used to control the water supply upon which larger areas of country are dependent, when no intention of complying with the law exists, or little or no attempt at such compliance is made.

Forged soldiers' additional homestead certificates have been located on a large belt of the most valuable timber land in California, and the timber cut and removed.

In the grazing districts of Western Kansas, in Colorado, New Mexico, Arizona, California, Nevada, Idaho, Wyoming, and Montana, the title to agricultural lands and water rights is in large classes of cases obtained by perjury and fraud, followed or preceded by the unlawful inclosure of tracts of public lands, varying from some thousands to several thousand acres each, over which dominion is exercised by private parties to the exclusion of valid settlement rights under the laws of the United States. It appears also, in some cases, that lands so fenced in are parcelled out according to the number of the cattle possessed by individual ranchmen, and the right to herd upon such public lands leased to them for a money consideration.

In California, Oregon, and Washington Territory collusive entries are made under the timber-land act for the purpose of procuring or controlling the timber in large quantities, contrary to the restrictions of the law. It is also represented that lands valuable for agriculture, as well as for timber, are entered under the timber-land act, and that titles to large bodies of timbered farming lands are thus illegally obtained by single individuals.

Valuable timber lands, and lands unfit for anything but timber, are fraudulently entered under the homestead and pre-emption laws in the above and other States and Territories.

Timber lands in Northern Minnesota have been so largely entered by false affidavits of settlement under these laws that I felt compelled during the past year to place 3,000,000 acres on the market at the minimum price on agricultural land to avoid such wholesale criminality.

A partial investigation in Alabama has disclosed the fact that the Government has been defrauded out of some millions of dollars through the unlawful entry of coal and iron lands under agricultural laws. Information of similar frauds committed in Colorado and elsewhere, has been pressed upon my attention, but not investigated for want of means.

Complaints of frauds, and appeals for the protection of bona fide settlers from the exactions and oppressions of those who commit or cause these frauds to be committed, are constantly coming up to this office. A flood-tide of illegal appropriations seems to be sweeping over the new States and Territories, threatening to engulf the entire public domain.

The time has arrived when, in my serious judgment, either a complete radical change in public land laws and administration, or some adequate means of enforcing the penalties of existing law, has become an alternative that can no longer be disregarded.

This office has never been furnished with facilities or means to secure a compliance with the requirements of the public land laws.

I have been able to make investigations no further than to the extent of demonstrating the necessity and utility of such service; but the little that has been done has produced such results as to satisfy me that it is within the administrative power of this department to materially check these frauds, and that the cost of such service, however apparently large, is trifling in view of the pecuniary results alone that may be achieved, irrespective of larger considerations of the promotion of the general welfare.

There are now before this office claims in some initiative or progressive stage covering titles to more than 200,000,000 acres of land, of which some 50,000,000 acres are embraced in individual entries under general laws.

That a very considerable proportion of these claims are without validity or merit is indisputably true. Yet this office has been compelled for years past to treat doubtful claims as valid, and to pass over to claimants the title of the United States because it could not investigate the facts.

The same course must largely be continued unless a change in means and measures shall be effected.

If a small portion of the money to be recovered for the use of the United States from the cancellation of fraudulent entries, or a still smaller portion to be saved from the avails of the sale of mineral and timber lands that are now illegally appropriated, could be made available for the expense of investigations and the costs of trials, this service could be properly performed.

There ought to be in each land district in the United States at least one competent and reliable special agent, and in this office a sufficient organization to supervise and direct the work of such agents.

While I hesitate to ask for the full appropriation which the needs of the public service demand, I do earnestly recommend and urge that an appropriation of \$150,000 be made for the expenses of special agents and examiners, and of clerks detailed to investigate frauds, for the service of the next fiscal year, and that an appropriation of \$50,000 be made for similar service for the remainder of the present year.

Very respectfully,

N. C. McFARLAND,
Commissioner.

SAN FRANCISCO, CAL., July 22, 1881.

SIR: * * * I also note the following transfers of several fraudulent entries, only partially reported in my former letter, to wit:

F. P. Piper: Lots 4, 5, 6, and 7, in Sec. 1; Lots 4, 5, and 6, in Sec. 2, 22 N., 14 W. Transferred to Geo. E. White August 11, 1879. Date of proof, Book 25, page 149.

J. M. Steele, sr.: Lot 3 and E. $\frac{1}{4}$ 1 and 2, Sec. 1, 22 N., 14 W. Transferred to Geo. E. White November 13, 1880. Date of proof, Book 24, 165.

M. J. Lee: SW. $\frac{1}{4}$ SW. $\frac{1}{4}$ and N. $\frac{1}{4}$ SW. $\frac{1}{4}$ 1, and NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ 2, 22 N., 14 W. Transferred to Geo. E. White May 1, 1878, day after. Proof, Book 24, 371.

D. C. Mackey: SE. $\frac{1}{4}$ 1, T. 22 N., 14 W. Transferred to Geo. E. White July 24, 1878. Date of proof, Book 18, 448.

James Edwards: Lot 9 and W. $\frac{1}{4}$ lots 2 and 8, Sec. 1, 22 N., 14 W. Transferred to Geo. E. White July 27, 1878, two days after. Proof, Book 18, 447.

H. Taylor: Sec. 15, 22 N., 14 W. Writes me admitting his wrong-doing, or rather that he did not comply with the law. I make no special comment on his case.

Rose Wilsey and L. B. Tuttle, same township and range, have not made transfers, or rather they have not been placed on record.

All the above transfers have been filed quite recently. This fact and their date and character of improvements, which have been noted, make a *prima facie* case of fraud in each.

Very respectfully,

WILSON T. SMITH,
Special Agent.

The COMMISSIONER OF THE GENERAL LAND OFFICE,
Washington, D. C.

In the matter of irregularities relating to the entry of lands in Mendocino County, California.

S. P. Davis, a citizen of Contra Costa County, being duly sworn, deposes and says: That he was a resident of Round Valley, Mendocino County, California, from 1871 until 1879; that during that period he was well informed as to the manner in which pre-emption and homestead entries were made and proven up, to wit, generally without improvements of any value and in the interest of sheep and stock men having capital and desiring to secure large ranges for their stock, including George W. Henley & Bros., George E. White, Asbill Bros., and others.

Their manner of procedure was to employ their herders and other parties to make pre-emption filings for a consideration, which was from \$50 to \$200 per quarter section. This affiant could give many names by whom and the lands so proven up if he had access to the records of the United States land office at San Francisco. In one instance now remembered, Sturdevant & Force, of Ukiah, employed a large number of men to file and prove up pre-emptions for them in Rodear Valley, and solicited this affiant to engage in the same business; also Crawford & Falls, who had a range in the forks of Ed River, north of Rodear Valley; also one Josiah Anthony solicited this affiant to make a pre-emption filing for him. Generally it was agreed that the stockmen were to make the improvements or allow the pre-emptor \$20 for making them in addition to the price agreed upon for the pre-emption right.

Affiant believes he could name fifty persons who have made such arrangements with stock-men, but never knew one who made any pretense of residing on their claims, unless it was some one who happened to be herding stock in that vicinity for the man who had employed him to make the pre-emption. This practice was common in Mendocino County, and this affiant is informed and believes it was also common in Humboldt and Trinity Counties, but of the latter he has no personal knowledge.

That this affiant was a citizen of Round Valley at the time of the passage of the act of March 3, 1873, restoring a portion of the Round Valley Indian Reservation to the public lands. That he was present when C. F. Roberts, register United States land office at Eureka, came to said Round Valley and commenced to take filings under said act of March 3, 1873, on the 11th day of August, 1873, and was in daily attendance while the said Roberts remained in Round Valley. The receiver of the land office was not present. The filings and proofs were made at the same time. There were no lands offered at public sale, except such as were claimed to have improvements on them. That George E. White, by himself and persons whom he had employed, secured fourteen quarter-sections of land; George W. Henley secured eighteen quarter-sections, Lindley Williamson three and a half quarter-sections, and W. P. Melendy five and a half quarter-sections, while under the act 320 acres was the limit any one person was entitled to enter, making a total of some 4,000 to 5,000 acres entered in fraud of the rights of actual settlers, through the open favoritism of the said C. F. Roberts, register.

When any one came in to file and prove up, who was in the interest of the "ring," White would be present, and it was only necessary for him to say to Roberts that the claim was all right, when it would be passed and the entry allowed without further form or investigation, Roberts in such cases saying it was only necessary to own the improvements, residence not essential. But when a bona fide settler came in, who was not vouched for by the ring, he was required to locate his entire claim by legal subdivisions, to show his improvements and their value, and that he was a resident thereon March 3, 1873. In one contested case the said Roberts, register, proceeded to a private house, some miles distant from the usual place of receiving filings and proofs, in fact to the house of one of the real parties in interest, and without the knowledge of the contestant, and in the night-time took *ex parte* affidavits in the interest of the claimant.

The charges made by the register for filing and proving was: For filing, \$6, and

proof, \$12, regardless of the size of the claim. This affiant paid the sum of \$18, and was awarded 80 acres. This affiant was solicited to subscribe the sum of \$25 for the purpose of paying the said Register Roberts for coming to Round Valley, which he did not do, believing the same to be illegal. The said Roberts was to have recovered the sum of \$800, over and above his fees, and this affiant is informed and believes he did receive the sum of \$500 in addition to the amount charged as fees, making a total of about \$1,600. That the receiving of said sum of money was corrupt, as he believes, and influenced the decision of the said Roberts in favor of the ring, or combination, paying the same when the interests of said ring came in conflict with other claimants. That this affiant was present every day during the time that filings and proofs were being made, and could not be otherwise than cognizant of the fact that certain persons were allowed to make proof without due inquiry or investigation as to settlement or occupancy and entries permitted, which did not come within the requirements of the act March 3, 1873.

One John D. Wathen entered 320 acres for George E. White. Had no improvements whatever and never resided thereon. This entry was contested by Mrs. Mildred Thomas. The testimony was taken by some one other than the register. The said Wathen secured the land and conveyed the same to White. To further show that the said Roberts was in the interests of this combination, this affiant states that one C. F. Davis had made a filing on the SE. $\frac{1}{4}$ 8, 22, 12, and, after having paid for the same, the said Roberts, before hearing any testimony, or knowing anything of the merits of the claim, other than what Henley or White may have said to him, in the presence of this affiant, told the said Davis that he (Davis) had better withdraw his claim for the land and let W. P. White enter it, as he (Davis) could not hold it, and this notwithstanding the said White had never resided upon or exercised any control over the said tract; in fact, did not even reside in Round Valley, while the said Davis had made improvements on said land prior to March 3, 1873, which said improvements had been torn down and carried away by force of arms by the said White, Henley, and others in their employ, and Davis threatened with violence and death should he make any attempt to renew his settlement. Seeing the register had already prejudged his rights, and that it was useless to contend against the deciding power, Davis abandoned his attempt to secure the land.

One George W. Morrison proved up on 160 acres, which he had sold to Henley prior to making proof.

One William Murphy, residing in Williams Valley, some eight miles distant, proved up on 320 acres for Lindley Williamson, which embraced Williamson's dwelling and a part of his improvements, while Williamson himself proved up on 280 acres of land he did not reside upon, the same being in part inclosed and occupied by others who did desire to enter it.

One A. O'Dell proved up and entered NW. $\frac{1}{4}$ 6, 22, 12, for the use and benefit of W. H. Hoffman, and was to have \$200 for so doing. O'Dell had no interest in the land whatever, but in order to enable him to make the proof, a mortgage was executed to him by Hoffman. No indebtedness existed. After the entry was completed the entry was transferred to the said Hoffman, who proved up and entered the N. $\frac{1}{4}$ 24, 22, 13, for George E. White, in consideration of the O'Dell land to him.

In another instance, John Baker, who went to Eureka and proved up his claim there, and paid all the office fees demanded of him. His certificate of entry was to be sent to Covelo, which was done, with instructions from Register Roberts to collect \$13.50 more as expense money for the said Roberts's trip to Round Valley, notwithstanding the business was all transacted at the land office at Eureka. The said Baker never received his certificate. He subsequently sold his land to G. W. Henley.

Dr. W. P. Melendy proved up on 280 acres, Mrs. Long on 320 acres, and L. Cornelia Long contested for 320 acres, of which 240 acres were awarded her by Register Roberts. All this land was for Dr. Melendy, at whose instance Mrs. Long and daughter were induced—yes, compelled, being members of his family—to make these claims, which said claims were proven up for them, or rather in their names, by George E. White and G. W. Henley.

Dr. Melendy had in April, after March 3, 1873, brought suit against this affiant for trespass on the same land proven up for L. Cornelia Long, while at that time she claimed land elsewhere, to wit, the SE. $\frac{1}{4}$ 6, and NE. $\frac{1}{4}$ 7, 22, 12. On the contested claim she had no improvements, and only pretended to own a string of fence 50 yards in length, said to have been bought of W. P. White, though previously sold to this affiant by George E. White. Dr. Melendy claimed 880 acres, and returned that amount of land to the assessor of Mendocino County for the years 1873-'74. When the filings and proof were made in Round Valley, in cases not contested, the register, C. F. Roberts, received the entry-money. In the case of this affiant, contested and heard at Eureka, the sum of \$400 was tendered and received by the United States land officers, and remained in the hands of the receiver for several days, who represented that the contest might not be settled for ten years, and that this affiant had better take the money back again, which was done.

The following is a statement of lands entered under the act of March 3, 1873, by substitutes, for the benefit of the parties named, to wit:

	Section.	Township.	Range.	Acreage.
George E. White, for White.....				320
Robert Donoson, for White, N. $\frac{1}{4}$	17	22	12	320
W. N. Frity, for White, NE. $\frac{1}{4}$ and S. $\frac{1}{4}$	18	22	12	240
W. N. Frity, for White, NW. $\frac{1}{4}$	8	22	12	320
W. P. White, for White, NE. $\frac{1}{4}$ 17 and SE. $\frac{1}{4}$	24	22	13	320
W. H. Hoffman, for White, N. $\frac{1}{4}$	16	22	12	200
William Pullen, for White, SW. $\frac{1}{4}$ and SW. $\frac{1}{4}$ SE. $\frac{1}{4}$	13	22	13	320
M. C. Barnes, for White, S. $\frac{1}{4}$	14	22	13	320
J. D. Wathen, for White, NW. $\frac{1}{4}$ 13 and NE. $\frac{1}{4}$				
Making a total for George E. White of.....				2,360
G. W. Henley, for Henley, NE. $\frac{1}{4}$ 19, and NW. $\frac{1}{4}$	20	22	12	320
William Turner, for Henley, W. $\frac{1}{4}$	20	22	12	320
Thomas J. Henley, for Henley, SW. $\frac{1}{4}$ 17 and SE. $\frac{1}{4}$	18	22	12	320
Isaac Lilloson, for Henley, SE. $\frac{1}{4}$ and S. $\frac{1}{4}$ SW. $\frac{1}{4}$	22	22	13	320
for Henley, N. $\frac{1}{4}$ NW. $\frac{1}{4}$	27			
P. K. Dodge, for Henley, S. $\frac{1}{4}$	20	22	12	320
J. W. Turner, for Henley, E. $\frac{1}{4}$	29	22	13	320
T. B. Henley, for Henley, S. $\frac{1}{4}$	19	22	12	320
G. W. Morrison, for Henley, SE. $\frac{1}{4}$ 17 and NE. $\frac{1}{4}$ (1).....	20	22	12	160
Whitcombe Henley, for Henley, SW. $\frac{1}{4}$ 18 and NW. $\frac{1}{4}$	19	22	12	320
Making a total of, for G. W. Henley.....				2,720
W. P. Melendy, SE. $\frac{1}{4}$ 6, S. $\frac{1}{4}$ SW. $\frac{1}{4}$ and SW. $\frac{1}{4}$ SE. $\frac{1}{4}$	5	22	12	280
L. Cornelia Long, NW. $\frac{1}{4}$ and W. $\frac{1}{4}$ NE. $\frac{1}{4}$	8	22	12	240
Lodena Long, NE. $\frac{1}{4}$ and N. $\frac{1}{4}$ SE. $\frac{1}{4}$	7	22	12	240
A. O'Dell, for Hoffman, NW. $\frac{1}{4}$	6	22	12	160
William Murphy, for Williamson, S. $\frac{1}{4}$	4	22	12	320

This affiant would further state that the foregoing list was taken from the filings made before Register Roberts in Round Valley, and in transcribing the same some inaccuracies may have occurred, but he thinks he will be found in the main correct. To all of which he sincerely subscribes, to the best of his knowledge and belief.

S. PAUL DAVIS.

CONTRA COSTA COUNTY,
State of California, ss:

Subscribed and sworn to before me this 22d day of March, 1881.

WILSON T. SMITH,
Special Agent.

SAN GORGONIA, SAN BERNARDINO COUNTY, CALIFORNIA,

October 17, 1884.

To the Hon. SECRETARY OF THE INTERIOR:

DEAR SIR: The committee of United States Senators who made investigation of Indian affairs on Pacific coast came to Los Angeles and did not meet a fair representation of the interests in Banning Reservation. While the Indians are much less now than they were before the whites made any settlement, they have all their lands they ever occupied in the last eight years, to my knowledge, and have never been molested in the least. There are two white settlers in the Indian Potrero and above the Indians, on their little stream of water. If it should be the policy of the Government to make any reservation more than they now occupy, those two settlers who were occupying the land before being set aside for Indians should be bought out and the other lands restored to Government for settlement. As for all the Indians here, they would have a plenty of land, all they say they want. All the other lands in the reservation are now occupied by whites that is worth occupying. Speculation is the largest interest. In the other lands than occupied by Indians there are four townships, township 3 having more good land than all the other three, and having a railroad station and a good stream of water, owned by capitalists. They are such compared with other settlers here. The Indian agent tells me that he will propose to have township 3 restored to Government. The agent of speculators in land and water and the Indian agent met senatorial committee at Los Angeles, and I am safe in say-

ing that their report in regard to the situation of the Indians and the white settlers here is arranged to the satisfaction of the speculators, and should the Government take any action on such representation as this land agent would make, it will work a hardship upon the poor settlers, and with no benefit to the Indians. We had meeting of settlers called, and in the meeting land agent showed his hand very plain—that the only interest in the lands here reserved for Indians is between capitalists who want to speculate and white settlers. When the land agent ran as a delegate to meet senatorial committee at Los Angeles he received one vote. The committee which was elected by the people could not or did not know of the Senate committee's arrival; hence the report of land agent is all they could receive on our situation.

