

Serial 2901

52D CONGRESS, }
1st Session. }

SENATE.

{ Ex. Doc.
No. 156.

IN THE SENATE OF THE UNITED STATES.

AUGUST 4, 1892.—Ordered to be printed.

Mr. STOCKBRIDGE presented the following

**LETTER FROM THE ACTING SECRETARY OF THE INTERIOR,
TRANSMITTING COPY OF INDIAN OFFICE REPORT OF THE 21ST
INSTANT RELATIVE TO THE SITUATION AMONG THE NAVAJO
INDIANS IN NEW MEXICO AND ARIZONA.**

DEPARTMENT OF THE INTERIOR,
Washington, July 27, 1892.

SIR: As requested by the Commissioner of Indian Affairs I have the honor to transmit herewith copy of Indian Office report of 21st instant, relative to the situation among the Navajo Indians in New Mexico and Arizona for your information and such action as may be deemed best.

Concurring in the recommendation of the Commissioner of Indian Affairs that the plan suggested by Gen. McCook to redistrict the Navajo country into suitable portions, and to detail proper officers to thoroughly inspect the entire region, make a contour map of it, and submit a detailed report, so that this Department can be advised as to the practicability of restraining the Navajoes within their present reservation, and of furnishing irrigation and water for their flocks, I have directed the Commissioner to prepare the necessary correspondence and instructions so that this work can be proceeded with at once.

I have the honor to be, very respectfully,
GEO. CHANDLER,
Acting Secretary.

The CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., July 21, 1892.

SIR: I am in receipt, by Department reference for report, of a petition of recent date, addressed to Hon. John N. Irwin, governor of the Territory of Arizona, signed by some twenty citizens of that Territory, setting forth that they have acquired by purchase or otherwise certain lands in that Territory and are lawfully settled thereon; that they have erected houses, established and maintained schools and stores, and otherwise improved their lands by planting crops, orchards,

CV-6417-201

NN009822

vineyards, constructing irrigating ditches, etc.; that they hoped they might be permitted, without molestation, to enjoy the fruits of their labor; that they are located in an isolated portion of the country 100 miles from the nearest depot of supplies; that now a danger confronts them which threatens, in the near future, to cause them to remove from their homes; that the Navajo Indians, encouraged by their rapidly growing numbers and power, and by the isolation of the white settlement and the inability of the whites to protect themselves from impending danger, have frequently insulted the women of their community in a manner too vile for public narration, seized their lands in part, which have been recovered only by physical force, killed numbers of their cattle on the public ranges, and driven large herds away so that they can not be recovered; that the Indians visit the homes of the whites and shoot the cattle belonging to the latter upon their own premises; that they often skin the cattle wounded on the public domain before they die, and mutilate the calves in such a manner that the stock-owners can not mark their stock as required by law; and that some of the Indians have practically avowed a purpose to drive the white settlers from that section of the country in order that they may possess the same themselves.

The petitioners further aver that the citizens of Tuba City, Ariz., and vicinity, have been extremely kind to the Indians; that they have given meals gratuitously to thousands of them and have aided them in many other ways; that notwithstanding this fact, the offenses charged have been committed; that in view of the present situation of Indian affairs there, they see no alternative but to endure the hardships, injustices, and loss of property as detailed in their petition, or to abandon their homes and improvements and seek locations elsewhere, unless they can obtain from the Government the protection claimed and which, they allege, is its duty to extend.

The petitioners pray that prompt and effective action be taken to give them the relief asked for and to prevent further acts of violence and injustice against them at the hands of the Indians referred to.

The acting governor of said Territory, in transmitting the petition above mentioned to the Department, states that there has been ill-feeling between the whites and Indians in the locality named for some time; that this state of affairs is doubtless well known to this Department, as it has been a matter of common intelligence for some months past in the Territory of Arizona; and that a private letter transmitted therewith will, perhaps, throw important "side light" on the subject.

The letter to which the acting governor refers is dated Tuba City, June 6, 1892, and was written by D. Brinkerhoff.

Mr. Brinkerhoff states that although he signed the petition above mentioned, he thinks it is probably too strong; that he fears the allegations made can not be fully substantiated upon proper investigation; that the main difficulty is between the stock men and the Indians; that the seeming danger might be overcome by a little more activity upon the part of the county officials there; that it is true, however, that there is a feeling growing, which, if allowed to continue, will result in serious trouble; and that the differences existing can be adjusted without oppressing the Indians or retarding the progress and prosperity of the whites by proper management.

I am also in receipt of another petition addressed to the honorable Speaker of the House of Representatives, signed by 200 or more citizens of the Territory of New Mexico, respectfully petitioning the House of Representatives for such relief as may be in the power of Congress by

proper legislation to give from the injuries that are constantly being inflicted on the persons and property of the citizens of New Mexico by the Navajo tribe of Indians.