Honorable Secretary, my incentive for writing to you in my humble way is to get, if possible, an investigation; and as it looks now, as it always did in this affair, that it is kept unsettled in the interest of speculators. The Indian agent is trying to get me to say or do something to get to eject me. Alone he is continually asking me in regard to what he has heard of my making threats of violence, &c., if he should put the Indians on the land which I am on. I have in every instance told him that when he could show me conclusively that these lands were going to be used absolutely for Indians, and not for a speculation by him and his favored few, then I would, by the same law being enforced upon speculators' interests and settlers alike, acquiesce in the matter, when I believe that it is the policy of the Government to protect the interest of actual settlers on the public domain. I am sure, from what is being done here in the way of speculation, that the correct statement of our situation has never reached headquarters. The reason is that it has been in the hands of the speculators' agents to forward petitions, &c. Everything is becoming transparent, and the matter is too plain now to be mistaken that there is a great deal of rotten dealing in this, and has been for a long time. The railroad company claims the odd sections, and it is in the foot hills of the mountains that I have been cultivating about 300 acres of railroad lands for the last four years; bought out claim which was made over twenty years ago. I have made a little money, but not enough to speak of, if I should have to leave without anything for improvements, which Indian agent says I shall. In the name of a soldier and a member of the Grand Army of the Republic I ask for a square deal in this. Remember, it is my fear of speculators' interest hurting me, not the true interest of the Indian.

Respectfully yours,

SAM'L N. BLACK.

P. S.—If you will please write me if I can expect examination in our case further than reports above stated, you will confer a great favor to the interest of the poor and worthy settlers here.

S. N. B.

(Clinton B. Fisk, chairman, Saint Louis. E. Whittlesey, secretary, Washington.)

BOARD OF INDIAN COMMISSIONERS,
Washington, D. C., Nov. 22, 1884.

Hon. H. L. DAWES,

Chairman of Senate Committee on Indian Affairs:

DEAR SIR. Learning that you propose to report to the Senate some measure for the relief of the Mission Indians of California, I have the honor to transmit the following extract from a report of a visit to several agencies in Arizona and California last spring by Messrs. Smiley and myself by direction of this Board.

Very respectfully,

E. WHITTELSEY,
Secretary.

“At San Francisco, March 15, we called on Governor Stoneman, formerly a member of our Board, and had a long conversation with him respecting the Mission Indians of Southern California. He speaks well of them; employs ten families on his farm at San Gabriel, and finds them faithful and industrious. His opinion is that a good agent could place all the Mission Indians on farms of white men, where they would earn a comfortable living, and their children could attend the public schools. Now they are generally poor and have no land secured to them as their own. * * * In Los Angeles we met Messrs. Brown and Wells, who are appointed by the Department of Justice to defend the rights of the Saboba Indians *vs.* Byrnes, to whom the ranch, including Saboba village, was patented in 1860. Byrnes has begun a suit for ejectment of the Indians living in that village. They, through their counsel, claim that they have a right to the lands they occupy under Mexican law and the treaty of Guadalupe-Hidalgo. Messrs. Brown and Wells have moved to transfer the case to the

United States court, and propose to make it a test case to settle the rights of several Indian villages in like situation. We also met Mr. Abbot Kinney, of Sierra Madre Villa, 18 miles north of Los Angeles, who was associated with Mrs. Jackson last year in investigating the condition of the Mission Indians. He gave us much interesting information concerning them, their troubles and wants. We consulted several intelligent people, among them Mr. H. N. Rust, of Pasadena, with regard to a proper site for an Indian industrial school in Southern California, and after canvassing the claims of several places, we came to the conclusion that Pasadena, 8 miles north of Los Angeles, presents the most attractions. The situation is beautiful. It is near the largest and most prosperous city in that part of the State. It has a Christian people, who would take an interest in such a school. It is a temperance town, the only one we found in California, public sentiment prohibiting the sale of intoxicating liquors. It is visited by many thousands of tourists every year, and an Indian school would receive from them attention and help. It is true that good land with water privileges is held at a high price, but a few acres of such land would suffice, and dry grazing land is very cheap. We have communicated our views to Dr. Kendall, secretary of the Presbyterian Mission Board, and we hope to see an Albuquerque or a Carlisle school established somewhere on the Southern Pacific coast.

March 24 we arrived at San Bernardino, 3 miles northeast from Colton, on the Southern Pacific Railroad. There we met Agent McCallum, recently appointed from Oakland, Cal. He explained to us the situation of the numerous small villages and bands under his care widely separated, and some of them difficult of access. He is much troubled to transport books for the schools and the small supplies of food and clothing for the sick and infirm. If he had authority to deposit these supplies with the teachers as subagents the difficulty would be removed. The agency physician, Dr. Hasley, a very competent young man, of fine appearance, complains of the same trouble. He is serving on the absurdly low salary of \$500, and cannot afford to visit the distant villages. His only recourse is to send medicines to be administered by the teachers under his written instructions. He ekes out a living by private practice in San Bernardino. The agency office is in a private house, which is rented at \$25 per month. It serves as a residence for the agent, and is sufficient for the business required here.

The railroad to San Diego being broken up by the floods, we could not go to the Indian villages on the line of that road and in San Diego County as we had intended. Therefore, from San Bernardino we went on to Banning, arriving there March 26, at 12.15 a. m. The best accommodations we could find was a chair by the cook stove in a small eating-room near the station. Early after breakfast we drove 5 miles to Procrero, a small Indian village, where we found a day-school of twenty-seven scholars, twelve boys, and fifteen girls, taught by Blanche Livingston, a brave young girl of seventeen years, who lives there alone among the Indians. We heard classes in reading and arithmetic. The scholars are very irregular in attendance, their parents feeling but little interest in their education. The school-house is a rough board structure worth, perhaps, \$100. The number of Indians in this Procrero band is about one hundred and fifty; they are poor and thriftless, yet good workmen on farms when starvation compels them to work. They have small fields under cultivation, with some vineyards and a few fruit trees, which they irrigate in a rude way. They make wine, and drink it to excess. Banning is on the reservation, and many settlers have made improvements and constructed water-works, expecting to push the Indians off. These poor people should have some portion of their land secured to them soon by a patent.

We were much disappointed that we could not see more of the Mission Indians, but we learned enough of their condition to convince us that they have been greatly wronged, first, by the Mexican Government and then by our own Government, in giving away the lands that they have long occupied and believed to be their own. Justice demands that the rights of these inoffensive people be defended, and, if legal complications are found in the way of their remaining in possession of their old homes, then we are morally bound to provide for them suitable and sufficient lands for their support.

* * * * *

ALBERT K. SMILEY.
E. WHITTLESEY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 18, 1885.

SIR: In reply to your request the 15th instant, I have the honor to furnish the following statement, showing the cost to the Government of the Round Valley Agency, California, from the fiscal year beginning July 1, 1872, to the fiscal year ending June 30, 1884, both years inclusive, viz:

1873	* \$14,765 36
1874	* 17,511 97
1875	36,748 00
1876	25,564 99
1877	24,346 21
1878	17,923 22
1879	20,879 66
1880	18,462 74
1881	18,013 98
1882	15,581 52
1883	16,894 30
1884	15,283 98
Total	241,975 93

It is not claimed that the preceding statement is absolutely correct; such a statement could only be furnished after an exhaustive examination of twelve years' records, which it is impossible to make and give you the result by Wednesday morning. It is believed, however, that the figures given are approximately correct.

Respectfully,

H. PRICE,
Commissioner.

Hon. H. L. DAWES,
United States Senate.

[House Ex. Doc. No. 118, Forty-third Congress, first session.]

Draught of a bill transmitted by the Secretary of the Interior, to amend 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, 1873.

A BILL to amend "An act to restore a part of Round Valley Indian Reservation, in California, to the public lands, and for other purposes," approved March 3, 1873.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 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 twenty-two and twenty-three, north of ranges twelve and thirteen west of 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, appraised, and offered for sale in legal subdivisions, at not less than the appraised value: 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 all such persons who were actual bona-fide residents upon such lands on the 3d of March, 1873, shall have priority of right to purchase not exceeding one hundred and sixty acres of land in adjacent legal subdivisions, containing and adjoining said improvements: And provided further, That those white settlers referred to in the second section of this act, residing upon and owning improvements north of said southern boundary of said reservation as established by the said section, shall have priority of right to purchase not exceeding one hundred and sixty acres of land in adjacent legal subdivisions, at not less than the appraised value, after the actual settlers in the first proviso of this section after a reasonable time, to be fixed by the Commissioner of the General Land Office, in which they shall have proved up their locations and perfected their claims; and all said lands shall be sold and disposed of for cash only, the same to be done through the local land office within the jurisdiction of which these lands are situated: 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 for 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

* Not believed to be complete.

the public lands, after such improvements shall have been appraised and the appraisement approved, as hereinafter provided.

Sec. 2. That said township line between township twenty-two and twenty-three north, extending from the middle fork of Eel River on the east to Eel River on the west, shall hereafter be the southern boundary of the Indian reservation in Round Valley; and the center of the middle fork of Eel River shall be the eastern boundary, and the center of Eel River shall be the western boundary of said reservation, with the privilege of fishing in said streams. And the Secretary of the Interior is hereby authorized and directed to appoint three commissioners, who, after having examined the country in that locality and reported their views in regard to where the northern line of this reservation should be located, shall also make an appraisement of all improvements of white persons north or said southern boundary of the reservation, as established by this section of this act, within the limits proposed by them for a reservation, and of all Indians south of said line; they shall also examine and report all claims of any persons to any of the lands north of said southern boundary, whether acquired by pre-emption, homestead entry, or purchase, the character of such claims and their estimated value, and report the same to the Secretary of the Interior, who shall cause the same to be paid to such settlers or Indians out of the money hereinbefore reserved for such purpose.

Sec. 3. That immediately after the passage of this act, the President shall cause to be withdrawn from sale or entry under the homestead and pre-emption laws all the land lying north of the southern boundary of the reservation, as herein defined, and bounded north by the Eel River and the north fork of said river, east by the middle fork, and west by Eel River, and the report of said commission fixing the north boundary of said reservation shall have been approved; and all settlers now residing upon the tract herein described lying north of the south boundary of 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, or of their claims to lands therein, respectively.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

SIR: I have the honor to submit herewith a copy of the report with copies of the accompanying papers of the commission appointed under the second section of the act of Congress approved March 3, 1873, entitled "An act to restore a part of the Round Valley Indian reservation in California to the public lands, and for other purposes," (Stats. at Large, vol. 17, p. 633), to examine the locality for the establishment of the northern boundary of said reservation, and to make an appraisement of the improvements of white settlers north of the southern boundary of the said reservation as established by said act, and of the improvements made by Indians south of said line.

I also submit herewith a draught of a bill which accompanies said report to amend said act of March 3, 1873, in the manner indicated in the report of said commissioners, and respectfully recommend that the same be transmitted to Congress for the action of that body.

Very respectfully,

E. P. SMITH,
Commissioner.

WASHINGTON, D. C., November 1, 1873.

SIR: The board of commissioners, appointed by the Hon. Secretary of the Interior in pursuance of an act of Congress entitled "An act to restore a part of the Round Valley Indian Reservation, California, to the public lands, and for other purposes," passed March 3, 1873, submit the following report:

By your instructions, dated May 6, 1873, we were required: First, to make examination of the country embraced within and adjacent to the proposed Indian reservation; second, to make an appraisement of the improvements of all white persons north of the southern boundary of the reservation; third, to make an appraisement of the improvements of all Indians south of the southern boundary of said reservation.

The commission reached the Round Valley Indian Agency on the 2d day of June, 1873, all the members present, and at once entered upon the discharge of their duties. A careful reconnaissance of the entire reservation was made by the members of the commission, and the mountainous country of the northern portion thoroughly explored to ascertain the most practicable northern boundary. That portion of the country being unsurveyed, we were anxious to select natural boundaries that could be so well described as to avoid misunderstanding and prevent encroachment by white settlers and herders.

The boundaries selected are of this character; being cañons and water-courses,

strongly defined, some of them practically impassable and well known throughout the entire country. We recommend the following as the boundary of the reservation:

Beginning for the same at a point in section 36 of township 23, range 12 west of Mount Diablo meridian, where the township line crosses Eel River, being at a point about eighty (80) rods west of the southeast corner of said township and section; thence following the course of Eel River, up said stream in the center thereof, to a point where the same is intersected by the stream known as William's Creek or Bland Mountain Creek; thence following up the center of said creek to its extreme northern source on the ridge, dividing the waters of said creek from the waters of Hull's Cañon or Creek, a tributary of the North Fork of Eel River, at the foot of Bland Mountain, crossing said dividing ridge at a point on a line where a small white-oak and a cluster of arbor-vitæ trees are branded with the letters U. S. R.; thence in a direct line to the center of said Hull's Cañon or Creek; thence down the center of the same to its intersection with the North Fork of Eel River; thence down the center of said North Fork to its intersection with the main fork; thence following up the main fork of the Eel River, in the center thereof, where the township line between townships 22 and 23 north, range 13 west, would intersect said river if produced; thence east along said township line through ranges 13 and 12 to the place of beginning. We would also recommend, the reservation to the Indians occupying the Round Valley Reservation, of the right to fish in the Middle Fork of Eel River and in Eel River up as far as Bland's cave.

The northern portion of the reservation, if our recommendation as to the boundary meets the approval of the Department, is very mountainous, the highest elevation being probably five thousand feet. This portion is well timbered with pine timber of excellent size and quality for manufacturing into lumber.

There is also excellent pasturage for horses, cattle, and sheep, which for several years has been used by squatters who have no legal right thereon. The Indians there have experience as herders, being employed by the citizens for that purpose, and it would be well to encourage them to engage in sheep and cattle raising.

The area of mountainous country embraced within the proposed boundaries will afford ample range and excellent pasturage during the entire year for at least thirty thousand head of sheep, besides all the cattle and horses which can be properly managed by the agent. If well stocked and cared for, the agency could be made self-sustaining in a very few years.

We submit herewith a schedule of appraisement of the improvements owned by citizens and located upon the new reservation, marked A. Some parties have probably acquired rights to lands within the reservation by pre-emption or homestead settlement. If such rights exist, measures should be taken for their extinguishment by payment to the parties of such amounts as their claims may be worth. Still other parties have patents for lands embraced in the reservation, all of whom are willing to sell to the Government.

Our instructions were silent in reference to lands claimed in the new reservation, and also as to the lands south of the southern boundary of the reservation, but we nevertheless respectfully submit some suggestions relative to the latter class, based upon our actual examination of them.

That portion of lands south of the reservation which lie within the valley is, for the most part, of the very best quality of farming lands, upon a great portion of which excellent crops were growing at the time of our visit. They are fully equal to the average quality of the valley farming lands of California, and are for the most part claimed by settlers. The settlers have not entered upon them upon any pretended homestead or pre-emption claims, but simply have laid claim to all the land they wanted for farms in the valley. These claims range in extent from forty-five (45) acres up to eight hundred and eighty (880) acres, the last amount being the largest claimed by any single individual. A firm of two brothers, one of whom resides in the State of Nevada, claim 1,680 acres, while a number of persons claim 640 acres each.

The possessory titles to these claims are recognized as property by the State of California, and the same are listed for taxation; we procured from the assessor of Mendocino County the official appraisement of the property in Round Valley, a copy of which is herewith submitted, marked B. It will be observed that the greater portion of these lands are appraised by the county assessor at \$10 per acre, for the possessory-title simple. This would not be an excessive appraisement if the parties had the fee-simple of the land, and, in fact, few of the settlers thereon would sell their claim at the price named, some of them asking \$20 per acre, to our personal knowledge. Again, while settlers are restricted to 80 and 160 acres of land under the pre-emption and homestead laws, we found parties there claiming to hold 640 and even 880 acres, and threatening all persons who attempted to settle upon any portion of their claim. The schedule will show the names of all parties whose claims are above the amount allowed to be entered.

In fact, this class of settlers have no more legal right to the property they claim (and even had the valley been open to settlement they would only have been allowed to enter 160 acres each) than the settlers upon the lands in the present reservation. But under the law the latter class of settlers must leave the lands upon which they have

been living, receiving pay only for the improvements, and must remove from the valley entirely, unless some arrangement can be made for them to enter upon the excess of land improperly claimed by the former class. Under the existing law it is not at the discretion of any officer to make any discrimination, but it is respectfully suggested, if practicable, that the attention of Congress be invited to the subject, in order that the settlers who will be ousted from the lands in the reservation may be afforded the opportunity to purchase lands in the valley without the boundaries of the reservation, before any of said lands are offered for sale to persons who were actual residents of the valley at the date of the passage of the act of March 3, 1873.

The area of good land in the valley is ample to furnish farms to all the residents, and we deem it but equitable that some arrangement as we suggest be made. As we have before said, the lands are as good as the average of valley farming lands in the State of California.

The law puts the minimum price for such lands at \$1.25 per acre, below which they cannot be sold. Does that limitation imply the right of the Secretary of the Interior to name a higher price for these lands? We think not. We have shown that they are worth from four to eight times as much, and that they cannot be bought from the present claimants at a much higher figure. Some of this value has been created by the occupants, and consists in improvements of houses, fences, and tilled fields. For this appreciation of the property the Government does not expect to be remunerated. Deducting, however, the proper percentage, say from one-half to three-fourths, would reduce the lands to \$5 and \$2.50 per acre.

Upon this basis, and after carefully examining the quality of the land, we take the liberty to submit, for your consideration, the following appraisement:

Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 29, 30, of T. 22			
N. R. 12 W	8,960 acres, at \$5.00,	\$44,800	
E. $\frac{1}{4}$ sec. 1, sec. 12, E. $\frac{1}{4}$ sec. 13, E. $\frac{1}{4}$ sec. 24, T. 23 N.,			
R. 13 W	1,600 acres, at \$5.00,	8,000	
W. $\frac{1}{4}$ sec. 13, W. $\frac{1}{4}$ sec. 24, T. 23 N., R. 13 W	640 acres, at \$2.50,	1,600	
Amounting in all to	11,200 acres.		54,400

This makes an aggregate of \$54,400 of the value of the lands in the valley without the reservation, but embraced within the boundary of the old reservation. By reference to the schedule of the appraisement of improvements upon the present reservation, it will be seen that the aggregate value thereof is \$32,669.78. In addition to this, certain claims by pre-emption, homestead and purchase will have to be extinguished, which will require at least \$20,000 more, which will absorb the amount realized if the above appraisement should be authorized.