The petitioners allege that this tribe, located upon the Navajo Reservation, numbering many thousands, constantly wander from their reservation and depredate upon the property of citizens, inflicting grievous injuries for which no redress can be obtained; that the cattle and chief interests in the northwest portions of that Territory have suffered by reason of these depredations; that large numbers of cattle and sheep have been and are still being killed by bands of these Indians; that great and valuable interests are in danger of being utterly destroyed in that section of the Territory; that the fact that these Navajo Indians are constantly wandering from their reservation and may at any time commit acts of violence which will precipitate a bloody conflict has created a feeling of insecurity to persons and property in that section of the country; that this state of affairs is retarding the progress and depressing the prosperity of the people; and that under the circumstances it is difficult to secure the investment of capital for the development of their resources.

On July 1, 1892, United States Indian Agent Shipley, of the Navajo Agency, addressed a letter to this office (copy inclosed) stating that he had just received information to the effect that one Lot Smith, a Mormon, living in the neighborhood of Tuba City, and a Navajo Indian became involved in a difficulty over the trespassing of some sheep and cattle on land belonging to Mr. Smith; that from the meager reports received by him, the agent, it seems that Smith commenced shooting the Navajo's sheep; that in retaliation the Indian shot several head of Mr. Smith's cattle, whereupon Smith commenced shooting at the Indian, the Indian returning the fire, thereby killing Smith.

The agent states that, as he understands the case from the best information obtainable, the killing was done by the Indian in self-defense; that he had sent his police to arrest the Indian, and that as soon as he obtained all the facts in the case he would make full report thereof to this office.

I am also in receipt of a communication, dated the 7th instant, from Hon. Marcus A. Smith, Delegate from the Territory of Arizona, stating that, in addition to the current newspaper reports, he is advised by Mr. E. E. Ellinwood, a gentleman worthy of credit, that the Navajo Indians of Arizona are trespassing on the farms and grazing grounds of the white citizens along the western line of the Navajo Indian Reservation; that one Lot Smith, a white man, has recently been killed by these Indians; that the killing occurred on his own premises, and as he, Marcus A. Smith, alleges, in a justifiable effort to defend his property from Indian depredation; that the Indian situation is fraught with danger to the peace of Arizona, and that the lives of the settlers in the vicinity of the Navajo Indian Reservation are unprotected.

Mr. Smith appeals to this Department for speedy action in the premises.

Upon this subject I have the honor to state that it has long been known to this office that the relations between the nonreservation Navajo Indians, residing principally in the Territories of New Mexico and Arizona, and their white neighbors have been very greatly strained, and from newspaper reports and other information received than that above referred to, it is evident that serious trouble must eventually result unless further precautionary measures are taken by the Government to avert it.

In the month of February (2), 1888, H. S. Welton, late special agent of this Bureau, made an extended investigation of the Navajo situation, as appears in pursuance of a resolute purpose on the part of this office to arrive at some definite, practical plan for the relief of the scattered nonreservation Indians, who, by reason of the rapid settlement of the country following the construction of the Southern Pacific Railroad, had been gradually circumscribed within their territorial limits, until they were practically cut off from the privilege, theretofore peacefully enjoyed, of grazing their large herds of horses, vast flocks of sheep and goats wherever their inclinations or interests led them, thereby engendering a bitter feeling between the races, threatening alike to the peace of the country and the future welfare of the Indians, and submitted his report dated July 8, 1888, upon the condition and needs of the Navajo Indians in New Mexico, more especially the nonreservation Indians or those living outside the reservation limits, numbering then, according to various estimates, from 7,000 to 10,000, recommending the extension of the reservation as it then existed on the west and south.

Agent Welton inclosed with his said report a map of the Navajo Indian Reservation, indicating thereon, in yellow, the proposed enlargement of the reservation (map herewith).—

It will be observed from an examination of said map that the extension of the reservation as proposed by Agent Welton would materially enlarge the same, and that the Moqui Indian Reservation would be completely surrounded thereby.

Agent Welton suggested in his said report that the fencing of certain portions of the Navajo Reservation might prevent the Indians from wandering across the boundary lines of their reservation with their flocks and herds.

Hon. Herbert Welsh, secretary of the Indian Rights Association, Philadelphia, furnished this office with a letter addressed to him by Thomas V. Keam, recommending the extension of the Navajo Reservation south 5 miles. The extension proposed by Mr. Keam is also shown upon the map herewith.

At or about this time this office received a communication from A. M. Swan, secretary of the Gallup (New Mexico) Board of Trade, protesting against the proposed extension of the reservation south, as being calculated to promote endless strife between the whites and the Indians and work serious hardship and injustice to white settlers, who, as he alleged, in large numbers were then living on the borders of the reservation.

In view of these conflicting opinions as to the extension of the Navajo Reservation, it was deemed best to refer Agent Welton's report to the United States Indian Agent of the Navajo Agency for further investigation and report. Accordingly the agent was instructed, February 16, 1889, that the office desired to have his views freely expressed upon the matter referred to him, and especially upon the merits of the several propositions submitted by Agent Welton and Mr. Keam.

On March 1, 1889, United States Indian Agent Vandever, of the said agency, stated in his report to this office that he had given the subject careful consideration; that he did not deem the plan of fencing the southern line of the reservation, as suggested by Agent Welton, feasible or calculated to bring about a solution of the matter; that the cost of fencing the southern line thereof would be immense and of no practical good, for the reason that the fence would be torn down and destroyed soon thereafter; that as to the extension of the reservation, he would recommend that an addition of about 10 miles on the south side thereof

in Arizona and 5 miles on the west side from the Moqui Reservation be made, for the reason that there were many Navajo Indians living on the strip indicated, who had built houses thereon and otherwise improved the same. The addition as proposed by Agent Vandever is indicated on the map referred to (herewith) by a red dotted line thereon.

Agent Vandever also stated that the objection to the extension of the reservation as proposed by Special Agent Welton was based on the fact that such an extension would entirely surround the Moqui Reservation, which would place the Moqui Indians in a precarious condition and entirely at the mercy of the Navajos and be the cause of continuous trouble; that on the west many white settlers had located upon the lands proposed to be embraced in the addition to the reservation by Agent Welton; that many white settlers had located along the Little Colorado River, and had been living there for years without previous trouble with the Indians; that the extension as suggested by himself (Vandever) would leave the coal fields and railroad some 20 or 25 miles from the reservation, would not in any manner interfere with the citizens of Gallup or any other white settlers, and would embrace the lands of value to the Indians.

He recommended that all the nonreservation Indians, aggregating then not more than 30 per cent of the reservation Indians, who had not settled upon the public lands with a view to acquiring title thereto under the land laws of the United States, be ordered to return to the reservation and remain thereon, stating that in his judgment he would experience but little difficulty in getting the Indians to comply with such an order, if issued.

He also stated that there were located, about 1½ miles from the southern line of the reservation, four or five springs, which had been taken by white settlers; that three or four Indian families had built houses and improved homes in the same vicinity; that they were continually fighting about the water; that if the reservation could be extended 10 miles south it would embrace these springs and one large one some 4 miles therefrom; and that there was no water within 10 miles of the line marked on the map indicating his proposed extension, to cause white men to settle near thereto or the Indians to leave the reservation.

Agent Vandever added that he agreed with Mr. Keam in his view of developing a water supply by opening springs and constructing dams at suitable points, and asked that there be sent there a competent engineer to accompany him—Vandever—over the reservation to locate the most suitable places for such purposes, and to make a map of each location for the information of this office.

In a letter dated September 6, 1889, Agent Vandever estimated the number of Navajo Indians living off the reservation to be about 10,000, and stated that it had always been his object to try to induce the roving Navajos to return to the reservation, believing that most of them had much better be placed where their movements could be watched and where their actions could be directed when circumstances so required; that many of those who had left the reservation had settled down to farming, and after years of hard work had made for themselves comfortable homes and good farms; that these people are entirely ignorant of the existence of land laws, in consequence of which their land had not been entered for settlement by them, their only title being that of possession; that without any apparent legal title to their possessions, these Indians, when their lands became valuable, were almost constantly annoyed by avaricious white men who thought they saw a good opportunity for obtaining valuable property without compensation therefor;

that within the month of August, 1889, a dozen Indians, at least, who had lived off the reservation for years, visited him and complained of attempts of the white men to dispossess them of their lands; that one of these complainants had lived on his land thirteen years, built a house thereon, had the land otherwise improved and well stocked, and that it was frequently the case that the white men tried to dispossess the Indians of their homes by violence, intimidations, or fraud.

This office has earnestly endeavored to keep the Navajo Indians (with the exception of those who have settled upon land outside of their reservation for the purpose of taking homesteads) within the limits of their reservation, and has repeatedly instructed the Navajo agent to try to induce the roving Indians to return to their reservation.

On February 14, 1890, this office, acting upon the complaints and urgent requests of citizens in the vicinity of the reservation as well as the recommendation, above referred to, of Agent Vandever, specially instructed the United States Indian Agent of the Navajo Agency to adopt energetic means to keep the Indians, with the exception mentioned, within the limits of their reservation and to return the roving Navajos to the reservation, and to explain to them that should they fail to return, and continue to wander around in the vicinity of the white settlements, the Government would regard such conduct as a defiance of its authority and as a rejection by the Indians of the proper measures adopted for their own good and prosperity.

In pursuance of these instructions the agent stated in his annual report, dated August 22, 1890, that he immediately set to work, and sent his police to every point where an Indian could be found off the reservation; that all were notified to return at once, or report immediately to him why they refused to do so; that in a very short time these non-reservation Indians commenced arriving at the agency in bands numbering from three to fifty, and entered their protests against coming on the reservation to live; that from time to time no less than three hundred Indians called upon him, each one declaring that he had lived upon his land from ten to twenty-two years; that it was his intention to homestead it whenever the public surveys come to be extended over the same and the Government had placed within his reach the means of making an entry; that he fully explained to each Indian that he was entitled to 160 acres of land, and no more, and that he must confine his stock to his own lands. To these regulations the Indians promised to conform.

The agent expressed the opinion that, if they would comply with these requirements of law, he believed that the lands on which they were settled should be surveyed immediately, and that they should have the lands allotted to them under the act of February 8, 1887 (24 Stats., 388).

He stated that as the matter then stood the cattle men complained of the Indians and the Indians complained of the cattle men, and that unless the interests of both the Indians and whites could be harmonized or the Indians compelled to return to their reservation trouble would eventually ensue.