If our scaling of the lands to be sold should be adopted, the amount received from that source will be sufficient to pay for all improvements appraised, and for the claims heretofore alluded to, of homestead and pre-emption settlers and purchases, and for the expenses of the commission. Unless authority is given to appraise these lands at something near their true value, the proceeds of their sale will not be sufficient to pay for the improvements we have appraised; and the appropriation of at least \$30,000 will be needed, in addition to the proceeds of sales, to carry out the provisions of the present act.

We therefore respectfully suggest that Congress be requested to so amend the act of March 3, 1873, as to authorize the Secretary of the Interior to cause the lands south of the southern boundary of the reservation, as established by said act, to be appraised and offered for sale, giving preference to the settlers thereon at the date of the passage of said act, and allowing them a reasonable time in which to make proof and payment for their lands. With regard to the lands not so taken by present settlers, preference should be given to those who occupy land within the boundary of the said reservation, who should also be allowed a reasonable time to make entry and payment, before the residue of the lands are thrown open to general sale. We also suggest that all persons, whether settlers or not, purchasing any of said lands, shall be restricted to 160 acres.

We respectfully submit a *projet* of a law embodying the suggestions made above.

The State of California has sold a certain portion of the lands within the new reservation as swamp-lands, and the purchasers are claiming under certificates from the State land-offices. Those lands, however, have not been confirmed to the State by the United States Government as swamp-lands, and we respectfully represent that they are not in any sense of the term swamp-lands, and should not, therefore, be confirmed to the State as such. The references above to claims upon lands in the reservations do not allude to those swamp-lands.

JOHN P. C. SHANKS.
B. R. COWEN.

Hon. E. P. SMITH,
Commissioner Indian Affairs.

A.

Claimant.	Acres.	Section.	Township.	Range.	Character of improvements.	Value of improvements.
Asbell, Frank					Dwelling-house Barn One-half mile picket-fence Eight hundred rails and poles	\$100 00 50 00 122 78 32 00
Asbell, Pierce					House Fencing, about 1,200 rails and pickets.	100 00 480 00
Asbell, Pierce					One-half mile-fence. His house, barn, &c., are south of the township line, and therefore not appraised. Gave him the option to remove his fence or allow it to be appraised. He chose to keep the fence and remove it.	580 00 150 00
Ayres, David W					House and outbuilding.	300 00
Belvil, Jacob					Double log-house, barn, chicken-house and smoke-house.	200 00
Bourne, C. H					Dwellin-house Storehouse Barn and granary Chicken-house Hog-shed and butcher-shop Seventy-three fruit trees Seventy-five grapevines Six miles fencing Buggy-house	1,000 00 100 00 1,000 00 50 00 50 00 150 00 150 00 2,580 00 50 00
Brown, W, J					One mile fencing Shanty	250 00 50 00
Dunlap, James L					House Barn One-half mile fence.	250 00 50 00 150 00
Eberlee, C. H					Dwelling-house and lean-to Barn Chicken-house Two hundred fruit trees Seventy-five grapevines Four miles fencing—26,000 rails, including corral and pickets and new rails for repairs.	700 00 800 00 25 00 200 00 150 00 1,050 00
Gibson, E. S.					Shanty dwelling (shakes), log store-house, shake barn, corral, and fenced field.	2,925 00 1,000 00
Gray, Andrew					Log-house Barn Fencing Seventy fruit-trees Granary Smoke-house Hog-shed	500 00 100 00 1,000 00 70 00 50 00 50 00 25 00
Kelly, Bernard					Well 30 feet deep, house lean-to on a rock, chicken-house.	1,795 00 100 00
Laycock, Dryden					Dwelling-house Store-house Two barns Granary and hog-shed Corn-crib Chicken-house Well Three and one-half miles fence One hundred fruit-trees Ditch over one-half mile	700 00 100 00 700 00 150 00 100 00 25 00 25 00 1,000 00 200 00 360 00
Leasure, Antoinio					Dwelling-house Store-house Barn One and one-half miles fencing.	200 00 100 00 300 00 375 00
						8,360 00 975 00

A—Continued.

Claimant.	Acres.	Section.	Township.	Range.	Character of improvements.	Value of improvements.
Lewis, Samuel					Fencing—16,000 rails and pickets.	\$480 00
					Dwelling-house, smoke-house, and 2 hog-houses.	400 00
					One hundred and eighty punch-eons yellow pine.	20 00
					Two hundred and ten yards picket-fence.	100 00
Murphy, William					House	300 00
					Barn	300 00
					Fencing, including corral and garden, 2½ miles.	600 00
					Granary	100 00
					Smoke-house	100 00
Nuckles, Fayette					Double cabin	1,400 00
Pollard, William					House	150 00
					Fencing	500 00
Priang, G. J.					Dwelling-house	450 00
					Barn	30 00
					Chicken-house	30 00
					Five-eighth mile fencing-rail, and ¼ mile picket-fence.	370 00
					50 fruit-trees	50 00
					25 grapevines	50 00
Semmerly, Samuel					Agrees to remove his fencing	960 00
Short, Green					do.	
School trustees					Half-breed school-house	200 00
Steele					House, barn, out-house, hewed timber.	250 00
Thompson, David					Dwelling-house	800 00
					Barn	500 00
					Fencing	250 00
					Five-eighth mile picket-fence	250 00
					Two store houses	50 00
					One hundred walnut trees	25 00
					Chicken-house	25 00
					Forty fruit-trees	40 00
Updegraff, Jacob					Shake shanty	250 00
					Small store-house	150 00
					Shake stable	500 00
					Shake barn	500 00
					Fencing	100 00
					Corral	200 00
					Eight cabins and corrals	1,200 00
Vaunaden, Wm. P.					Saw-mill, consisting of 1 Wood & Mann's Utica portable 18-horse power-engine, 2 circular saws, and mill-gearing. Mill building indifferent.	4,000 00
					One balloon-frame dwelling and out-buildings.	\$500 00
Wiltsee, J. O.					Board house with wing	500 00
					Shed-barn and open shake spring-house.	100 00
					Fencing	400 00
Youree, Frank W.					Cabin on homestead	1,000 00
						200 00
					Total	32,669 78

B.

Assessment roll of Mendocino County, California, for the year ending March 1, 1874.

Taxable inhabitants.	Description of claim.	Section.	Township.	Range.	A. cres.	Value of land.	Value of im- provements.
Atkinson, Thomas.....	Bounded north by claim of R. Atkinson, west by claim of Bishop.	.....	.....	.....	160	\$580	\$100
Anthony, Josiah.....	North half of southwest quarter and south half of northwest quarter.	5	22	12	160	1,600	1,300
Asbell, F. W. and P.....	Range known as Summit Valley	.....	.....	.....	.....	.....	1,000
Ayres & Youree.....	Also east half of	6	22	12	320	3,200	1,500
Anthony, James.....	Improvements on	6, 27	23	12	.....	.....	720
Applegate, J. P.....	Bounded west by claim of Josiah Anthony, east by claim of Williamson, south by the Davis ranch.	.....	.....	.....	160	1,600	200
Atkinson, Robert.....	North half of southwest quarter of	3	22	12	80	400	150
Bishop, Benjamin.....	Range bounded north by claim of Patter, south by claim of T. Atkinson, west by claim of Goggins.	.....	.....	.....	160	200	100
Bransford & Murphy..	Bounded north by claim of Pullen and Goggins, east by Atkinson.	.....	.....	.....	320	1,220	300
Bransford & Carpenter.	South half of northeast quarter, and southeast quarter of northwest quarter, and northwest quarter of southeast quarter.	21	23	12	160	.....	2,000
Barnes, M. C.....	Fashion livery stable, Covelo.	.....	.....	.....	100	.....	500
Bourne, C. H.....	Bounded north by Gibson's claim, east by Henley Brothers, south by claim of Hoffman.	.....	.....	.....	320	750	150
Brush, Nelson.....	Improvement on land bounded east by Eberle, south by old reservation land.	.....	.....	.....	.....	.....	3,500
Brown, W. T.....	Northwest quarter of	21	22	12	160	425	100
Bishop, W. C.....	Northwest quarter and north half of northeast quarter of	5	22	12	240	2,000	240
Bean, Asa.....	South half of north half of	9	22	12	160	1,600	150
Barney, L. N.....	Southeast quarter of northeast quarter	12	23	12	40	150	100
Barney, H. N.....	Southeast quarter of	6	22	12	160	1,600	.....
Borziza, Ed.....	Not given	.....	.....	.....	.....	320	80
Crocker, G.....	do	.....	.....	.....	.....	400	100
Clyman & Nefus.....	Improvements covered by reservation.	.....	.....	.....	.....	.....	500
Dorman, D. C.....	do	.....	.....	.....	.....	.....	700
Davis & Bass.....	Southwest quarter of	6	23	12	640	4,475	1,000
Dewel, Philip.....	Also 100 acres of southeast quarter of	1	22	13	.....	.....	.....
Dingman & Squires.....	Also range in forks of Eel River.	.....	.....	.....	.....	.....	.....
Dunlap, J. L.....	Northeast quarter of	8	22	12	160	1,600	250
Dawson, Robert.....	North half of	5	22	12	320	3,200	100
Eveland, Joel.....	Range bounded north by Eel River, south by county line, west by claim of Edsall.	.....	.....	.....	320	320	80
Ellis, J., & Co.....	Improvements covered by reservation.	.....	.....	.....	.....	.....	250
Elberle, C. H.....	Not given	.....	.....	.....	160	1,600	200
Edsall, C. A.....	Northeast quarter of	30	22	12	160	900	200
Ellwood, Thomas.....	Town lot in Covelo.	.....	.....	.....	.....	200	700
Fairbanks & Bransford.	Improvements on land bounded west by Bourne, south by old reservation, included in new reservation lines.	.....	.....	.....	.....	.....	2,600
Foster, J. A.....	Bounded north by claim of S. Simerly, west by claim of Putnam; also range, bounded south by claim of Simerly & Logan, north by Eel River.	.....	.....	.....	640	\$800	\$400
Griffin, J. H.....	Southwest quarter of southeast quarter, and east half of southwest quarter	30	22	12	160	200	200
Goggins, Ed.....	And northwest quarter of southwest quarter of	30	22	12	.....	.....	.....
Grist, Isaac.....	Town lots in Covelo.	.....	.....	.....	.....	200	1,100
Gibson, E. S.....	Southwest quarter of	21	22	12	160	200	200
Gray, Andrew.....	North half of	16	22	12	320	3,100	500
Glaze, Martin.....	Southeast quarter of	16	23	12	160	1,300	200
Hastings, Thomas.....	Bounded north by claim of Hughs, east by claim of Gibson, and south by claim of G. E. White.	.....	.....	.....	320	1,400	400
Hunter, A. A.....	Southeast quarter of section 12 and northeast quarter of	13	22	12	320	3,200	700
Henry, Purdy.....	In Williams Valley, bounded northeast and south by Dean's land.	.....	.....	.....	640	1,280	720
	Southwest quarter of	30	22	12	160	320	50
	Town lot in Covelo.	.....	.....	.....	.....	100	.....
	do	.....	.....	.....	.....	200	750
	do	.....	.....	.....	.....	200	750

Assessment roll of Mendocino County, California, &c.—Continued.

Taxable inhabitants.	Description of claim.	Section.	Township.	Range.	Acres.	Value of land.	Value of improvements.
Henley Bros. (Whit. Henley and G. W. Henley).	South half of	18	22	12	1,680	\$17,800	\$2,000
	All of	19	22	12	.....	.....	.....
	South half of northwest quarter of	20	22	12	.....	.....	.....
	Southwest quarter of	17	22	12	.....	.....	.....
	East half of southeast quarter of	24	22	12	.....	.....	.....
	Also range bounded south and west by Eel River.	.....	.....	.....	500	.....	.....
Henley & Gibson	Improvements covered by reservation	.....	.....	.....	.....	.....	400
Hoffman, W. H.	Bounded north by claim of M. C. Barnes, east and south by claim of Henley Bros.	.....	.....	.....	160	1,125	400
Hoffman & Odell.	Town lot in Covelo.	.....	.....	.....	.....	100	125
Harris, J.	Northwest quarter of	35	22	12	160	1,600	150
Hornbrook, S.	do.	7	22	12	320	2,800	1,000
	Northeast quarter of	12	22	13	.....	.....	.....
Handy & Sheppard	East half of	30	22	12	320	1,075	200
Hughes, G. W. & F. M.	Northwest quarter of	12	22	12	480	1,840	500
	North half of	11	22	12	.....	.....	.....
Hughlett, John	Bounded north by claim of Ayres, east by claim of Murphy, south by reservation.	.....	.....	.....	160	200	50
Janez, José	Bounded north by Redwine	.....	.....	.....	160	200	50
Johnson, D. T.	Town lot in Covelo.	.....	.....	.....	.....	100	650
Kendrick, C.	Bounded north by claim of W. P. Melendy, east by claim of W. P. White, south by claim of G. E. White.	.....	.....	.....	320	3,200	200
Kelley, J. P.	Northwest quarter of	36	22	12	160	200	40
Kelley, P. K.	do.	26	23	12	.....	.....	300
Leger, Antonio	Improvements covered by reservation	.....	.....	.....	.....	.....	2,400
	Also, claim bounded north by Gray, east by Purrington.	.....	.....	.....	800	1,000	200
Letson & Cheeseman	Town lot in Covelo.	.....	.....	.....	.....	100	400
Lacock, D.	Improvements covered by reservation	.....	.....	.....	.....	.....	5,000
	Also, claim bounded south by Purrington's claim, west by Eel River.	.....	.....	.....	320	400	.....
Lambert, Benjamin	Southwest quarter of	9	22	12	160	1,600	400
Lewis, Samuel	Hull Valley improvements	.....	.....	.....	.....	.....	1,000
Lee, Edward	Northwest quarter of	13	22	12	160	800	300
Lovell, H. F.	Southeast quarter of	6	22	12	160	1,600	20
Letson, Jane	Town lot in Covelo.	.....	.....	.....	.....	200	1,300
Morrison, G. W.	Southeast quarter of section 17 and northeast quarter of	20	22	12	320	2,900	100
Montagne, L. D.	Town lot in Covelo.	.....	.....	.....	.....	400	1,800
Moore & Lockart	Bounded north by claim of Dorman, east by land of Friedlander.	.....	.....	.....	640	800	.....
Montagne & Henry	Town lot in Covelo.	.....	.....	.....	.....	200	1,500
Moore, T. C.	Bounded east and south by Eel River, west by Wilson Creek.	.....	.....	.....	640	800	100
McComb, A. E.	Northwest quarter of section 10 and southwest quarter of southwest quarter of	3	22	12	200	725	300
Melendy, W. P.	South half of southeast quarter and south half of southwest quarter.	5	22	12	.....	.....	.....
	Southeast quarter of	6	22	12	.....	.....	.....
	North half of southeast quarter and northeast quarter of	7	22	12	.....	.....	.....
	Northwest quarter and west half of northeast quarter and north half of southwest quarter.	8	22	12	880	\$8,800	\$1,500
Norris, Hosea	Undivided half of northwest quarter of	7	22	12	80	800	400
O'Neal, J.	Town lot in Covelo.	.....	.....	.....	.....	100	300
Odell, Alonzo	Bounded north by reservation, east by Asbell Brothers, west by O'Farrell.	.....	.....	.....	160	1,600	500
O'Farrell, P. K.	Northeast quarter of	1	22	12	160	1,600	1,500
Potter, E. R.	Northwest quarter of section 15 and southwest quarter of southwest quarter.	10	22	12	80	700	200
Perry, A. C.	Bounded north by road, east and south by land of Dorman.	.....	.....	.....	45	650	500
	Also town lot in Covelo	.....	.....	.....	.....	200	800
Prismy, G. I.	Improvement covered by reservation	.....	.....	.....	.....	.....	1,000
Pullen, William	Southwest quarter and southwest quarter of southeast quarter of	16	22	12	200	2,000	700
Pollard, Gawley & Co.	Improvements on Poor Man's Flat.	.....	.....	.....	.....	.....	400
Pawnell, Moses	Known as Simmerly ranch	.....	.....	.....	400	500	100
Purrington, Nathan	Bounded west by Eel River, north and east by Moore's range.	.....	.....	.....	460	250	150
Redwine, F. A.	North half of	14	22	12	320	400	400

Assessment roll of Mendocino County, California, &c.—Continued.

Taxable inhabitants.	Description of claim.	Section.	Township.	Range.	Acres.	Value of land.	Value of im- provements.
Redwine, L. W	Southwest quarter of section 11 and southeast quarter of	14	22	12	320	\$400	.....
Short, J. G	Northwest quarter of section 4 and south half of northeast quarter of Also improvements covered by reservation	5	22	12	240	2, 250	\$1, 500 450
Simmerly, Samuel	Bounded north by land of Short, west by claim of Williamson Also improvements covered by reservation				220	3, 200	1, 000 200
Steele, J. M	On William's Creek				160	300	200
Shrum, A. J	Bounded north by claim of Williamson, east by claim of Potter				160	1, 400	200
Sullivan, J	Bounded north and east by Eel River, south by Bell Spring Cañon				640	800	.....
Turner, William	Northwest quarter of	29	22	12	160	288	250
Turner, J. W	Southeast quarter of	29	22	12	160	200	25
Thompson, David	Improvements covered by reservation						1, 200
Trammel and McCoy	On Colusa trail					500	.....
Updegraff, J	Improvements on reservation						2, 000
White, George E	Bounded north by claim of Wilsey, east by claim of Griffin, south by Henley				560	5, 600	2, 000
Wilsey, M. and R. G	Improvements covered by reservation						800
Wilsey, S. K	North half of southwest quarter of	7	22	12	80	800	800
White, W. P	Southeast quarter of section 8, and northeast quarter of	7	22	12	320	3, 200	500
Williamson, L	Bounded north by land of Short, east by claim of Applegate, south by claims of Shrum and Lambert				640	6, 400	800
Van Nader, W. P	Improvements and mill at Summit Valley						4, 000

I, J. H. Donohoe, assessor of Mendocino County, California, hereby certify that the above and foregoing is a correct copy of the assessment of persons named in Round Valley Township, for the year ending March 1, 1874, on real estate and improvements claimed, as returned by the deputy assessor of that township, and by me listed upon the assessment roll of this county.

J. H. DONOHOE,
Assessor, Mendocino County, California.
By A. O. CARPENTER,
Deputy.

UKIAH, CAL., July 17, 1873.

SUPREME COURT OF THE UNITED STATES, No. 27.—OCTOBER TERM, 1884.

JOHN ELK, PLAINTIFF IN ERROR, }
vs. } In error to the circuit court of the United
CHARLES WILKINS. } States for the district of Nebraska.

An Indian, born a member of one of the Indian tribes within the United States, which still exists and is recognized as a tribe by the Government of the United States, who has voluntarily separated himself from his tribe, and taken up his residence among the white citizens of a State, but who has not been naturalized, or taxed, or recognized as a citizen, either by the United States or by the State, is not a citizen of the United States, within the meaning of the first section of the Fourteenth Article of Amendment of the Constitution.

A petition alleging that the plaintiff is an Indian, and was born within the United States, and has severed his tribal relation to the Indian tribes, and fully and completely surrendered himself to the jurisdiction of the United States, and still continues subject to the jurisdiction of the United States, and is a bona fide resident of the State of Nebraska and city of Omaha, does not show that he is a citizen of the United States under the Fourteenth Article of Amendment of the Constitution.

[November 3, 1884.]

Mr. Justice GRAY delivered the opinion of the court.

This is an action brought by an Indian, in the circuit court of the United States for the district of Nebraska, against the registrar of one of the wards of the city of Omaha, for refusing to register him as a qualified voter therein. The petition was as follows: "John Elk, plaintiff, complains of Charles Wilkins, defendant, and avers that the

matter in dispute herein exceeds the sum of five hundred dollars, to wit, the sum of six thousand dollars, and that the matter in dispute herein arises under the Constitution and laws of the United States; and, for cause of action against the defendant, avers that he, the plaintiff, is an Indian, and was born within the United States; that more than one year prior to the grievances hereinafter complained of he had severed his tribal relation to the Indian tribes, and had fully and completely surrendered himself to the jurisdiction of the United States, and still so continues subject to the jurisdiction of the United States; and avers that, under and by virtue of the Fourteenth Amendment to the Constitution of the United States, he is a citizen of the United States, and entitled to the right and privilege of citizens of the United States.

"That on the sixth day of April, 1880, there was held in the city of Omaha (a city of the first class, incorporated under the general laws of the State of Nebraska providing for the incorporation of cities of the first class), a general election for the election of members of the city council and other officers for said city.

"That the defendant, Charles Wilkins, held the office of and acted as registrar in the fifth ward of said city, and that as said registrar it was the duty of such defendant to register the names of all persons entitled to exercise the elective franchise in said ward of said city at said general election.

"That this plaintiff was a citizen of and had been a *bona fide* resident of the State of Nebraska for more than six months prior to said sixth day of April, 1880, and had been a *bona fide* resident of Douglas County, wherein the city of Omaha is situate, for more than forty days, and in the fifth ward of said city more than ten days prior to the said sixth day of April, and was such citizen and resident at the time of said election, and at the time of his attempted registration, as hereinafter set forth, and was in every way qualified, under the laws of the State of Nebraska and of the city of Omaha, to be registered as a voter and to cast a vote at said election, and complied with the laws of the city and State in that behalf.

"That on or about the fifth day of April, 1880, and prior to said election, this plaintiff presented himself to said Charles Wilkins, as such registrar, at his office, for the purpose of having his name registered as a qualified voter, as provided by law, and complied with all the provisions of the statutes in that regard, and claimed that, under the Fourteenth and Fifteenth Amendments to the Constitution of the United States, he was a citizen of the United States, and was entitled to exercise the elective franchise, regardless of his race and color; and that said Wilkins, designedly, corruptly, willfully, and maliciously, did then and there refuse to register this plaintiff, for the sole reason that the plaintiff was an Indian, and therefore not a citizen of the United States, and not, therefore, entitled to vote, and on account of his race and color, and with the willful, malicious, corrupt, and unlawful design to deprive this plaintiff of his right to vote at said election, and of his rights, and all other Indians of their rights, under said Fourteenth and Fifteenth Amendments to the Constitution of the United States, on account of his and their race and color.

"That on the sixth day of April this plaintiff presented himself at the place of voting in said ward, and presented a ballot and requested the right to vote, where said Wilkins, who was then acting as one of the judges of said election in said ward, in further carrying out his willful and malicious designs aforesaid, declared to the plaintiff and to the other election officers that the plaintiff was an Indian and not a citizen and not entitled to vote, and said judges and clerks of election refused to receive the vote of the plaintiff, for that he was not registered as required by law.

"Plaintiff avers the fact to be that by reason of said willful, unlawful, corrupt and malicious refusal of said defendant to register this plaintiff, as provided by law, he was deprived of his right to vote at said election, to his damage in the sum of \$6,000.

"Wherefore plaintiff prays judgment against defendant for \$6,000, his damages, with costs of suit."

The defendant filed a general demurrer for the following causes: 1st. That the petition did not state facts sufficient to constitute a cause of action. 2d. That the court had no jurisdiction of the person of the defendant. 3d. That the court had no jurisdiction of the subject of the action.

The demurrer was argued before Judge McCrary and Judge Dundy, and sustained; and the plaintiff electing to stand by his petition, judgment was rendered for the defendant, dismissing the petition with costs. The plaintiff sued out this writ of error.

By the constitution of the State of Nebraska, article 7, section 1, "Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the State six months, and in the county, precinct, or ward for the term provided by law, shall be an elector. First. Citizens of the United States. Second. Persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization, at least thirty days prior to an election."

By the statutes of Nebraska every male person of the age of twenty-one years or upwards, belonging to either of the two classes so defined in the constitution of the State, who shall have resided in the State six months, in the county forty days, and

in the precinct, township, or ward ten days, shall be an elector; the qualification of electors in the several wards of cities of the first class (of which Omaha is one) shall be the same as in precincts; it is the duty of the registrar to enter in the register of qualified voters the name of every person who applies to him to be registered, and satisfies him that he is qualified to vote under the provisions of the election laws of the State; and at all municipal, as well as county or State elections, the judges of election are required to check the name, and receive and deposit the ballot, of any person whose name appears on the register. Compiled Statutes of Nebraska of 1881, ch. 26, § 3; ch. 13, § 14; ch. 76, §§ 6, 13, 19.

The plaintiff, in support of his action, relies on the first clause of the first section of the Fourteenth Article of Amendment of the Constitution of the United States, by which "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside"; and on the Fifteenth Article of Amendment, which provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

This being a suit at common law, in which the matter in dispute exceeds five hundred dollars, arising under the Constitution of the United States, the circuit court had jurisdiction of it under the act of March 3, 1875, ch. 137, § 1, even if the parties were citizens of the same State. 18 Stat., 470; *Ames v. Kansas*, 111 U. S., 449. The judgment of that court, dismissing the action with costs, must have proceeded upon the merits, for, if the dismissal had been for want of jurisdiction, no costs could have been awarded. *The Mayor v. Cooper*, 6 Wall., 247; *Mansfield and Coldwater Railway v. Swan*, 111 U. S., 379. And the only point argued by the defendant in this court is whether the petition sets forth facts enough to constitute a cause of action.

The decision of this point, as both parties assume in their briefs, depends upon the question whether the legal conclusion, that under and by virtue of the Fourteenth Amendment of the Constitution the plaintiff is a citizen of the United States, is supported by the facts alleged in the petition and admitted by the demurrer, to wit: The plaintiff is an Indian, and was born in the United States, and has severed his tribal relation to the Indian tribes, and fully and completely surrendered himself to the jurisdiction of the United States, and still continues to be subject to the jurisdiction of the United States, and is a *bona fide* resident of the State of Nebraska and city of Omaha.

The petition, while it does not show of what Indian tribe the plaintiff was a member, yet, by the allegations that he "is an Indian, and was born within the United States," and that "he had severed his tribal relation to the Indian tribes," clearly implies that he was born a member of one of the Indian tribes within the limits of the United States, which still exists and is recognized as a tribe by the Government of the United States. Though the plaintiff alleges that he "had fully and completely surrendered himself to the jurisdiction of the United States," he does not allege that the United States accepted his surrender, or that he has ever been naturalized, or taxed, or in any way recognized or treated as a citizen, by the State or by the United States. Nor is it contended by his counsel that there is any statute or treaty that makes him a citizen.

The question then is, whether an Indian, born a member of one of the Indian tribes within the United States, is, merely by reason of his birth within the United States, and of his afterwards voluntarily separating himself from his tribe and taking up his residence among white citizens, a citizen of the United States within the meaning of the first section of the Fourteenth Amendment of the Constitution?

Under the Constitution of the United States, as originally established, "Indians not taxed" were excluded from the persons according to whose numbers Representatives and direct taxes were apportioned among the several States; and Congress had and exercised the power to regulate commerce with the Indian tribes and the members thereof whether within or without the boundaries of one of the States of the Union. The Indian tribes, being within the territorial limits of the United States, were not, strictly speaking, foreign States, but they were alien nations, distinct political communities, with whom the United States might and habitually did deal, as they thought fit, either through treaties made by the President and Senate, or through acts of Congress in the ordinary forms of legislation. The members of those tribes owed immediate allegiance to their several tribes, and were not part of the people of the United States. They were in a dependent condition, a state of pupillage, resembling that of a ward to his guardian. Indians and their property, exempt from taxation by treaty or statute of the United States, could not be taxed by any State. General acts of Congress did not apply to Indians, unless so expressed as to clearly manifest an intention to include them. Constitution, art. 1, sects. 2, 8; art. 2, sect. 2; *Cherokee Nation v. Georgia*, 5 Pet., 1; *Worcester v. Georgia*, 6 Pet., 515; *United States v. Rogers*, 4 How., 567; *United States v. Holliday*, 3 Wall., 407; *Case of the Kansas Indians*, 5 Wall., 737; *Case of the New York Indians*, 5 Wall., 761; *Case of the Cherokee Tobacco*, 11 Wall., 616; *United States v. Whiskey*, 93 U. S., 183; *Pennock v.*

Commissioners, 103 U. S., 44; *Crow Dog's Case*, 109 U. S., 556; *Goodell v. Jackson*, 20 Johns., 693; *Hastings v. Farmer*, 4 N. Y., 293.

The alien and dependent condition of the members of the Indian tribes could not be put off at their own will, without the action or assent of the United States. They were never deemed citizens of the United States, except under explicit provisions of treaty or statute to that effect, either declaring a certain tribe, or such members of it as chose to remain behind on the removal of the tribe westward, to be citizens, or authorizing individuals of particular tribes to become citizens on application to a court of the United States for naturalization, and satisfactory proof of fitness for civilized life; for examples of which see treaties in 1817 and 1835 with the Cherokees, and in 1820, 1825, and 1830 with the Choctaws, 7 Stat., 159, 211, 236, 335, 483, 488; *Wilson v. Wall*, 6 Wall., 83; Opinion of Attorney-General Taney, 2 Opinions of Attorneys General, 462; in 1855 with the Wyandotts, 10 Stat., 1159; *Karrakoo v. Adams*, 1 Dillon, 344, 346; *Gray v. Coffman*, 3 Dillon, 393; *Hicks v. Butriok*, 3 Dillon, 413; in 1861 and in March, 1866, with the Pottawatomies, 12 Stat., 1192; 14 Stat., 763; in 1862 with the Ottawas, 12 Stat., 1237; and the Kickapoos, 13 Stat., 624; and acts of Congress of March 3, 1839, ch. 83, § 7, concerning the Brothertown Indians, and of March 3, 1843, ch. 101, § 7, August 6, 1846, ch. 88, and March 3, 1865, ch. 127, § 4, concerning the Stockbridge Indians; 5 Stat., 251, 647; 9 Stat., 55; 13 Stat., 562. See also treaties with the Stockbridge Indians in 1848 and 1856; 9 Stat., 955; 11 Stat., 667; 7 Opinions of Attorneys-General, 746.

Chief Justice Taney, in the passage cited for the plaintiff from his opinion in *Scott v. Sandford*, 19 How., 393, 404, did not affirm or imply that either the Indian tribes, or individual members of those tribes, had the right, beyond other foreigners, to become citizens of their own will, without being naturalized by the United States. His words were: "They" (the Indian tribes) "may, without doubt, like the subjects of any foreign Government, be naturalized by the authority of Congress, and become citizens of a State, and of the United States; and if an individual should leave his nation or tribe, and take up his abode among the white population, he would be entitled to all the rights and privileges which would belong to an emigrant from any other foreign people." But an emigrant from any foreign State cannot become a citizen of the United States without a formal renunciation of his old allegiance, and an acceptance by the United States of that renunciation through such form of naturalization as may be required by law.

The distinction between citizenship by birth and citizenship by naturalization is clearly marked in the provisions of the Constitution, by which "no person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President"; and "the Congress shall have power to establish a uniform rule of naturalization." Constitution, art. 2, sect. 1; art. 1, sect. 8.

By the Thirteenth Amendment of the Constitution slavery was prohibited. The main object of the opening sentence of the Fourteenth Amendment was to settle the question, upon which there had been a difference of opinion throughout the country and in this court, as to the citizenship of free negroes (*Scott v. Sandford*, 19 How., 393); and to put it beyond doubt that all persons, white or black, and whether formerly slaves or not, born or naturalized in the United States, and owing no allegiance to any alien power, should be citizens of the United States and of the State in which they reside. *Slaughter-House Cases*, 16 Wall., 36, 73; *Strauder v. West Virginia*, 102 U. S., 303, 306.

This section contemplates two sources of citizenship, and two sources only: birth and naturalization. The persons declared to be citizens are "all persons born or naturalized in the United States, and subject to the jurisdiction thereof." The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their political jurisdiction, and owing them direct and immediate allegiance. And the words relate to the time of birth in the one case, as they do to the time of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired.

Indians born within the territorial limits of the United States, members of, and owing immediate allegiance to, one of the Indian tribes (an alien, though dependent, power), although in a geographical sense born in the United States, are no more "born in the United States and subject to the jurisdiction thereof," within the meaning of the first section of the Fourteenth Amendment, than the children of subjects of any foreign Government born within the domain of that Government, or the children, born within the United States, of ambassadors or other public ministers of foreign nations.

This view is confirmed by the second section of the Fourteenth Amendment, which provides that "Representatives shall be apportioned among the several States accord-

ing to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed." Slavery having been abolished, and the persons formerly held as slaves made citizens, this clause fixing the apportionment of Representatives has abrogated so much of the corresponding clause of the original Constitution as counted only three-fifths of such persons. But Indians not taxed are still excluded from the count, for the reason that they are not citizens. Their absolute exclusion from the basis of representation, in which all other persons are now included, is wholly inconsistent with their being considered citizens.

So the further provision of the second section for a proportionate reduction of the basis of the representation of any State in which the right to vote for Presidential electors, Representatives in Congress, or executive or judicial officers or members of the legislature of a State is denied, except for participation in rebellion or other crime, to "any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States," cannot apply to a denial of the elective franchise to Indians not taxed, who form no part of the people entitled to representation.

It is also worthy of remark that the language used about the same time by the very Congress which framed the Fourteenth Amendment, in the first section of the civil rights act of April 9, 1866, declaring who shall be citizens of the United States, is "all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed." (14 Stat., 27; Rev. Stat., § 1992.)

Such Indians, then, not being citizens by birth, can only become citizens in the second way mentioned in the Fourteenth Amendment, by being "naturalized in the United States," by or under some treaty or statute.

The action of the political departments of the Government, not only after the proposal of the amendment by Congress to the States in June, 1866, but since the proclamation in July, 1868, of its ratification by the requisite number of States, accords with this construction.

While the amendment was pending before the legislatures of the several States, treaties containing provisions for the naturalization of members of Indian tribes as citizens of the United States were made on July 4, 1866, with the Delawares, in 1867 with various tribes in Kansas and with the Pottawatomies, and in April, 1868, with the Sioux. (14 Stat., 794, 796; 15 Stat., 513, 532, 533, 637.)

The treaty of 1867 with the Kansas Indians strikingly illustrates the principle that no one can become a citizen of a nation without its consent, and directly contradicts the supposition that a member of an Indian tribe can at will be alternately a citizen of the United States and a member of the tribe.

That treaty not only provided for the naturalization of members of the Ottawa, Miami, Peoria and other tribes, and their families, upon their making declaration, before the district court of the United States, of their intention to become citizens. (15 Stat. 517, 520, 521,) but, after reciting that some of the Wyandotts, who had become citizens under the treaty of 1855, were "unfitted for the responsibilities of citizenship"; and enacting that a register of the whole people of this tribe, resident in Kansas or elsewhere, should be taken, under the direction of the Secretary of the Interior, showing the names of "all who declare their desire to be and remain Indians and in a tribal condition," and of incompetents and orphans as described in the treaty of 1855, and that such persons, and those only, should thereafter constitute the tribe; it provided that "no one who has heretofore consented to become a citizen, nor the wife or children of any such person, shall be allowed to become members of the tribe, except by the free consent of the tribe after its new organization, and unless the agent shall certify that such party is, through poverty or incapacity, unfit to continue in the exercise of the responsibilities of citizenship of the United States, and likely to become a public charge." (15 Stat. 514, 516.)

Since the ratification of the Fourteenth Amendment, Congress has passed several acts for naturalizing Indians of certain tribes, which would have been superfluous if they were, or might become, without any action of the Government, citizens of the United States.

By the act of July 15, 1870, ch. 296, § 10, for instance, it was provided that if at any time thereafter any of the Winnebago Indians in the State of Minnesota should desire to become citizens of the United States, they should make application to the district court of the United States for the district of Minnesota, and in open court make the same proof and take the same oath of allegiance as is provided by law for the naturalization of aliens, and should also make proof to the satisfaction of the court that they were sufficiently intelligent and prudent to control their affairs and interests, that they had adopted the habits of civilized life, and had for at least five years before been able to support themselves and their families; and thereupon they should be declared by the court to be citizens of the United States, the declaration entered of record, and a certificate thereof given to the applicant; and the Secretary of the Interior, upon presentation of that certificate, might issue to them patents in fee simple, with power of alienation, of the lands already held by them in severalty, and might cause to be paid to them their proportion of the money and effects of the

tribe held in trust under any treaty or law of the United States; and thereupon such persons should cease to be members of the tribe, and the lands so patented to them should be subject to levy, taxation, and sale, in like manner with the property of other citizens. (16 Stat., 361.) By the act of March 3, 1873, ch. 332, § 3, similar provision was made for the naturalization of any adult members of the Miami tribe in Kansas, and of their minor children. (17 Stat., 632.) And the act of March 3, 1865, ch. 127, before referred to, making corresponding provision for the naturalization of any of the chiefs, warriors, or heads of families of the Stockbridge Indians, is re-enacted in section 2312 of the Revised Statutes.