The agent further reported that much of the inherited land of the Navajoes lies some distance beyond the established Navajo boundary; that these Indians have roamed and lived in these surroundings from time immemorial; that it was almost a matter of impossibility to explain to them our system of restricted landholding; that wherever grass grows, there they think that they should be allowed to graze their

sheep and horses, and that the waters beyond the reservation limits, near which they then lived, had been used by them for generations.

He (the agent) also reported that he had made great endeavor and all preparatory arrangements possible to bring these families, with their flocks and herds, back to the reservation; that it would require time to undertake and complete a movement of such vital importance to them, otherwise great hardship would result to them and their flocks and herds; and that even if it should be determined to bring them within the reservation, the only practical way in which it could be done would be by extending the reservation line south a sufficient distance to provide them all with lands and water.

Further information having reached this office concerning probable trouble with the Navajos, it again instructed the agent, on May 22, 1891, that the nonreservation Navajos, who were not bona fide settlers upon the public domain, ought to be required to move to the reservation and remain thereon.

In his annual report, dated August 31, 1891, Agent D. L. Shipley, of the Navajo Agency, states that these Indians are gradually abandoning their old customs; that there is a marked advancement by them toward civilization; that unless some hidden or unforeseen influence swerves the Navajos from their present course, they will continue to grow better; but that much is to be feared from the encroachments of the white men upon their domains and that he would not be surprised if in time the Nez Percés and Sioux troubles were repeated on a larger scale with the Navajos, and that it will require the very best management in the future to avoid the impending trouble.

On February 15, 1892, Agent Shipley, in response to a telegram from this office, based upon rumors of trouble with the Navajos, wired as follows:

Everything is quiet now. Council is called on the twenty-second at Manuelitos camp, when steps will be taken to place all renegade Indians on the reservation.

On March 2 last this office made a somewhat lengthy report to the Department upon the condition of affairs among the Navajo Indians, and recommended that a copy of the same be transmitted to the honorable Secretary of War in order that he might be informed of the situation of affairs among the Navajos, as viewed by this office, and in case of any serious trouble that he be ready to furnish such military assistance as might be necessary.

I am now in receipt, by Department reference, of a report dated June 16, 1892, from United States Indian Inspector Arthur M. Tinker, stating that, in pursuance of instructions contained in Departmental communications of January 6, March 19, and March 25, 1892, he ascertains, among other things, that the Navajo Indians find some fault with Agent Shipley for the reason that he has talked too much with them about returning to their reservation to live; that these people will not return to and live upon the Navajo Indian Reservation until they are forced to do so; that a large number of them have never lived upon the reservation; that they are now living where they have lived for years, upon the public domain; that they have been advised by former agents, special agents, and inspectors, that they could live where they were located so long as they desired to do so, as the lands which they occupied were unsurveyed Government lands, their rights being equal, under the land laws of the United States, to those of other settlers.

Inspector Tinker also states that, from the best and most reliable information he is able to obtain, he is of the opinion that from 15 to 20

per cent of the Navajo Indians live off the reservation all the time; that during a portion of the year, it is alleged, fully one-half of the reservation Indians leave the same, and that as regards the keeping of these Indians on their reservation all the time, he desires to call attention to the following facts, viz:

At this time the Navajos are self-supporting; they are all, or nearly all, herders who own large herds and flocks, and their stock is increasing all the time. I had a number of talks with several of the leading men of this tribe, regarding their return to and living upon their reservation, in which they give the following reasons why they do not remain on the reservation all the time: A greater part of the reservation is located in the mountains which furnish good summer range in places where sufficient water can be obtained, but a very large portion of it has no water, as this reservation is poorly watered; in the winter it is very cold, and the snow falls to such a great depth that the stock can not obtain either food or water, and they are obliged to drive their stock to the low altitude which is generally off the reservation, as if they remain in the winter where they had been during the summer their flocks would perish from cold and lack of food. The Indians that do not live on the reservation all the time, when the warm weather and grass come return and remain until the snow drives them again to the places off the reservation.

He further states that the water question is, at this time, causing all, or nearly all, the trouble between the Indians and the white cattle men, and will continue to cause trouble until that vexed question is settled; that the Indians have been driven from many of the springs they once held by the white cattle men under various pretexts until to-day they do not have the amount of water they formerly had; that these Indians need, especially if they are to be kept on their reservation, more winter range and a greater water supply; that he is advised that there is a section of country lying south and west of the reservation where there are but few, if any, white men located; that if this, upon proper investigation, should prove to be true he would recommend that the limits of this reservation be extended as follows:

Beginning at the southern line of the present reservation at Bonita Creek, running south along Bonita Creek as far as Pueblo Grande; thence west to the Little Colorado River, following the river until it empties into the Colorado River; thence up the Colorado River, until it reaches the present line of the reservation.

with the statement that this extension would give the Indians a good winter range with plenty of water and a water boundary to a portion of their reservation, and that with these additional facilities for water and range, he is of the opinion that the Navajo Indians would not leave their reservation.

The inspector states that Agent Shipley is now of the opinion that the present reservation is not large enough to accommodate the Navajos with their vast and increasing herds and flocks; that he, the agent, has at various times had councils with the nonreservation Navajos to try and induce them to return to and live upon their reservation; that Mr. Frank Walker, agency interpreter, is also of the opinion that the Indians can not live and maintain their flocks in the winter upon their reservation, and that in the course of the investigation of this matter he found one person, Samuel E. Day, clerk of the agency, who thinks the present reservation large enough to furnish feed for the herds of the Navajos all the year, and that Mr. Day owns a ranch south of and adjoining the reservation.

The inspector says that he knows from his own observation that the Navajos are making advances in civilization; that he can see an improvement among them since he was at the reservation two years ago; that more of them are wearing citizens' clothes than formerly; that they are rapidly discarding the old "hogan" and are building good, comfortable houses of wood and stone, making for themselves permanent homes; that during his stay at the Navajo Agency a great many

Indians asked for and received from Agent Shipley lumber, doors, windows, and all kinds of building materials; that they are now building between thirty and forty new houses at different points on the reservation, and from present indications many more will be erected before the season is over; that those who have houses purchase, in most cases, furniture, such as tables, chairs, beds and bedding, cook stoves, and oil lamps; that they are more provident and do not purchase so many useless articles as formerly with the money received from the sale of their wool; that quite a large number are fencing in tracts of land where water can be obtained; that they are building ditches and cultivating the soil; that those who secured good locations do not move about with their stock, as in the past, but are improving their locations, and, like the white men, object to other Indians trespassing upon their improvements; that as regards the Navajos going on the war path, he is inclined to think there is no immediate danger in that direction; that they certainly will not unless forced to do so by the white cattle men and settlers; that they are well aware that they can not afford to become involved in war, as their large herds and other property would, in that event, be lost; that there are some renegade Indians who live off the reservation addicted to drinking, gambling, and stealing anything that they can find, but that the mass of the Navajos are quiet, honest, and peaceably inclined, and will never make any trouble unless they are compelled to do so to protect their rights and property.

THE NAVAJO INDIAN RESERVATION.

The Navajo Indian Reservation embraces the northeastern portion of Arizona, the adjoining northwest corner of New Mexico, and the strip of the Territory of Utah lying south of the San Juan River, and contains about 8,205,440 acres of land, or about 12,821 square miles.

In his annual report dated August 31, 1891, Agent D. L. Shipley, of the Navajo Agency, states that from a careful census just then completed by the Census Bureau the number of Navajos was found to be 16,102, of whom 9,241 were then living off the reservation, and that together they own 9,188 head of cattle, 118,798 horses, and 1,583,754 sheep.

It thus appears that above one-half of the Navajos are off the reservation, the reason assigned by Agent Shipley and others, as above indicated, being that there is not sufficient grass and water on the reservation to supply their numerous flocks and herds, the exact number of which is somewhat difficult to determine for the reason that they are widely scattered.

The Navajo Reservation is an arid region of broken table-lands and sandy valleys, with a general altitude from 6,000 to 7,000 feet, there being along the borders of Arizona and New Mexico ridges of lofty pine-covered mountains, with occasional peaks from 10,000 to 11,000 feet in height, rivers flowing through deep, impassable gorges, into which the occasional summer rains are quickly carried by large channels. With the exception of the San Juan River and two or three insignificant creeks, the reservation contains no flowing streams, and of all that vast tract of country not more than one-third is available for sheep pasture because of the scarcity of water, there being, according to late Agent Vandever, "only one watering place within 100 square miles." This, he observes, is the principal reason why so many members of the Navajo tribe have left the reservation and made their homes on the Government lands adjacent to the same.

THE NONRESERVATION NAVAJOS.

The situation of the nonreservation Navajos is a peculiar one. Many of them have been forced, by a lack of grazing facilities and water supply, to leave their reservation, while others have from choice settled upon the public domain and endeavored to establish permanent homes thereon for themselves and families, and some, perhaps, are pursuing a nomadic life by reason of race proclivities.

The policy of the Government has tended to encourage Indians to settle upon the public domain and acquire title to their homes under the provisions of the homestead laws, the benefits of which were first extended to them in 1875.

Under the provisions of section 15 of the act approved March 3, 1875 (18 Stats., 420), any Indian born in the United States, who is the head of a family, or who has arrived at the age of 21 years, and has abandoned, or may hereafter abandon, his tribal relations will, upon giving satisfactory proof of the same, be entitled under rules prescribed by the Department to the benefits of the homestead act approved May 20, 1862 (12 Stats., 392), and the amendments thereto, excepting the provisions of its eighth section.

By act of July 4, 1884 (23 Stats., 96), it was provided that any Indians then located on the public domain, or who should thereafter so locate, might avail themselves of the privileges of the homestead laws as fully and to the same extent as settlers of the United States.

Under the fourth section of the general allotment, act approved February 8, 1887 (24 Stats., 388), as amended by act of February 28, 1891 (26 Stats., 794), nonreservation Indians are entitled to make application for allotments on the surveyed or unsurveyed lands of the United States, not otherwise appropriated, upon certain restrictions and conditions therein set forth.