The act of January 25, 1871, ch. 38, for the relief of the Stockbridge and Munsee Indians in the State of Wisconsin, provided that "for the purpose of determining the persons who are members of said tribes and the future relation of each to the Government of the United States," two rolls should be prepared under the direction of the Commissioner of Indian Affairs, signed by the sachem and councillors of the tribe, certified by the person selected by the Commissioner to superintend the same, and returned to the Commissioner; the one, to be denominated the citizen roll, of the names of all such persons of full age, and their families, "as signify their desire to separate their relations with said tribe, and to become citizens of the United States," and the other, to be denominated the Indian roll, of the names of all such "as desire to retain their tribal character and continue under the care and guardianship of the United States;" and that those rolls, so made and returned, should be held as a full surrender and relinquishment, on the part of all those of the first class, of all claims to be known or considered as members of the tribe, or to be interested in any provision made or to be made by the United States for its benefit, "and they and their descendants shall thenceforth be admitted to all the rights and privileges of citizens of the United States." (16 Stat., 406.)

The pension act exempts Indian claimants of pensions for service in the Army or Navy from the obligation to take the oath to support the Constitution of the United States. (Act of March 3, 1873, ch. 234, § 28; 17 Stat., 574; Rev. Stat., § 4721.)

The recent statutes concerning homesteads are quite inconsistent with the theory that Indians do or can make themselves independent citizens by living apart from their tribe. The act of March 3, 1875, ch. 131, § 15, allowed to "any Indian born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations," the benefit of the homestead acts, but only upon condition of his "making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior"; and further provided that his title in the homestead should be absolutely inalienable for five years from the date of the patent, and that he should be entitled to share in all annuities, tribal funds, lands, and other property, as if he had maintained his tribal relations. (18 Stat., 420.) And the act of March 3, 1884, ch. 180, § 1, while it allows Indians "located on public lands" to "avail themselves of the homestead laws as fully and to the same extent as may now be done by citizens of the United States," provides that the form and the legal effect of the patent shall be that the United States does and will hold the land for twenty-five years in trust for the Indian making the entry, and his widow and heirs, and will then convey it in fee to him or them. (23 Stat., 96.)

The national legislation has tended more and more towards the education and civilization of the Indians, and fitting them to be citizens. But the question whether any Indian tribes, or any members thereof, have become so far advanced in civilization, that they should be let out of the state of pupilage, and admitted to the privileges and responsibilities of citizenship, is a question to be decided by the nation whose wards they are and whose citizens they seek to become, and not by each Indian for himself.

There is nothing in the statutes or decisions, referred to by counsel, to control the conclusion to which we have been brought by a consideration of the language of the Fourteenth Amendment, and of the condition of the Indians at the time of its proposal and ratification.

The act of July 27, 1868, ch. 249, declaring the right of expatriation to be a natural and inherent right of all people, and reciting that "in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship," while it affirms the right of every man to expatriate himself from one country, contains nothing to enable him to become a citizen of another, without being naturalized under its authority. (15 Stat., 223; Rev. Stat., sec. 1999.)

The provision of the act of Congress of March 3, 1871, ch. 120, that "hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty," is coupled with a provision that the obligation of any treaty already lawfully made is not to be thereby invalidated or impaired; and its utmost possible effect is to require the Indian tribes to be dealt with for the future through

the legislative and not through the treaty-making power. (16 Stat., 566; Rev. Stat., sec. 2079.)

In the case of *United States v. Elm*, 28 Int. Rev. Rec., 419, decided by Judge Wallace in the district court of the United States for the northern district of New York, the Indian who was held to have a right to vote in 1876 was born in the State of New York, one of the remnants of a tribe which had ceased to exist as a tribe in that State; and by a statute of the State it had been enacted that any native Indian might purchase, take, hold, and convey lands, and, whenever he should have become a freeholder to the value of one hundred dollars, should be liable to taxation, and to the civil jurisdiction of the courts, in the same manner and to the same extent as a citizen. N. Y. Stat., 1843, ch. 87. The condition of the tribe from which he derived his origin, so far as any fragments of it remained within the State of New York, resembled the condition of those Indian nations of which Mr. Justice Johnson said in *Fletcher v. Peck*, 6 Cranch, 87, 146, that they "have totally extinguished their national fire, and submitted themselves to the laws of the States;" and which Mr. Justice McLean had in view, when he observed in *Worcester v. Georgia*, 6 Pet., 515, 580, that in some of the old States, "where small remnants of tribes remain, surrounded by white population, and who, by their reduced numbers, had lost the power of self-government, the laws of the State have been extended over them, for the protection of their persons and property." See also, as to the condition of Indians in Massachusetts, remnants of tribes never recognized by the treaties or legislative or executive acts of the United States as distinct political communities, *Danzell v. Webquish*, 108 Mass., 133; *Pells v. Webquish*, 129 Mass., 469; Mass. Stat., 1862, ch. 184; 1869, ch. 463.

The passages cited as favorable to the plaintiff from the opinions delivered in *Ex parte Kenyon*, 5 Dillon, 385, 390, in *Ex parte Reynolds*, 5 Dillon, 394, 397, and in *United States v. Crook*, 5 Dillon, 453, 464, were *obiter dicta*. The *Case of Reynolds* was an indictment in the circuit court of the United States for the western district of Arkansas for a murder in the Indian country, of which that court had jurisdiction if either the accused or the dead man was not an Indian, and was decided by Judge Parker in favor of the jurisdiction, upon the ground that both were white men, and that, conceding the one to be an Indian by marriage, the other never was an Indian in any sense. 5 Dillon, 397, 404. Each of the other two cases was a writ of habeas corpus; and any person, whether a citizen or not, unlawfully restrained of his liberty, is entitled to that writ. *Case of the Hottentot Venus*, 13 East, 195; *Case of Dos Santos*, 2 Brock., 493, *In re Kaine*, 14 How., 103. In *Kenyon's Case*, Judge Parker held that the court in which the prisoner had been convicted had no jurisdiction of the subject-matter, because the place of the commission of the act was beyond the territorial limits of its jurisdiction, and, as was truly said, "this alone would be conclusive of this case." 5 Dillon, 390. In *United States v. Crook*, the Ponca Indians were discharged by Judge Dundy because the military officers who held them were taking them to the Indian Territory by force and without any lawful authority; 5 Dillon, 468; and in the case at bar, as the record before us shows, that learned judge concurred in the judgment below for the defendant.

The law upon the question before us has been well stated by Judge Deady in the district court of the United States for the district of Oregon. In giving judgment against the plaintiff in a case resembling the case at bar, he said: "Being born a member of 'an independent political community'—the Chinook—he was not born subject to the jurisdiction of the United States—not born in its allegiance." *McKay v. Campbell*, 2 Sawyer, 118, 134. And in a later case he said: "But an Indian cannot make himself a citizen of the United States without the consent and co-operation of the Government. The fact that he has abandoned his nomadic life or tribal relations, and adopted the habits and manners of civilized people, may be a good reason why he should be made a citizen of the United States, but does not of itself make him one. To be a citizen of the United States is a political privilege which no one, not born to, can assume without its consent in some form. The Indians in Oregon, not being born subject to the jurisdiction of the United States, were not born citizens thereof, and I am not aware of any law or treaty by which any of them have been made so since." *United States v. Osborne*, 6 Sawyer, 406, 409.

Upon the question whether any action of a State can confer rights of citizenship on Indians of a tribe still recognized by the United States as retaining its tribal existence, we need not, and do not, express an opinion, because the State of Nebraska is not shown to have taken any action affecting the condition of this plaintiff. See *Chirac v. Chirac*, 2 Wheat., 259; *Fellows v. Blacksmith*, 19 How., 366; *United States v. Holliday*, 3 Wall., 407, 420; *United States v. Joseph*, 94 U. S., 614, 618.

The plaintiff, not being a citizen of the United States under the Fourteenth Amendment of the Constitution, has been deprived of no right secured by the Fifteenth Amendment, and cannot maintain this action. *Judgment affirmed.*

SUPREME COURT OF THE UNITED STATES.

THE UNITED STATES, PLAINTIFF IN ERROR, }
vs. }
 FRED. BOURNE, ADMINISTRATOR OF C. H. } No. 218.
 Bourne, deceased, Frank Asbill, Pierce As- }
 bill, E. S. Gibson, Charles H. Eberlee, Da- }
 vid Thompson, J. O. Wilsey, Bernard Kel- }
 ley, and Antoine Leger. }

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA. FILED JANUARY 28, 1881.

UNITED STATES OF AMERICA, *ss* :

The President of the United States of America to the judge of the circuit court of the United States of the ninth judicial circuit, in and for the district of California, greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said circuit court before you, between the United States of America is plaintiff in error, and Fred. Bourne, administrator of the estate of C. H. Bourne, deceased, Frank Asbill, Pierce Asbill, E. S. Gibson, Charles H. Eberlee, David Thompson, J. O. Wilsey, Bernard Kelley, and Antoine Leger are defendants in error, a manifest error hath happened, to the great damage of the said plaintiff in error, as by its complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States of America, together with this writ, so that you have the same at the city of Washington, in the District of Columbia, on the second Monday of October next, in the said Supreme Court to be there and then held, that the record and proceedings aforesaid be inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 27th day of December, in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the United States the one hundred and fifth.

[SEAL.]

L. S. B. SAWYER, *Clerk*,
 By J. F. O'BEIRNE,
Deputy Clerk.

The above writ of error is hereby allowed.

LORENZO SAWYER,
Judge U. S. Circuit Court, Ninth Circuit.

The answer of the judges of the circuit court of the United States for the district of California.

The record and all proceedings of the plaint whereof mention is within made, with all things touching the same, we certify, under the seal of our said court, to the Supreme Court of the United States of America within mentioned, at the day and place within contained, in a certain schedule to this writ annexed, as within we are commanded.

By the court:

[SEAL.]

LORENZO S. B. SAWYER, *Clerk*,
 By J. F. O'BEIRNE, *Deputy Clerk*.

(Indorsed:) 1486. Original. 1486. United States Supreme Court. The United States of America, plaintiff in error, *vs.* Fred. Bourne, administrator, &c., et al., defendants in error. Writ of error. Filed Dec'r 27th, 1880. L. S. B. Sawyer, clerk, by J. F. O'Buirne, d'p'y cl'k.

UNITED STATES OF AMERICA, *ss* :

To Fred. Bourne, administrator of the estate of C. H. Bourne, deceased, Frank Asbill, E. S. Gibson, Charles H. Eberlee, David Thompson, J. O. Wilsey, Bernard Kelley, and Antoine Leger, and Pierce Asbill, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, District of Columbia, on the

second Monday of October, A. D. 1881, pursuant to a writ filed in the clerk's office of the circuit court of the United States, wherein the United States of America is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment in the said writ mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 27th day of December, A. D. 1880, and of the Independence of the United States the 105th.

[SEAL.]

LORENZO SAWYER,
Judge U. S. Circuit Court, Ninth Circuit.

(Indorsed:) No. 1486. United States Supreme Court. The United States of America, plaintiff in error, vs. Fred. Bourne, administrator, &c., et al., defendants in error. Citation.

Service of copy of the within citation is hereby acknowledged.

LATIMER & MORROW,
*Att'y for Def'ts in Error, Bourne, Frank and Pierce
Asbill, Gibson, Eberle, and Thompson.*

DEC. 30TH, 1880.

Filed 30 Dec'r, 1880. L. S. B. Sawyer, clerk, by J. F. O'Beirne, d'p'y cl'k.

Summons.

UNITED STATES OF AMERICA :

In the circuit court of the United States of the ninth circuit, in and for the district of California.

THE UNITED STATES OF AMERICA, PLAINTIFF, }
vs. }
CHARLES H. EBERLEE ET AL., DEFENDANTS. }

Action brought in the said circuit court, and the complaint filed in the office of the clerk of said circuit court in the city of San Francisco.

The President of the United States of America greeting: To Charles H. Eberlee, David Thompson, J. O. Wilsey, Bernard Kelly, C. H. Bourne, Frank Asbill, Pierce Asbill, E. S. Gibson, and Antoine Leger, defendants.

You are hereby required to appear in an action brought against you by the above-named plaintiff in the circuit court of the United States, ninth circuit, in and for the district of California, and to file your plea, answer, or demurrer to the complaint filed therein (a certified copy of which accompanies this summons) in the office of the clerk of said court in the city and county of San Francisco within ten days after the service on you of this summons if served in this county, or if served out of this county then within forty days, or judgment by default will be taken against you.

The said action is brought to obtain a judgment against said defendants for the possession of certain premises situate in Mendocino County, district of California, together with the sum of one thousand dollars per month for the use and occupation thereof from the 18th day of August, A. D. 1875, with costs of suit, all of which will more fully appear by reference to the original complaint on file herein, a certified copy of which is herewith served upon you, and if you fail to appear and plead, answer, or demur, as herein required, judgment by default will be entered against you and each of you.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 8th day of March, in the year of our Lord one thousand eight hundred and seventy-six, and of our Independence the 100th.

[SEAL.]

LORENZO S. B. SAWYER, *Clerk,*
By J. F. O'BEIRNE, *Deputy Clerk.*

(Endorsed:)

OFFICE U. S. MARSHAL,
District of California:

I hereby certify that I received the within summons on the 23d day of March, 1876, and personally served the same on Charles H. Eberlee, def't, March 27th, 1876, C. H. Bourne, March 24th, 1876, Pierce Asbill, March 24th, 1876, David Thompson, March 27th, 1876, Bernard Kelley, March 27th, 1876, Frank Asbill, March 27th, 1876, E. S. Gibson, March 27th, 1876, Antoine Leger, March 28th, 1876, J. O. Wilsey, April 3d,

1876, defendants, by delivering to and leaving with each of said defen'ts, personally, in the county of Mendocino, in this district, a true copy of this summons, with a certified copy of the complaint attached thereto, this the 3d day of April, 1876.

E. P. MARSELLUS,

U. S. Marshal,

By J. S. BROWN, *Dep'ty.*

Covilo, *Ap'l 3d*, 1876.

Filed April 10th, 1876. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep. cl'k.

Complaint.

UNITED STATES OF AMERICA.

United States circuit court, ninth circuit, district of California.

THE UNITED STATES OF AMERICA, PLAINTIFF, }

vs.

CHARLES H. EBERLEE, DAVID THOMPSON, J. O. WILSEY, Bernard Kelly, C. H. Bourne, Frank Asbill, Pierce Asbill, E. S. Gibson, and Antoine Leger, defendants. }

Now comes the United States of America, the plaintiff above named, by its attorney, Walter Van Dyke, and complains against Charles H. Eberlee, David Thompson, J. O. Wilsey, Bernard Kelley, C. H. Bourne, Frank Asbill, Pierce Asbill, E. S. Gibson, and Antoine Leger, the defendants herein, and for cause alleges and shows the court that on the 3d day of March, A. D. 1873, this plaintiff was, for a long time prior thereto had been, and ever since said time has been, and still is, the owner and seized in fee of all that certain piece and parcel of land lying and being in the county of Mendocino, in the district and State of California, described as follows: Beginning at a point where the township line dividing townships 22 and 23 north, Mount Diablo meridian, intersects and crosses the center of the middle fork of Eel River, and running eastwardly up the center of said middle fork of Eel River to the mouth of Williams Creek; thence up said Williams Creek, following the center thereof, to the extreme northern source of said Williams Creek; thence westerly, across Blue Nose Ridge, by a monument and stake marked respectively "U. S. R.," in a direct line to the headwaters of Hull's Creek; and thence down the center of said Hull's Creek to its intersection with the north fork of Eel River; thence down said north fork of Eel River, along the center thereof, to the intersection of said north fork with the main Eel River; thence up said Eel River, along the center thereof, to a point in the center of said river where the said township line dividing townships 22 and 23, north, crosses the center of said Eel River; and thence east, along said township line, to the place of beginning.

That on said 3d day of March, A. D. 1873, and while plaintiff was so the owner of and seized in fee of said premises, these defendants unlawfully and wrongfully entered into and upon said premises, and ever since have and still do unlawfully and wrongfully withhold from plaintiff the possession thereof.

That on the 3d day of March, A. D. 1873, the Congress of the United States aforesaid passed an act entitled "An act to restore a part of the Round Valley Indian Reservation in California to the public lands, and for other purposes," which said act was on said day duly approved by the President of the United States aforesaid, and then and there became a law.

That by said act the premises hereinbefore described were set apart from the public lands of the United States, and reserved from entry and sale as an Indian reservation. That by said act the southern, eastern, and western boundaries of said Indian reservation were determined and described absolutely.

That by said act the Secretary of the Interior of the United States aforesaid was authorized and directed to appoint three commissioners to examine the premises and report their views as to where the northern line of said Indian reservation should be located.

That said commissioners should also appraise the values of all improvements of white persons north of the southern boundary of said Indian reservation, as established by said act, and within said proposed Indian reservation.

And it is further provided by said act that as soon as the report of said commissioners fixing the northern boundary of said reservation shall have been approved, that all settlers residing upon said reservation at the time of the passage of said act shall be required to remove therefrom, as soon as they should be paid or tendered the amount of the value of their improvements as appraised by said commissioners.

That these defendants are, and were, at the time of the passage of said act, white

persons residing within the limits of said Indian reservation, as reported upon by said commissioners, and approved by the Secretary of the Interior, and north of the southern boundary thereof.

That in pursuance of the provisions of said act the Secretary of the Interior, on the day of May, A. D. 1873, appointed J. P. C. Shank, B. R. Cowan, and Charles Marsh as commissioners to locate the northern line of said reservation and to appraise the value of the improvements mentioned in said act.

That on the day of June, A. D. 1873, the said commissioners, so duly appointed, proceeded to examine said premises and improvements, and then and there made their report to the Secretary of the Interior, recommending that the tract of land hereinbefore described, and the boundaries hereinbefore set forth, should constitute the said Indian reservation and the boundary lines thereof, and also in said report appraised the improvements of these defendants as follows:

Charles H. Eberlee's improvements.....	\$2,925 00
David Thompson's improvements.....	1,940 00
J. O. Wilsey's improvements.....	1,000 00
Bernard Kelly's improvements.....	100 00
C. H. Bourne's improvements.....	5,130 00
Frank Asbill's improvements.....	304 78
Pierce Asbill's improvements.....	580 00
E. S. Gibson's improvements.....	1,000 00
Antoine Leger's improvements.....	975 00

That on the 4th day of August, A. D. 1875, the said report of said commissioners was in all of its particulars duly approved by the Secretary of the Interior of the United States, and by virtue of said act of Congress and the approval of said report of said commissioners, the premises hereinbefore described became and were and are a United States Indian reservation.