Under the provisions of section 13 of the Sioux act, approved March 2, 1889 (25 Stats., 888), any Indian of the Sioux tribe possessing certain qualifications and residing upon any portion of the Sioux ceded lands when the Sioux act took effect is entitled to an allotment thereon under certain conditions, restrictions, and limitations therein named.

In this manner it is sought to break up the tribal relations of the Indians, scatter them upon the public domain, give them homes thereon, and title to the lands covered thereby, merge them into our great and growing population, and thereby make them good and peaceable citizens.

Many of the nonreservation Navajos have made permanent homes and locations near springs and watering places, but it appears that the white settlers are crowding upon them, cutting off their ranges for pasture, and in some instances compelling them to abandon their homes.

Under existing land laws of the United States they certainly have rights upon the public domain when they have settled thereon. It is true that settlements upon unsurveyed public lands do not give the settler thereon any title as against the Government; but his right thereto is paramount to that of a subsequent settler, and he has the prior right to make entry thereof.

It would seem, therefore, to be an injustice to the bona fide Indian settler upon the public lands to remove him, *vi et armis*, from his home and the improvements there to the reservation without making suitable provisions thereon for his needs and wants, and especially for the reason that the aggressive white man is encroaching upon his possessions.

Again, the present reservation was created by treaty with the Navajo tribe of Indians, concluded June 1, 1868 (15 Stats., 667), and by various Executive orders of subsequent date, which orders may be found in "Executive orders relative to Indian reservations, issued prior to April 1, 1890," pages 56 and 57, copy herewith.

By article 9 of the said treaty the Navajo Indians agreed to relinquish all right to occupy any territory outside of their reservation as defined by said treaty, retaining, however, the right to hunt on any contiguous unoccupied lands as long as wild game should range thereon in such numbers as to justify the chase; and by article 13, the said Indians agreed to make the reservation their permanent home, and that they would not, as a tribe, make any permanent settlement elsewhere; with the further provision and understanding that if any individual Indian or Indians should leave the reservation therein described to settle elsewhere, he or they would forfeit all the rights, privileges, and annuities conferred by the terms of the said treaty.

Under a strict construction of the last-named article, it would appear that the Navajo Indians who have left the reservation with a view to making their homes elsewhere have forfeited their rights and privileges thereto.

Should the bona fide Indian settler be allowed to remain upon the public domain, it is questionable whether it would be good policy to make allotments of 160 acres of land to him inasmuch as no considerable amount of stock could exist upon that quantity of land in that section of the country; and the question arises whether it would not be better, looking to the promotion of peace and harmony between the whites and Indians and for the better government of the Indians themselves, to confine all the Navajos within a certain boundary where the encroachments of the white settlers would be entirely prohibited. This plan might be accomplished in one of two ways:

(1) By extending the southern and western boundary of the reservation so as to embrace grazing facilities and water privileges adequate to the needs of all the Navajos, both reservation and nonreservation.

(2) By establishing a system of irrigation, a water supply for stock, within the reservation as it now exists, sufficient for the needs of all the Indians of the tribe, including the nonreservation portion thereof.

EXTENSION.

In view of the present policy of the Government to reduce rather than to enlarge Indian reservations, I am decidedly opposed to any extension of the reservation whatever, except as a last resort, and then only when the necessity for such action shall have been clearly demonstrated and no other course is likely to succeed.

To further extend the reservation boundaries, already of vast proportions, would tend to encourage and perpetuate the nomadic habit of a certain portion of the tribe.

The sooner these people attach themselves permanently to some locality where they can reasonably hope to remain undisturbed in the rapid settlement of the country by the whites, the better it will be for their welfare and happiness.

Further extension of the reservation as recommended by Inspector Tinker would embrace therein, no doubt, many white settlers who have acquired equitable rights to their homes and who would have to be removed therefrom at, perhaps, much expense and trouble to the Government in order to secure peace upon the reservation.

IRRIGATION AND STOCK WATER.

It would seem that instead of enlarging the now extensive reservation, the construction and maintenance of a thorough system of irrigation and the development of springs and other sources of water supply on the present reservation, and the settlement of the roving Navajos thereon and such of the bona fide settlers as may be induced to return thereto, would be the most practical solution of the question under consideration. I am satisfied, however, that it would be a difficult matter to force them upon the reservation and keep them there, even with the aid of the military, and that to do so before a proper supply of water is obtained, would entail great hardships and result in the loss of much of their stock.

In his annual report dated August 9, 1889, the then Navajo agent stated that there were many valleys on the reservation where storage reservoirs could be constructed which would hold a sufficient quantity of water to thoroughly irrigate all the tillable land in the neighborhood; that should an irrigation system be constructed the reservation should be divided into four districts for irrigating purposes, each being placed in charge of a competent farmer whose duty it should be to instruct and assist the Indians in farming; that until such a plan as this is adopted and followed, irrigation on that reservation will be a failure; and that such a system in a few years would enable the Indians to take care of themselves and become independent of any assistance from the whites.