That on or about the 15th day of July, 1875, one J. L. Burchard then and there being United States Indian agent for said Indian reservation, at the request of and acting for this plaintiff, paid to the said defendant Charles H. Eberlee the sum of two thousand nine hundred and twenty-five dollars; to defendant David Thompson, one thousand nine hundred and forty dollars; to defendant J. O. Wilsey, one thousand dollars; to defendant Bernard Kelly, one hundred dollars; to defendant C. H. Bourne, five thousand one hundred and thirty dollars; and to defendant Antoine Leger, nine hundred and seventy-five dollars; which said sums were paid to defendants and received by them as the full sums due them respectively for improvements claimed by them situate on Indian reservation and so appraised as aforesaid.

That on or about the 17th day of August, A. D. 1875, the said J. L. Burchard, then and there United States Indian agent for said Indian reservation, acting under the authority and direction of this plaintiff, tendered to pay on behalf of this plaintiff to defendant Frank Asbill, three hundred and four dollars and seventy-eight cents; to defendant Pierce Asbill, five hundred and eighty dollars; and to defendant E. S. Gibson, one thousand dollars, the full sums respectively due to said defendants under said appraisement for the improvements situate upon said reservation and claimed by said last-named defendants respectively. That said defendants, Frank Asbill, Pierce Asbill, and E. S. Gibson, each for himself then and there refused to receive said sums or any part thereof.

That this plaintiff ever since has been and still is ready and willing to pay said defendants said sums so found to be due to said defendants by said appraisement of said commissioners.

That afterwards, to wit, on the 18th day of August, A. D. 1875, this plaintiff, by J. L. Burchard, agent in charge of said reservation, served demands upon each of the defendants herein for the possession of the premises herein described, together with the improvements thereon, but that these defendants failed and refused to remove therefrom, or to deliver the possession thereof to this plaintiff, and ever since have and still do unlawfully and wrongfully withhold the possession of said premises and improvements from this plaintiff.

That the value of the use and occupation of said premises and improvements so wrongfully held by these defendants is one thousand dollars per month.

Wherefore plaintiff prays for judgment against said defendants for the possession of said premises, together with the sum of one thousand dollars per month for the use and occupation thereof from the 18th day of August, A. D. 1875, with costs of suit.

WALTER VAN DYKE,
United States Attorney.

(Endorsed:)

UNITED STATES OF AMERICA,
District of California, ss:

The summons in the within entitled action having been duly served upon the within named defendants, J. O. Wilsey, Bernard Kelly, & Antoine Leger, in the city of

Mendocino, in this district, on the 3d day of April, on the 27th day of March & March 28, 1876, respectively, and the legal time within which the said defendants were required to appear & plead herein having expired, and said defendants having, each of them, failed to appear & plead as required by said summons, the defaults of said defendants to appear & plead herein are hereby, upon the written request of the U. S. attorney filed herein, entered February 8, 1877.

L. S. B. SAWYER,
Clerk.

Filed March 8, 1876. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep. cl'k.

Demurrer of defendants Eberlee, Thompson, & Bourne.

In the circuit court of the United States of the 9th circuit, in and for the district of California.

THE UNITED STATES OF AMERICA, PLAINTIFF, }
vs. }
CHARLES H. EBERLEE, DAVID THOMPSON, J. O. }
Wilsey, Bernard Kelly, C. H. Bourne, Frank }
Asbill, Pierce Asbill, E. S. Gibson, and An- }
toine Leger, defendants. }

Now come Charles H. Eberlee, David Thompson, & C. H. Bourne defendants named in the above-entitled action, by their attorney, John Mullan, and demurring to the complaint of this pl'ff allege, as grounds, for demurrer, as follows:

1st. That this court has no jurisdiction of the subject-matter of this action.

2nd. That the complaint of this pl'ff does not state facts sufficient to constitute a cause of action.

JOHN MULLAN,
Attorney for C. H. Eberlee, David Thompson, C. H. Bourne.

I, John Mullan, att'y for the above-named defendants, do certify that the same is true as to points of law.

JOHN MULLAN, *Att'y.*

(Indorsed:) Filed June 30, 1876. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

Demurrer of Frank Asbill, Pierce Asbill & E. S. Gibson.

Circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES }
vs. }
CHARLES H. EBERLEE ET AL. }

Now come Frank Asbill, Pierce Asbill, and E. S. Gibson, defendants in the above-entitled action, and demur to the complaint of the plaintiffs herein, upon the ground that the same does not state facts sufficient to constitute a cause of action.

LATIMORE, MORROW & PROFFATT, &
BARCLAY HENLY,

*Attorneys for defendants, Frank Asbill,
Pierce Asbill, and E. S. Gibson.*

I consent that this demurrer may be filed without the certificate of the attorneys required by the rules.

J. M. COGHLAN,
U. S. Att'y.

(Indorsed:)
Due service of a copy of the within demurrer acknowledged this 8th day of July A. D. 1876.

J. M. COGHLAN,
U. S. Att'y.

Filed July 8th, 1876. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep. cl'k.

Answer of defendants Eberlee, Thompson, & Bourne.

In the circuit court of the United States of the 9th circuit, in and for the district of California.

THE UNITED STATES OF AMERICA, PLAINTIFF,

vs.

CHARLES H. EBERLEE, DAVID THOMPSON, J. O. Wilsey, Bernard Kelly, C. M. Bourne, Frank Asbill, Pierce Asbill, E. S. Gibson, and Antonie Leger, defendants.

Now comes Charles H. Eberlee, David Thompson, and C. H. Bourne, defendants named in the above-entitled action, by their attorney, John Mullan, and answering for themselves to the complaint filed herein, deny that this plaintiff was on the 3rd day of March, 1873, and for a long time prior thereto had been, and still is, the owner and seized in fee of all that certain piece and parcel of land as described and specifically set forth in the complaint of this plaintiff.

These defendants deny that on the 3d day of March, 1873, they, or either of them, unlawfully and wrongly entered into or upon said premises, and deny that ever since said date they have unlawfully or wrongfully withheld from this plaintiff the possession thereof, as alleged by plaintiff. These defendants deny that on the 3d of March, 1873, all of said premises were set apart from the public lands of the U. S., or reserved as an Indian reservation, as alleged by plaintiff.

These defendants deny that the Secretary of the Interior of the U. S. was authorized or directed to appoint three commissioners to examine all the premises described in plaintiff's complaint, or report their views thereon, as alleged by plaintiff. Deny that all the settlers on the said premises should be removed therefrom at the date or in the manner as alleged in plaintiff's complaint. Deny that on the 3d day of March, 1873, these defendants, or either of them, were residing on any Indian reservation, or on any of the lands of the plaintiff, as alleged in the plaintiff's complaint. Deny that on the 4th day of Aug., 1873, or on any of the dates alleged in complaint of plaintiff, all the premises as described in plaintiff's complaint became or were a U. S. Indian reservation.

These defendants deny that on the 18th day of Aug., 1875, that they, or either of them, unlawfully and wrongfully withheld the possession of said premises from this plaintiff, and deny that the value of the use and occupation of said premises is that of \$1,000 per month.

And C. H. Eberlee, one of the said defendants, further answering separately for himself, avers and shows that on the 17th day of Dec., 1861, he purchased from the State of California a portion of the premises described in plaintiff's complaint as swamp and overflowed lands, and that said portion is described as follows, to wit: the SW. $\frac{1}{4}$ & S. $\frac{1}{4}$ of NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$, S. $\frac{1}{4}$ of NE. $\frac{1}{4}$, & N. $\frac{1}{4}$ of SE. $\frac{1}{4}$ sec. 30, in T. 23 N., R. 12 W., M. D. M., and that he received on the 18th of Aug., 1862, a certificate of purchase therefor, and numbered 1662 (State series), and that on the 17th Dec., 1861, and long prior thereto, the said premises were swamp and overflowed lands, and the same were, and had prior thereto been, the property of the State of California, and did not then, and do not now, belong to this plaintiff, but from Sept. 28, 1850, to 17th of Aug., 1861, belonged to the State of California, and from that date to this defendant; that the Secretary of the Interior has failed to list and certify said lands to the State of California as swamp and overflowed lands.

David Thompson, one of said defendants, further answering, separately for himself, avers and shows that on the 22d day of Nov., 1861, one Martin Corbet purchased from the State of California a portion of the premises described in plaintiff's complaint as swamp & overflowed lands, and that said portion is described as follows, to wit: SE. $\frac{1}{4}$, SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ of sec. 35, in T. 23 N., R. 13 W., M. D. M., and that he received a certificate of purchase, No. 3128 (State series) therefor and which certificate has been assigned to this defendant, and that on said 22 day of Nov., 1861, and long prior thereto, the said lands were swamp & overflowed lands, and that the same were, & prior thereto had been, the property of the said State of California, & did not then and do not now belong to this plaintiff, but from the 28th Sept., 1850, to the 22d of Nov., 1861, belonged to the State of California, and after that date belonged to this defendant.

C. H. Bourne, one of said defendants, further answering separately for himself, avers and shows that on the 31st day of Dec., 1861, John B. Owens purchased from the State of California, a portion of the premises described in plaintiff's complaint as swamp and overflowed lands, and that said portion is described as follows, to wit: W. $\frac{1}{4}$ & SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$, Sec. 24, in T. 23 N., R. 13 W., M. D. M., and that on 17th September, 1862, received a certificate of purchase, No. 1673 (State series),

therefor, and also on the 31st Dec., 1861, said John B. Owens purchased from the State of California, as swamp & overflowed lands, the SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$, Sec. 30, T. 23 N., R. 12 W., M. D. M., and on 17th Sept., 1862, received certificate of purchase, No. 1675 (State series) therefor, & also that on the 31st Dec., 1861, said John B. Owens purchased from the State of California as swamp and overflowed land the SW. $\frac{1}{4}$ & SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$, Sec. 25, in T. 23 N., R. 13 W., M. D. M., & on 18th Aug., 1862, received certificate of purchase, No. 1663 (State series) therefor, and also on 31st Dec., 1861, the said John B. Owens purchased from the State of California as swamp and overflowed the E. $\frac{1}{4}$ of SE. $\frac{1}{4}$, Sect. 25, T. 23 N., R. 13 W., M. D. M., and on the 17th of Sept., 1862, received certificate of purchase, No. 1674 (State series) therefor, and that all of said certificates are assigned to and the lands therein described are now owned by this defendant, and that on said 31st Dec., 1861, all of said lands were and prior thereto had been swamp and overflowed lands, and that the same were and prior thereto had been the property of the State of California, and did not then & do not now belong to this plaintiff, but that all of same from Sept. 28, 1850, to 17th Sept., 1862, belonged to the State of California, and that from and after that date the same belonged to this defendant.

And these defendants, further answering, deny that any and all possession of the premises above described in said certificates of purchase is unlawful and wrongful, and deny that this plaintiff is entitled thereto, and deny that the provisions of the said law of 3rd March, 1873, referred to in plaintiff's complaint, has any rightful or lawful application to them or either of them, or to any lands claimed by them. And further deny that the Secretary of the Interior of the United States was authorized by said law to do any act in these premises so far as refers to the lands as described in said several certificates of purchase or either of them, or to the possession, or to the ownership thereof, and deny that the commissioners referred to in plaintiff's complaint were authorized to do any act to the prejudice of the ownership or possession of the premises as described in said certificates of purchase, or either of them. Deny that J. L. Burchard, Indian agent, acting in behalf of this plaintiff, was authorized to do any act to the prejudice of the ownership or possession of the premises, as described in said certificates of purchase, or any of them, as alleged in plaintiff's complaint. And defendants further deny that they or either of them have failed and refused to remove from any premises owned by this plaintiff, or to deliver the possession of any premises owned by this plaintiff, and deny that they unlawfully & wrongfully withhold the possession of any premises owned by this pl'ff. Deny that plaintiff has the right to the use or to the occupation of any of the premises used or occupied by these defendants, & deny that the value of such use is that of \$1,000 per month, as alleged by plaintiff. But the defendants aver that the lands as described in said certificate of purchase were granted by Congress to the State of California, had been confirmed to said State prior to the date when said premises were alleged to be an Indian reservation, as set forth in pl'ff's complaint.

Wherefore, these defendants pray for judgment against this plaintiff, that these defendants are entitled to the use and to the occupation of the lands, as specifically described in said certificates of purchase, owned by them separately, and that this plaintiff take nothing by this suit as against these def'ts or any of them.

JOHN MULLAN,

Att'y for C. H. Eberlee, David Thompson, C. H. Bourne.

(Endorsed :)

Due service of a copy of the within admitted this 30' day of June, 1876.

A. P. VAN DUZER,

Ass't. U. S. Att'y.

Filed June 30th, 1876. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep. cl'k.

Order overruling demurrer.

At a stated term, to wit, the February term, A. D. 1877, of the circuit court of the United States of America, of the ninth judicial circuit, in and for the district of California, held at the court-room, in the city and county of San Francisco, on Tuesday, the 20th day of February, in the year of our Lord one thousand eight hundred and seventy-seven.

Present, the honorable Lorenzo Sawyer, circuit judge.

THE UNITED STATES

vs.

CHARLES H. EBERLEE ET AL.

} No. 1486.

This cause, heretofore argued and submitted to the court for consideration and decision upon the demurrer to the complaint herein, having been duly considered, it is ordered that said demurrer be, and the same is hereby, overruled, with leave to the defendants to answer herein upon the usual terms.

I hereby certify that the foregoing is a full, true, and correct copy of an original order entered in the above-entitled action.

Attest my hand and the seal of said circuit court this 31st day of May, A. D. 1880.

[SEAL.]

L. T. B. SAWYER, *Clerk.*
By J. F. O'BEIRNE,
Deputy Clerk.

Answer of Frank Asbill.

Circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES OF AMERICA

vs.

CHARLES H. EBERLEE, DAVID THOMPSON, J. O. }
Wilsey, Bernard Kelly, C. H. Bourne, Frank }
Asbill, Pierce Asbill, E. S. Gibson, and Antonio }
Leger. }

Now comes the defendant Frank Asbill and for answer to the complaint of the plaintiff herein, denies each and every allegation, matter, and thing therein contained.

Further answering, the said defendant Frank Asbill avers that he claims no right, title, or interest to any part of the lands described in the complaint, except a lot or portion thereof bounded and described as follows, to wit: Bounded on the west by the north fork of Eel River, on the north, northeast, and east by Hull's Creek, and on the south by Brushy Cañon; and that the said lot or portion was not, at the commencement of this action, nor is it now all enclosed, nor has the defendant Frank Asbill ever had the exclusive possession thereof, but that the cattle and stock of others, including cattle and stock belonging to the plaintiff, have, long prior to the commencement of this action, and ever since, ranged over it, and pastured and grazed upon it, and that the defendant Frank Asbill has not now, and never has had, the exclusive occupation or use thereof.

Wherefore the defendant Frank Asbill prays that he may be hence dismissed, with judgment against the plaintiff for his costs and disbursements herein.

LATIMER & MORROW, &
BARCLAY HENLEY,
Attorneys for Defendant Frank Asbill.

(Endorsed:)

Received copy of this answer this 5th March, 1877.

PHILIP TEARE,
Ass't U. S. Att'y.

Filed 5 March, 1877. L. S. B. Sawyer, clerk.

Answer of Pierce Asbill.

Circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES OF AMERICA

vs.

CHARLES H. EBERLEE, DAVID THOMPSON, J. }
O. Wilsey, Bernard Kelly, C. H. Bourne, }
Frank Asbill, Pierce Asbill, E. S. Gibson, }
and Antonio Leger. }

Now comes the defendant Pierce Asbill, and for answer to the complaint of the plaintiff herein, denies each and every allegation, matter, and thing therein contained.

Further answering, the said defendant Pierce Asbill avers that he claims no right, title, or interest to any part of the lands described in the complaint, except a lot or portion thereof bounded and described as follows, to wit: Bounded on the south by lands occupied by J. Updegraff and by Brushy Cañon; on the west by the north fork of Eel River; on the north by Brushy Cañon, and on the east by the east side of Summit Valley; the said lot or tract of land being known as "Summit Valley;" and that the said lot or portion was not, at the commencement of this action, nor is it now, all enclosed, nor has the defendant Pierce Asbill ever had the exclusive possession thereof, but that the cattle and stock of others, including cattle and stock belonging to the plaintiff, have, long prior to the commencement of this action, and ever since, ranged over it and pastured and grazed upon it, and that the

defendant Pierce Asbill has not now, and never has had, the exclusive occupation or use thereof.

Wherefore the defendant Pierce Asbill prays that he may be hence dismissed with judgment against the plaintiff for his costs and disbursements herein.

LATIMER & MORROW, AND
BARCLAY HENLEY,

Attorneys for Defendant Pierce Asbill.

(Endorsed:)

Received copy of this answer this 5th March, 1877.

PHILIP TEARE,

Ass't U. S. Att'y.

Filed 5 March, 1877. L. S. B. Sawyer, clerk.

Answer of E. S. Gibson.

Circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES OF AMERICA

vs.

CHARLES H. EBERLEE, DAVID THOMPSON, J.
O. Wilsey, Bernard Kelly, C. H. Bourne,
Frank Asbill, Pierce Asbill, E. S. Gibson,
and Antonio Leger.

Now comes the defendant E. S. Gibson, and, for answer to the complaint of the plaintiff herein, denies each and every allegation, matter, and thing therein contained.

Further answering, the said defendant, Gibson, avers that he claims no right, title, or interest to any part of the lands described in the complaint, except a lot, or portion thereof, bounded and described as follows, to wit: Bounded on the north by lands occupied by J. Updegraff; on the south by Alder Creek, and lands occupied by G. E. White; on the west by Eel River, and on the east by Mill Creek; and that the said lot or portion was not at the commencement of this action nor is it now all inclosed; nor has the defendant Gibson ever had the exclusive possession thereof; but that the cattle and stock of others, including cattle and stock belonging to the plaintiff, have, long prior to the commencement of this action, and ever since, ranged over it, and pastured and grazed upon it; and that the defendant Gibson has not now, and never has had the exclusive occupation or use thereof.

Wherefore the defendant Gibson prays that he may be hence dismissed, with judgment against the plaintiff for his costs and disbursements herein.

LATIMER & MORROW, & BARCLAY HENLEY,

Attorneys for Defendant E. S. Gibson.

(Endorsed:)

Received copy of this answer, this 5th March, 1877.

PHILIP TEARE,

Ass't U. S. Att'y.

Filed 5 March, 1877. L. S. B. Sawyer, clerk.

Amended answer of E. S. Gibson.

Circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES OF AMERICA,

vs.

CHARLES H. EBERLEE, DAVID THOMPSON, J. O.
Wilsey, Bernard Kelly, C. H. Bourne, Frank
Asbill, Pierce Asbill, E. S. Gibson, and An-
toine Leger.

Now comes the defendant E. S. Gibson and, leave of the court having first been obtained, makes this his amended answer to the complaint of plaintiff herein, and denies each and every allegation, matter, and thing in said complaint contained.

Further answering, the said defendant Gibson avers that he claims no right, title, or interest to any part of the lands described in the complaint except the lots, or portions thereof, bounded and described as follows, to wit: Bounded on the north by lands occupied by J. Updegraff; on the south by Alder Creek and lands occupied by G. E. White; on the west by Eel River, and on the east by the Main ridge; and also sections

34, 27, S. E. $\frac{1}{2}$ sec. 22, N. $\frac{1}{2}$ of sec. 23, sec. 14 and S. $\frac{1}{2}$ of sec. 13, in township number 23 north, range number 13 west, Mount Diablo meridian; which said last-described lands the defendant claims an interest in, and the right to the possession of, by virtue of a lease thereof made by Isaac Friedlander to J. Ingolsbee, and assigned by said Ingolsbee to Henly Brothers, and by them assigned to this defendant, the said Friedlander having entered and purchased from the United States said lands last described, and in said lease about the year 1870, and that the said lots or portions were not at the commencement of this action, nor are they now, all enclosed, nor has the defendant Gibson ever had the exclusive possession thereof, but that the cattle and stock of others, including cattle and stock belonging to the plaintiff, have, long prior to the commencement of this action, and ever since, ranged over it and pastured and grazed upon it; and that the defendant Gibson has not now, and never has had, the exclusive occupation or use thereof.

Wherefore the defendant Gibson prays that he may be hence dismissed, with judgment against the plaintiff for his costs and disbursements herein.

LATIMER & MORROW,
Attorneys for Defendant E. S. Gibson.

(Endorsed:)

Service of copy admitted this 19th day of July, 1877.

J. M. COGHLAN,
U. S. Atty.

Filed by leave of court July 19, 1877. L. S. B. Sawyer, clerk.

Order of trial.

At a stated term, to wit, the July term A. D. 1877, of the circuit court of the United States of America of the ninth judicial circuit, in and for the district of California, held at the court-room, in the city and county of San Francisco, on Thursday, the 19th day of July, in the year of our Lord one thousand eight hundred and seventy-seven. Present, the honorable Lorenzo Sawyer, circuit judge.

THE UNITED STATES
v.
CHARLES H. EBERLEE ET AL. } No. 1486.

This cause coming on to be tried this day, John M. Coghlan, esq., U. S. attorney, appearing on behalf of the United States and L. D. Latimer, W. W. Morrow, and John Mullan, esqs., on behalf of the defendants, the following-named persons were duly impanelled as a jury herein: J. O. Van Bergen, James Heath, Ed. G. Deniston, E. I. Knowles, W. B. Lyon, Jason Springer, Wm. Bartling, Sam'l Tucker, R. Coffin, P. S. Goodspeed, Philo Mills, and A. C. Diggins. By consent of counsel of the respective parties herein, it is ordered that E. S. Gibson, defendant, be allowed to file an amended answer herein, and it is further ordered that Fred. Bourne, administrator of the estate of defendant C. H. Bourne (the death of said defendant having been suggested to the court), be substituted for said decedent as defendant herein. J. L. Birchard was sworn and examined as a witness on behalf of the United States. On motion of J. M. Coghlan, esq., U. S. attorney, it is ordered that judgment be entered herein against J. O. Wilsey, Bernard Kelly, and Antoine Leger for possession of the premises described in the complaint herein, without costs. Joel Vann and Jacob Updegraph were sworn and examined as witnesses on behalf the United States. Ordered, further trial hereof be continued till to-morrow.

I hereby certify that the foregoing is a full, true, and correct copy of an original order entered in the above entitled action.

Attest my hand and the seal of said circuit court this 31st day of May, A. D. 1880.
L. S. B. SAWYER, Clerk.
By J. F. O'BIRNE,
Deputy Clerk..

Findings.

United States circuit court, ninth circuit, district of California.

THE UNITED STATES, PLAINTIFF,
v.
CHARLES H. EBERLEE, DAVID THOMPSON, J. O. WILSEY, Bernard Kelley, Fred. Bourne, &c., Frank Asbill, Pierce Asbill, E. S. Gibson, and Antoine Leger, defendants. }

FINDINGS OF FACT.

This cause came on regularly to be heard this 19th day of July, 1877, J. M. Coghlan, esq., appearing for plaintiff, and Latimer & Morrow, esq's., appearing for the defendants Frank Asbill, Pierce Asbill, and E. S. Gibson, and Messrs. Latimer & Morrow and

John Mullan, esq's., appearing for defendants Charles, H. Eberlee, David Thompson, and C. H. Bourne, and after evidence had been introduced, a jury being waived, the same was submitted to this court for its decision, and the court having duly considered the evidence adduced, finds the following facts:

I. That in the month of July, 1856, the superintendent of Indian affairs for the State of California recommended to the Commissioner of Indian Affairs that Nome Cult Valley be used as an Indian reservation, and announced to said Commissioner, in a letter bearing date July, 1856, that Nome Cult Valley would be occupied as an auxiliary to Nome Lackea and Mendocino Reservation.

That Nome Cult Valley embraces all the lands described in plaintiff's complaint, and that, in the month of November, 1858, the said Commissioner notified the said superintendent of Indian affairs that the Secretary of the Interior had directed that the entire Nome Cult Valley would be retained as an Indian reservation, and that an Indian farm was established and in operation there as early as the year 1858, and used, recognized, and respected as such for a long time prior to any survey of its exterior boundaries.

II. That in 1860 a survey was made of the exterior boundaries of the reservation, which survey was approved by the United States surveyor-general of California May 4th, 1860, and recognized by the Commissioner of the General Land Office as defining the boundaries of such reservation.

III. That the lands and improvements claimed by the defendants, Charles H. Eberlee, David Thompson, and C. H. Bourne, and within the interior limits of this aforesaid survey, and those claimed by the defendants, Gibson and Frank M. and Pierce Asbill are not; and that the defendants, Bourne, Eberlee, and Thompson were upon the said lands claimed by them at the time the survey of 1860 was made and prior thereto.

IV. That in the month of December, 1869, and January, 1870, another survey was made of said reservation under the direction of the Commissioner of the General Land Office, enlarging the reservation by taking in more land; that the last mentioned survey also embraces the lands described in the plaintiff's complaint, and was approved by the President of the United States. That a proclamation of a reservation of these lands by the President of the United States for Indian purposes was made on the 30th day of March, 1870, and prior thereto no proclamation that said lands had been so reserved had been made by the President of the United States.

V. That the lands and the appraised improvements of the defendants, Charles H. Eberlee, David Thompson, C. H. Bourne, Frank Asbill, Pierce Asbill, and E. S. Gibson, are within the limits of said last-mentioned survey.

VI. That by the act of the Congress of the United States approved March 3, 1873, entitled "An act to restore a part of Round Valley Indian Reservation to the public lands and other purposes," the premises described in the complaint were set apart from the public lands of the United States as an Indian reservation, and reserved from entry and sale; that said act also determined the southern, eastern, and western boundaries of said reservation.

VI. That under and in pursuance of said act of Congress approved March 3, 1873, the Secretary of the Interior appointed B. R. Cowan, P. C. Shanks, and Charles Marsh, commissioners to locate the northern boundary of said reservation, and to appraise the value of the improvements of white persons situated north of the southern boundary line as established by the aforesaid act of Congress.

VIII. That in the month of June, 1873, the said commissioners so appointed proceeded to examine said premises, and subsequently made a report to the Secretary of the Interior, locating the northern boundary line of said reservation, and recommending that the tract of land described in the plaintiff's complaint should constitute said reservation.

IX. That on the 3d day of March, 1873, prior thereto, and at the time of the commencement of this action the defendants, Charles H. Eberlee, David Thompson, C. H. Bourne, Frank Asbill, Pierce Asbill and E. S. Gibson were white persons residing within the exterior boundaries of the land described in the plaintiff's complaint, and which had been appropriated and used by the plaintiff as an Indian reservation.

X. That the commissioners appointed under and in pursuance of said act of Congress appraised certain improvements of the parties above named as follows:

Charles H. Eberlee's	\$2, 925 00
David Thompson's	1, 940 00
C. H. Bourne's	5, 130 00
Frank Asbill's	304 78
Pierce Asbill's	580 00
E. S. Gibson's	1, 000 00

That on the 4th day of August, 1873, the report of the appraisements made by the aforesaid commissioners and the location of the northern boundary line of said reservation was approved by the Secretary of the Interior in all particulars.

XI. That on or about the 15th of July, 1875, one J. L. Burchard was United States Indian agent of the Round Valley Indian Reservation, described in the plaintiff's complaint, and, at the request of and acting for the plaintiff, paid to the defendants :

Charles H. Eberlee	\$2, 925 00
David Thompson	1, 940 00
and C. H. Bourne	5, 130 00

Which several sums were paid to said defendants respectively, and received by each of them for the appraised value of their improvements situated on lands within the limits of said Round Valley Indian Reservation.

XII. The improvements so appraised by said commissioners to Frank Asbill, Pierce Asbill, and E. S. Gibson, were as follows, to wit:

Frank Asbill: Dwelling-house, \$100; barn, \$50; one-half mile picket fence, \$122.78; 800 rails and polls, \$32. Total, \$304.78.

Pierce Asbill: House, \$100; fencing about 12,000 rails and pickets, \$480. Total, \$580.

E. S. Gibson: Shanty dwelling (shake), log store-house, shake barn, corral and fenced field, \$1,000.

The foregoing is all that was appraised as the improvements of the said Asbill and Gibson; and the improvements so appraised by the said commissioners to the said Charles H. Eberlee, David Thompson, and C. H. Bourne, were as follows, to wit:

Charles H. Eberlee:

House and lean-to	\$700
Barn	\$800
Chicken-house	\$25
200 fruit trees	\$200
75 grape vines	\$150
Four miles fencing, 26,000 rails, including corral, pickets, and new rails for repairs	\$1, 050
Total	\$2, 925

Charles H. Bourne:

Dwelling-house	\$1, 000
Store-house	\$100
Barn & granary	\$1, 000
Chicken-house	\$50
Hog-shed and butcher-shop	\$50
73 fruit trees	\$150
75 grape vines	\$150
Six miles fencing	\$2, 580
Buggy-house	\$50
Total	\$5, 130

David Thompson:

Dwelling house	\$800
Barn	500
Fencing	\$250
$\frac{1}{2}$ mile picket fence	\$250
Two store-houses	\$50
100 walnut trees	\$25
Chicken house	\$25
40 fruit trees	\$40
Total	\$1, 940

The foregoing is all that was appraised as the improvements of the said C. H. Eberlee, C. H. Bourne, and David Thompson.

XIII. That the defendant herein, Frank M. Asbill, is the Frank Asbill named by the commissioners in their report.

That each of the defendants Frank M. Asbill, Pierce Asbill, and Gibson are white persons, and at the date of the passage of said act of Congress, and at the time of the appraisement made by said commissioners, had other than and additional improvements to those above specified upon lands north of the said south boundary of said reservation as established by said act, and situated upon the lands described in their respective answers, and which were not appraised by said commissioners, as follows, to wit: E. G. Gibson, four cabins of the value of one hundred dollars each; one corral of the value of \$250, and another corral of the value of \$100; three and a half miles of fence of the value of \$400.

Pierce Asbill one barn of the value of \$100 to \$150; one smoke-house of the value of \$50; one store-house of the value of \$50 to \$75; one cabin of the value of \$50; one corral of the value of \$300, and another corral of the value of \$40 to \$50; five acres of timothy meadows of the value, as an improvement of the land, of \$50.

Frank M. Asbill, one-fourth mile picket fence, \$100; two miles of fence, \$250; one corral of the value of \$300, and another corral of the value of \$100; two cabins of the value of \$100 each, and another cabin of the value of \$50.

XIV. The above values are estimated in gold coin. That the commissioners, nor either of them, ever went upon the premises claimed by Frank M. Asbill and described in his answer, nor examined any of his improvements. That Frank M. Asbill requested them to go and examine and make appraisal of his improvements, and offered to accompany them, and to point out such improvements, which they declined. That George W. Henly, acting for and on behalf of the defendant Gibson, presented to the commissioners, while they were at Round Valley, for the purpose of making the appraisements, a complete list of the improvements situated upon the premises claimed by Gibson and described in his answer (which list included the improvements hereinbefore specified as being upon the premises of Gibson and not appraised) and requested the commissioners, on behalf of Gibson, to receive the list and to make appraisal of the improvements, and requested them to go and examine the improvements, and stated to them that either he or Gibson would go with them and point out the improvements to them, and that the commissioners declined to either receive said lists or to go and examine the improvements.

XV. That about August, 1875, one J. L. Burchard, who was agent of the plaintiff for the purpose, acting for and on behalf of the plaintiff, Pierce and Frank M. Asbill both being present, offered to pay to F. M. Asbill \$304.78, the same being the amount of the appraisal made to Frank Asbill by the commissioners, which sum he declined to accept. That the said Burchard then took out of his coat pocket an envelope, and without opening it or disclosing its contents, held it in his hand and turned to Pierce Asbill and said to him: "Well, Pierce, I suppose you don't want this;" to which Pierce Asbill replied, "No, but I will take the Vannader money."

That about the date last named the said Burchard, acting as aforesaid, offered to pay E. S. Gibson one thousand dollars, being the amount of the appraisal for improvements made by the commissioners to him, which the said Gibson declined.

That subsequent to the commencement of this action, the defendants Gibson and F. M. Asbill went to Burchard and severally offered to accept the moneys previously offered by him to them, as aforesaid, and the said Burchard then and there declined to pay the same or any part thereof to them.

That the plaintiff has kept neither of the aforesaid offers or tenders good, and has not brought into court the amount so offered or tendered, or any part thereof, nor has any evidence been produced tending to show that, at any time since said offers or tenders, the plaintiff has been either ready or willing to pay said moneys, or any part thereof, to either of the defendants F. M. Asbill, Pierce Asbill, or Gibson.

XVI. That at the time the commissioners were at Round Valley, engaged in making the appraisements, there were situated upon the premises claimed by Pierce Asbill, and described in his answer, one balloon-frame dwelling and outbuildings, which belonged to Pierce Asbill, and were occupied by William Vannaden. That Pierce Asbill informed the commissioners that the said dwelling and outbuildings belonged to him, and requested that they appraise them to him, which request the commissioners declined, and appraised them to William Vannaden at the sum of five hundred dollars; and that this sum is the money that Pierce Asbill offered to accept when he said to Burchard as hereinbefore stated that he would take the Vannaden money.

XVII. That J. L. Burchard was the duly constituted agent of the plaintiff for the purpose of paying the appraisements made by the commissioners, and that while he was such agent and prior to the commencement of this action, the defendant Pierce Asbill presented to him a written order of William Vannaden directing him, Burchard, to pay the said five hundred dollars to Pierce Asbill, and then and there demanded of said Burchard that he pay said five hundred dollars to him, which the said Burchard then and there refused to do; and that the defendant Pierce Asbill has never been paid or tendered the said sum of five hundred dollars or any part thereof.

XVIII. That afterwards, on the 18th day of August, 1875, the plaintiff, by its agent, J. L. Burchard, who was then in charge of said Round Valley Indian Reservation, served written demands upon each of the defendants hereinbefore named for the possession of the premises described in the plaintiff's complaint, together with the improvements thereon, and that defendants failed and refused to remove from said premises or to deliver possession thereof to the plaintiff.

XIX. That the defendants, Frank M. and Pierce Asbill, settled upon the premises claimed by them and described in their respective answers, in the year 1864, and the defendant Gibson on the premises claimed by him and described in his answer, in the same year.

That the improvements hereinbefore described as being situated upon the respective premises claimed by the defendants, F. M. and Pierce Asbill and Gibson, and described in their answers, are useful and valuable improvements upon the land, and were such at the date of the passage of the act of March 3, 1873, aforesaid, and at the time the commissioners made their appraisements; and at the date of the passage of said act and of said appraisements were then and there improvements of white persons situated north of the said southern boundary of said reservation and upon the lands described in the complaint.

XX. On July 29, 1861, Joseph J. Cloud, county surveyor of Mendocino County, in accordance with the act of the legislature of California concerning swamp and overflowed land, approved April 18, 1859, and the instructions of the surveyor-general of California, surveyed for Charles H. Eberlee the following tract of land situate in said Mendocino County, containing four hundred and forty acres, being survey No. 33, swamp and overflowed lands, to wit: the SW. $\frac{1}{4}$ and S. $\frac{1}{4}$ of NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$, S. $\frac{1}{4}$ of NE. $\frac{1}{4}$, and N. $\frac{1}{4}$ of SE. $\frac{1}{4}$, S. 30, T. 23 N., R. 12 W., base and meridian of Mount Diablo; which survey and field-notes were filed in the office of the said county surveyor August 9, 1861, and approved by the surveyor-general of the State August 14, 1861.

Afterwards, on Dec. 17, 1861, said Charles H. Eberlee paid to Jno. H. Morris, as county treasurer of said Mendocino County, as provided by law, one hundred twenty-three and $\frac{3}{100}$ dollars, being twenty per cent. of the purchase-money for said 440 acres of land, and one year's interest on the balance at ten per cent. per annum, together with three dollars, being the fee allowed by law to the register of the land office for issuing certificate of purchase; and thereupon the said Jno. W. Morris, as said county treasurer, issued to said Eberlee a receipt for and showing said payment.

Afterwards, in pursuance of said survey and payment, J. F. Houghton, register of the State land office of the State of California, on August 18, 1862, issued to said Charles H. Eberlee a certificate of purchase of said 440 acres of land, which certificate is in the words and figures following, to wit:

Certificate of purchase.—Swamp and overflowed lands.

One hundred and twenty-three $\frac{3}{100}$ dollars, 20 per cent. and interest. Act of April 18th, 1859.

STATE LAND OFFICE OF THE STATE OF CALIFORNIA,

No. 1662.]

Sacramento, 18th day of August, 1862.