In this connection it may be proper to state that Lieut. Stotsenburg, U. S. Army, made, at the request of this office, in 1889, a reconnaissance of the Navajo Reservation, in Arizona, Utah and New Mexico, for the purpose of locating suitable and available places, ditches and reservoirs on that reservation. His report submitted at different times during the year 1889 contemplates the construction of or repairing of ditches at some nine or ten points on the reservation. He submitted estimates for five points in Arizona, including the agency at Fort Defiance, and one place in New Mexico.

The Indian agent in reporting upon these plans and estimates, under date February 8, 1890, concurred in the recommendation of Lieut. Stotsenburg, except as to the expenditure of \$6,934.65 for a supply of water at the agency headquarters, stating that he believed the money could be spent to a better advantage in providing a never-failing supply of water for irrigation purposes, and for the watering of stock during the dry season. He (the agent) also estimated for an expenditure of \$300 at a spring 30 miles east of Keam's Cañon, apparently undiscovered by Lieut. Stotsenburg.

There is now available for the purpose of constructing irrigating ditches, building dams and storage reservoirs, walling up and inclosing springs, purchasing and erecting pumps, windmills, etc., about \$20,000.

BRIG. GEN. A. M'D. M'COOK'S STATEMENTS AND RECOMMENDATION.

I have just received (since the preparation of the foregoing) a communication dated the 16th instant, from Brig. Gen. A. McD. McCook, U. S. Army, commanding the Department of Arizona, in reference to the condition of affairs at the Navajo Reservation, and submitting for my consideration recommendations, based upon what he deemed an immediate necessity, with a view to settling the differences between the

Navajos and the whites upon the western, southern, and the eastern borders of said reservation, with the statement that it is reported by the Navajo agent that 9,000 of these Indians are without the limits of the reservation from necessity; that they have large herds and flocks; that there is no water or grass within the official limits of the reservation to maintain them and give sufficient water even for limited agriculture for the 18,000 Indians said to constitute the Navajo Nation.

The general's recommendation, for a quick solution of this question, is a division of the Navajo Reservation into six or eight districts; that as many engineering parties should be sent into the reservation, each party being assigned to a district, to make a survey and a contour map of the district of country assigned to it, and to make an early report to this office as to where artesian wells might be placed, where bore wells worked by windmills might be placed, or where points in cañons or mountains might be selected, with a view of constructing storage reservoirs for this purpose; that if this surveying and mapping can not be done otherwise, if approved by the War Department, it would afford him great pleasure to detail young and efficient officers in the Army to take charge of these different surveys, each survey being conducted on the same scale, so that a proper and correct map can be made of the 12,000 square miles which constitute the Navajo Reservation, and that if this method is not approved by the Departments of the Interior and War the reservation line should be extended westward to the Little Colorado River and continue along that river to the Utah line.

The general adds that it would, in his judgment, be inhuman to drive the Navajo Indians with their large flocks back to the Navajo Reservation as it is now; that should the results of these surveys warrant the same, with slight expense, wells can be bored and water developed to such an extent on this reservation as to justify this Department in requiring the Navajos, living now outside on the public lands, to confine themselves and their flocks and herds within the limits of the reservation now possessed by them.

CONCLUSION.

From the above recital it will be seen that the situation among the Navajos is one of great difficulty, perplexity, and possible peril to the public peace, and one which calls for immediate action. With my present knowledge I can, at present, suggest only the following:

(1) I do not believe that it is wise, at present at least, to extend the limits of the reservation in any direction, for the reason that it is found such extension would be contrary to the general policy of the Government, which seeks to limit and reduce the reservation rather than to extend it, and for the further reason that the reservation is already very large, and I have reason to believe that its extent and resources are sufficient, under proper management, for the adequate support of all the Indians who have any right or title to live upon it, and for the still further reason that the public land is already more or less occupied by white people, and any extension of the limits of the reservation would be regarded by them as an infringement on their rights, and would provoke ill feeling, if not friction and antagonism.

It is preferable, in my view, that the Indians who desire to live outside of the present limits of the Navajo Reservation should make their homes on the public lands and should receive a patent to them.

(2) I sympathize with the views so earnestly and fully expressed to me by Gen. McCook when he asserted that he would regard the driv-

ing of the Indians by the Army back onto the reservation, and their forcible detention there under the present circumstances, as an act of inhumanity.

I think it is an indisputable and important fact that the Navajo Reservation does not afford sufficient food and water for the sustenance of the large herds and flocks upon which the Navajos depend for support. If, therefore, they are forced back and held upon the reservation, their flocks must perish and they must suffer, so that it will be necessary either to leave them to perish with hunger or to support them at public expense.

In my conference with these people at Fort Defiance, in the fall of 1890, the leading men among them plead with me most earnestly for an extension of the limits of their reservation, for the reason, as they asserted, that their present reservation does not furnish food and water for their herds and flocks, and I believe that the testimony of all parties acquainted with the situation is agreed on this point, so that it must be accepted as established and that it constitutes the pivotal point in this entire matter. The Navajos must live, and they must be allowed the use of such land as will furnish them a support. They are now self-supporting and nothing should be done which will take from them their means of livelihood and reduce them to the necessity of being supported by the Government.