It appearing from the certificate of the county treasurer, bearing date the 17th of Dec'r, A. D. 1861, that C. H. Eberlee has paid to the State of California the sum of one hundred and twenty-three $\frac{3}{100}$ dollars, being 20 per cent. of the purchase-money and first year's interest on the balance for 440 acres of swamp and overflowed land, described as follows: In survey No. 33, Mendocino County, the SW. $\frac{1}{4}$, the S. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, the NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the S. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, and the N. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of section 30, in township No. 23 north, range No. 12 west of Mount Diablo meridian.

Now, therefore, be it known, that the said C. H. Eberlee, having made payment of said 20 per cent. and first year's interest for the above described tract of land, under the provisions of an act entitled "An act amendatory of an act entitled 'An act to provide for the sale and reclamation of the swamp and overflowed lands of this State,' passed April 21st, 1858," approved April 18th, 1859, is the purchaser of the same; and after having in all other respects complied with the provisions of said act, and on presentation of this certificate to the governor of the State of California, and after the said lands have been confirmed to the State, the said C. H. Eberlee, or his assigns, shall be entitled to receive a patent for the same.

Balance of purchase-money due, \$352.00 interest to be computed from November 11th, 1861.

In witness whereof the register of said land office has hereunto set his hand and affixed his seal of office, the day and date above mentioned.

[SEAL.]

J. F. HOUGHTON,
Register of State Land Office.

And the said Eberlee is now the holder and owner of said certificate of purchase XXI. That the greater portion of land in each and every 40-acre subdivision described in said certificate of purchase No. 1662, embracing said 440 acres of land, was on the 28th Sept., 1850, and at the dates of survey for and purchase by said Eberlee, by virtue of their wet and swampy character, unfit to successfully raise a crop of the productions raised in California without the aid and use of artificial means, such as drains or canals, or such like, and was swamp lands within the meaning of the act of Congress.

XXII. That in like manner, as stated in finding XX, said Joseph J. Cloud, county surveyor, as aforesaid, on July 29, 1861, surveyed for Martin Corbett two hundred acres of land in said county of Mendocino, being the SE. $\frac{1}{4}$ and SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, sec. 35, T. 23 N., R. 13, W., Mt. Diablo base and meridian, which survey, being No. 38 swamp and overflowed lands, was in like manner filed in the office of the county surveyor of said county August 9, 1861, and approved by the surveyor-general of the State October 28, 1861, and in like manner, as stated in finding XX, said Martin Corbett, on Nov. 22, 1861, paid to the county treasurer of Mendocino County 20 per cent. of the purchase-money for said land and interest on the balance, and \$3 fee for issuing certificate of purchase, and received therefor from said treasurer a receipt similar to that specified in finding XX.

And afterwards, on February 12, 1867, the register of the land office of the State of California issued to the said Martin Corbett a certificate of purchase of said 200 acres of land, in all respects similar in form to that set out in finding XX.

That the lands described in said certificate of purchase No. 3128 were by deed on 24th day of October, 1867, duly conveyed to David Thompson, one of the defendants herein, and to J. P. Thompson and to J. W. Thompson, and on the 12th day of August, 1876, all the right, title, and interest in same, as held by said J. P. and J. W. Thompson, were by them by deed duly conveyed to the said defendant David Thompson, who is now the holder and owner of the said certificate of purchase No. 3128.

XXIII. That the greater portion of land on each and every 40-acre subdivision described in said certificate of purchase No. 3128 was on the 28th of September, 1850, and at the dates of survey for, and purchase by, said Corbett, by virtue of their wet and swampy character, unfit to successfully raise a crop of the productions raised in California without the aid or use of artificial means, such as drains or canals, or such like, and were swamp lands within the meaning of the act of Congress.

XXIV. That in like manner, as stated in finding XX, said Joseph J. Cloud, county surveyor as aforesaid, on July 29, 1861, made four separate surveys for John B. Owens, containing 440 acres of land in said county of Mendocino, being the W. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of sec. 24; and also the SW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, and E. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of sec. 25, in township 23 N., R. 13 W.; and also the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of sec. 30, in township No. 23 N., R. 12 W., all of Mount Diablo base and meridian, which surveys, being Nos. 34, 35, 36, and 37, inclusive, swamp and overflowed lands, were in like manner filed in the clerk's office of the county surveyor of said county, August 9, 1861, and approved by the surveyor-general of the State October 28, 1861; and in like manner, as stated in finding XX, said John B. Owens, on December 31, 1861, paid to the county treasurer of Mendocino County 20 per cent. of the purchase money for said lands, and interest on the balance, together with \$12 fees for issuing certificates of purchase, and received therefor from said county treasurer receipts similar in form to that specified in finding XX.

And afterwards, on August 18, 1862, and on September 17, 1862, the register of the land office of the State of California issued to said John B. Owens four certificates of purchase, numbered, respectively, 1663, 1673, 1674, and 1675 of said 440 acres of land, in all respects similar in form to that set out in finding XX.

That certain undivided interests in the whole of said last-described land were, by deeds of October 12, 1865, and October 29, 1866, duly conveyed by said Owens to one of the defendants herein, C. H. Bourne (now dead), and during the lifetime of said Bourne, and that the said certificates of purchase are now held and jointly owned by said Owens and the legal representatives of the late C. H. Bourne. The administrator was substituted and made a defendant at the trial of this suit.

XXV. That the greater portion of the land in each and every 40-acre subdivision described in said certificates of purchase, No. 1673, 1674, 1675, and 1663, was, on the 28th day of September, 1850, and at the dates of surveys for and dates of purchase by said Owens, by virtue of their wet and swampy character, unfit to successfully raise a crop of the productions raised in California without the aid or use of artificial means, such as drains or canals, or such like, or were swamp lands within the meaning of the act of Congress.

That the greater portion of each and every 40-acre subdivision of the lands, as specifically described as aforesaid, at the dates of the surveys, at the dates of the sales thereof, at the dates of issuance of certificates of purchase, and on 28th of September, 1850, by virtue of the wet and swampy character thereof, were unfit to successfully raise a crop of the productions raised in California without the aid or use of artificial means, such as drains or canals, or such like, and were swamp lands within the meaning of the act of Congress.

XXVI. That no portion of the lands claimed by Eberlee, Thompson, and Bourne as swamp and overflowed has ever been listed, certified or affirmed to the State of California by the Secretary of the Interior.

XXVII. That no portion of the lands claimed by E. S. Gibson, Pierce Asbill, and Frank Asbill are swamp and overflowed.

XXVIII. That the improvements of the defendant Thompson, with the exception of an enclosed field, and the improvements of the defendant Bourne, with the exception of enclosed pasture and fields, and a part of the improvements of the defendant Eberlee, were not situated upon the lands claimed by them respectively as swamp and overflowed, and that the possession of said improvements of the defendants Thompson and Bourne, not situated on the lands claimed to be swamp lands, was voluntarily surrendered by them to and retained by the said Burchard, as the agent of the United States, prior to the commencement of this action; but said Thompson and Bourne refused to surrender, and the said Burchard for that reason did not take possession of the said improvements situated on said part of said lands claimed to be swamp lands, and the said Eberlee refused to surrender, and for that reason the said Burchard did not take possession of any part of the improvements on the lands in possession of said Eberlee, or any part thereof. But the said Thompson, Bourne, and Eberlee, respectively, accepted from said Burchard, as the agent of the plaintiff, the whole sum of the appraised value of their respective improvements made upon all the lands claimed by them, including those situate upon lands claimed to be swamp as well as on the lands not claimed to be swamp lands.

XXIX. The value of the premises and matters in dispute exceeds the sum of five thousand dollars.

CONCLUSIONS OF LAW.

1. That the lands described in findings XX, XXII, and XXIV as being the lands in the possession of the defendants Eberlee, Thompson, and Bourne, and as held by them under purchase from the State of California, were, on the 28th day of September, 1850, "swamp lands," within the meaning of the act of Congress entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," approved September 28, 1850, and that as such the title thereto passed to the State of California on said 28th day of September, 1850, by virtue of the provisions of said act, and that at the date of the commencement of this action said defendants, Eberlee, Thompson, and Bourne were lawfully in possession of said lands respectively claimed and possessed by them, as stated in said findings, under and by virtue of the purchases thereof from the State of California, as in the findings herein set forth, and that the said plaintiff had no right, title, or interest in said lands, or any part thereof, and no authority over them.

2. That the tender in solido on behalf of the said plaintiff, and acceptance of the same by said defendants, Eberlee, Thompson, and Bourne, of the amount of the appraised value of all the improvements owned by said defendants respectively, embracing their improvements on lands the title to which was in plaintiff, being other lands than those claimed by said defendants, by virtue of said purchases from the State of California, as well as those so purchased, did not affect the title of said defendants to said lands in their possession, so purchased from the State of California as aforesaid, and does not estop the said defendants from asserting and maintaining their respective rights and title to said lands described in findings XX, XXII, and XXIV, purchased and possessed by them as aforesaid.

3. That said defendants, Eberlee, Thompson, and Brown, are entitled to judgment as to said land described in said findings XX, XXII, and XXIV.

4. 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, 1873, 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 appraisal 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.

Let judgment be entered for plaintiff for all the premises described in the complaint as against all the defendants defaulted.

Judgment for plaintiff as against each of the defendants, Frank M. Asbill, Pierce Asbill, and Gibson, respectively, for all of the premises described in the complaint, except the portion respectively described in their several answers.

Judgment for plaintiff as to the defendants, Eberlee, Thompson, and Bourne, for all the premises described in the complaint, except the lands described in findings XX,

XXII, and XXIV, and as to the lands so described in said findings that plaintiff take nothing.

Also judgment for costs as against the defendant Eberlee, but no costs as to the other defendants.

(Signed)

Lorenzo Sawyer,
U. S. Circuit Judge, Ninth Circuit.

(Endorsed:) Filed May 31st, 1880. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

Judgment.

In the circuit court of the United States of the ninth judicial circuit in and for the district of California.

THE UNITED STATES
vs.
CHARLES H. EBERLEE ET AL. } No. 1486.

This cause having come on regularly for trial on the 19th day of July, A. D. 1877, being a day in the July, A. D. 1877, term of said court, before the court sitting without a jury, a trial by jury having been expressly waived by written stipulation of counsel filed with the clerk, and the defendant C. H. Bourne, having died since the commencement of this suit, and the action having been continued against Fred. Bourne, administrator, John M. Coghlan, United States attorney, appearing on behalf of the plaintiff, and Messrs. Latimer and Morrow appearing on behalf of defendants, Frank Asbill, Pierce Asbill, and E. S. Gibson, and Messrs. Latimer and Morrow and John Mullan, esquires, appearing for defendant, Charles H. Eberlee, David Thompson, and Fred. Bourne, administrator of the estate of C. H. Bourne, deceased, and the trial having been proceeded with on the 20th and 21st days of said July, and witnesses on the part of the plaintiff and of the defendants having been sworn and examined, and the evidence being closed, the cause, after arguments of counsel, was submitted to the court for consideration and decision, and the court, after due deliberation, having filed its finding in writing and ordered that judgment be entered herein in accordance therewith, now, therefore, by virtue of the law, and by reason of the finding aforesaid, it is considered by the court that the United States, plaintiff, do have and recover of and from the defendants, Charles H. Eberlee, David Thompson, J. O. Wilsey, Bernard Kelley, Fred. Bourne, administrator of the estate of C. H. Bourne, deceased, Frank Asbill, Pierce Asbill, E. S. Gibson, and Antoine Leger, the possession of all those certain lands and premises (save and except the pieces or parcels of land hereinafter set forth), situated in the county of Mendocino, State of California, known and described as follows, to wit: Beginning at a point where the township line dividing townships 22 and 23 north, Mount Diablo meridian intersects and crosses the center of the middle fork of Eel River, and running eastwardly up the center of said middle fork of Eel River to the mouth of William's Creek; thence up said William's Creek, following the center thereof, to the extreme northern source of said William's Creek; thence westerly across Blue Nose Ridge by a monument and stake marked respectively "U. S. R." in a direct line to the headwaters of Hull's Creek; and thence down the center of said Hull's Creek to its intersection with the north fork of Eel River; thence down said north fork of said Eel River, along the center thereof, to the intersection of said north fork with main Eel River; thence up said Eel River along the center thereof, to a point in the center of said river where the said township line dividing townships 22 and 23 north crosses the center of said Eel River; and thence east a long said township line to the place of beginning, excepting, however, from said above-described lands and premises the following-described piece or parcel of land, found by the court to be, at the date of the alleged ouster of plaintiff, in the rightful possession of the defendant Charles H. Eberlee, to wit, the SW. $\frac{1}{4}$ and S. $\frac{1}{2}$ of NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$, S. $\frac{1}{2}$ of NE. $\frac{1}{4}$, and N. $\frac{1}{2}$ of SE. $\frac{1}{4}$, S. 30, T. 23 N., R. 12 W., Mount Diablo base and meridian, containing 440 acres, and known as survey No. 33, swamp and overflowed lands and premises; that the plaintiff take nothing, and that said defendant Charles H. Eberlee go hence without day, and also excepting from the piece or parcel of land hereinbefore set forth in this judgment the following-described lands and premises found by the court to be, at the date of the alleged ouster of plaintiff, in the rightful possession of defendant David Thompson, to wit, SE. $\frac{1}{4}$, and SW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, sec. 35, T. 23 N., R. 13 W., Mount Diablo base and meridian, containing 200 acres, and known as survey No. 38 of swamp and overflowed lands, and as to said last-described lands and premises that the plaintiff take nothing, and that said defendant David Thompson go hence without day; and further excepting from the piece or parcel of land first hereinbefore set out the following-described lands and premises found by the court to be, at the date of

the alleged ouster of plaintiff, in the rightful possession of defendant, C. H. Bourne, to wit, the W. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of sec. 24, and also the SW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ and E. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of sec. 25 in township 23 N., R. 13 W., and also the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of section 30, in township No. 23 N., R. 12 W., all of Mount Diablo base and meridian, containing 440 acres, and known as surveys 34, 35, 36, and 37 of swamp and overflowed lands, and as to said last-described lands and premises that the plaintiff take nothing, and that Fred. Bourne, administrator of the estate of C. H. Bourne, deceased, do hence without day; and also excepting from the piece or parcel of land hereinbefore first set out the following-described lands and premises set out in the answer of Frank Asbill on file herein, to wit: Bounded on the west by the north fork of Eel River, on the north, northeast, and east by Hall's Creek, and on the south by Brushy Cañon, and that as to said last-described lands and premises the plaintiff take nothing by reason of this action; and also excepting from the piece or parcel of land hereinbefore first set out the following described lands and premises set out in the answer of Pierce Asbill on file herein, to wit: Bounded on the south by lands occupied by J. Updegraff and Brushy Cañon, on the west by the north fork of Eel River, on the north by Brushy Cañon, and on the east by the east side of Summit Valley, the said lot or tract of land being known as Summit Valley; and that as to said last-described lands and premises the plaintiff take nothing by this action; and also excepting from the piece or parcel of land hereinbefore first set out the following-described lands and premises set out in the amended answers of E. S. Gibson on file herein, to wit: Bounded on the north by lands occupied by J. Updegraff, on the south by Alder Creek and lands occupied by G. E. White, on the west by Eel River, and on the east by the main ridge; and also sections 34, 27, SE. $\frac{1}{4}$, sec. 22, N. $\frac{1}{4}$ of sec. 23, sec. 14 and S. $\frac{1}{4}$ of sec. 13, in township number 23 north, range number 13 west, Mount Diablo meridian; and that as to said last-described lands and premises the plaintiff take nothing by this action.

And it is further considered by the court that plaintiff do have and recover of and from defendant Charles H. Eberlee its costs and disbursements herein expended taxed at the sum of four hundred forty-three $\frac{03}{100}$ dollars; retaxed at the sum of four hundred twenty-two $\frac{73}{100}$ dollars.

Judgment entered May 31st, A. D. 1880.

L. S. B. SAWYER, *Clerk,*
By J. F. O'BEIRNE,
Deputy Clerk.

I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States for the district of California, do hereby certify the foregoing to be a full, true, and correct copy of the judgment in the therein-entitled cause.

Attest my hand and seal of said circuit court this 31st day of May, A. D. 1880.

[SEAL.]

L. S. B. SAWYER, *Clerk,*
By J. F. O'BEIRNE,
Deputy Clerk.

(Endorsed:) Filed 31st May, 1880. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

In the circuit court of the United States, ninth judicial circuit, district of California.

THE UNITED STATES }
vs. }
CHARLES H. EBERLEE ET AL. }

I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States, of the ninth judicial circuit, within and for the district of California, do hereby certify that the foregoing papers hereto annexed constitute the judgment roll in the therein-entitled action.

Witness my hand and the seal of said circuit court this 31st day of May, A. D. 1880.

[SEAL.]

L. S. B. SAWYER, *Clerk,*
By J. F. O'BEIRNE,
Deputy Clerk.

(Endorsed:) Judgment roll. Filed May 31st, 1880. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y clerk.

Stipulation that the value of the real estate, &c., exceeds the sum of \$5,000.

United States circuit court, ninth circuit, district of California.

THE UNITED STATES

vs.

CHARLES H. EBERLEE, DAVID THOMPSON, J.
O. Wilsey, Bernard Kelly, C. H. Bourne,
Frank Asbill, Pierce Asbill, E. S. Gibson,
and Antoine Leger. } No. 1486.

It is hereby stipulated and agreed that the value of the real estate and property in controversy in the above-entitled cause exceeds the sum of five thousand dollars, and that this stipulation may become a part of the record in said cause.

L. D. LATIMER,
*Attorney for Defendants Eberlee, Thompson, Bourne,
Gibson, Frank Asbill, and Pierce Asbill.*
PHILIP TEARE,
United States Attorney.

(Endorsed:) Filed January 19, 1881. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States of the ninth judicial circuit, in and for the district of California, do hereby certify the foregoing one hundred written pages, numbered from 1 to 100 inclusive, are a full, true, and correct transcript of the record and all the proceedings in the therein-entitled cause, and that the same together constitute the return to the annexed writ of error.

Witness my hand and the seal of said circuit court this 19th day of January, A. D. 1881.

[SEAL.]

L. S. B. SAWYER, *Clerk.*

(Indorsement on cover:) No. 799. The United States, plaintiff in error, vs. Fred. Bourne, administrator of C. H. Bourne, deceased; Frank Asbill, Pierce Asbill, E. S. Gibson, Charles H. Eberlee, David Thompson, J. O. Wilsey, Bernard Kelley, and Antoine Leger. California, C. C. U. S. Filed 23th January, 1881.

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