(3) The most practical scheme that presents itself to my mind for relieving the situation is the development of water by means of common wells, artesian wells, storage reservoirs, and irrigating ditches. There seems to be a general opinion on the part of those who have traversed the reservation that this is a feasible scheme; it appeared so to me from what I saw on my journey across it from Gallup to Keams Canyon and back. It appeared, so I was assured by Gen. McCook and Capt. Baker during our journey and recently in an interview, that, in their opinion, this can be done; and Gen. McCook has repeated his opinion in his letter which accompanies this communication.

Such a system of water development will necessarily be somewhat expensive and should be undertaken only after careful deliberation, and upon the most trustworthy and scientific information.

The late Agent Vandever, while on a visit to Washington, went before the Senate Committee on Indian Affairs and assured them that he could easily, with a few thousand dollars, develop available water, on a somewhat extensive scale, for the use of the Indians, and that after the reservoirs and ditches had been constructed the Indians themselves would take proper care of them.

On his recommendation, a small appropriation of money was made for that purpose, but when I visited the reservation afterwards and asked him what his plan was and what he proposed to do with the money which was available, he said to me that he had made up his mind that it would be a waste to spend the money in that way, that nothing would come of it, that even after the ditches and reservoirs were constructed, the Indians could not, or would not, take care of them.

Gen. McCook said to me that it was his opinion, very positively entertained, that the Navajo Indians could not be trusted to take care of ditches and reservoirs that might be built for them, largely for the reason that what is "everybody's business is nobody's business," and that built by the Government for common use, they would not be the property of any individuals, nor would any particular persons feel the responsibility of taking care of them. I am, myself, of the same opinion, so that it will be necessary, as I think, not only to construct expensive

and extensive work for supplying water at Government expense, but it will be necessary, for some years at least, to take care of them by persons selected and paid by the Government.

I do not think that any extensive preparations of this kind should be undertaken without fuller knowledge than is now in possession of this office, and I know of no money available by which that knowledge can be obtained.

Gen. McCook said to me that he would be very glad, both by reason of his interest in the Navajo Indians and his desire to promote their prosperity, and to induce them to return and remain permanently upon their reservation, and thus to preserve the peace between them and their white neighbors, as well as for the purpose of detailing young officers and giving them an opportunity of doing a good work, and also for the purpose of making a display to the Navajos on all parts of their reservation of a military force; that he would be glad to district the Navajo country into suitable portions, and to detail from that portion of the work under his control proper officers with suitable accompaniments to thoroughly inspect the entire region, make a contour map of it, and submit a detailed report touching on those questions which are essential before entering upon any scheme for the development of water for supplying their flocks and herds.

If, therefore, this scheme seems feasible and desirable to you, I would respectfully recommend that the plan suggested by Gen. McCook be carried into execution, and that the matter be laid before the President with a request that he give the necessary orders therefor.

(4) I beg leave to ask your attention to the fact that the Senate, by resolution, has instructed its Committee on Indian Affairs to investigate Indian matters, and to visit such Indian agencies as they may think best. I would be glad if the statements here made regarding the Navajos could be laid before the Senate Committee for the information of its members, thinking that possibly with this statement of facts before them, they might think it worth while to send at least a subcommittee to the Navajo Reservation to make such inquiry as would enable them to have a personal knowledge of the situation. Nothing, of course, can be done in the matter finally without Congressional action appropriating a sufficient amount of money to carry out whatever scheme may be finally recommended by this office. A personal knowledge of the situation by members of the Senate committee would undoubtedly facilitate the legislation which will be necessary in the future.

(5) In the meantime I know of no way to maintain the peace between the nonreservation Navajo Indians who are on the public lands and the white residents except by the aid of the military. The Indian police are few in numbers, are poorly paid, poorly equipped, and I have no reason to think they are either well disciplined or efficiently handled, so that I doubt whether it is practicable, for the present agent at least, to maintain the peace by his police in those regions so far distant from his agency. All that the agent could do with his police would be to do what has been done heretofore, viz, to notify the Indians to return to the agency and to refrain from molesting property not their own or from having any friction with white people. They would have no power to arrest any white citizens guilty of inflicting wrong upon the Indians, and might not be able to arrest any Indians guilty of misdemeanors.

Gen. McCook is thoroughly informed in reference to the situation, is deeply interested in preserving the peace, and I have no doubt will do

everything that is practicable and desirable to prevent the Indians from committing any depredations, or in anywise trespassing upon the white people.

I think, however, that the probabilities are that wrongs are quite as likely to originate with the white people against the Indians as they are to originate with the Indians against the white people; and when such things occur they can be readily brought to the attention of the military, and through the War Department find its way to your office and to the Indian Bureau.

(6) It is, of course, of the highest importance in the present strained relations between these Indians and the white people that the agent for the Navajos should be a man of the highest attainable qualities; he should be intelligent, vigilant, thoroughly upright, having the confidence of the Indians and their respect, as well as the confidence and respect of the white people, and be a man of decided executive ability. Such a man can do a great deal towards advancing the Indians and towards quieting and preventing any antagonism between them and their white neighbors.

There are other matters pertaining to the Navajo Reservation of a very serious character, which I will discuss and lay before you at a subsequent period.

I inclose herewith the petitions referred to and also copies of this report.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.



CV-6417-201

NN009830

serial 2901