

## THE FEDERAL INDIAN POLICY IN CALIFORNIA, 1846-1860

Indian affairs have had a large place in the history of the United States. From the organization of our government almost to the present time the Indian question has involved us in grave political, economic, and moral issues, has necessitated the expenditure of vast sums of money, and has exercised a far-reaching influence upon the character and development of American civilization.

From the first the United States was forced to deal with the Indian question because of the hostility of the Indians and the irresistible pressure against the Indian frontier by whites in search of free land or wealth. The making of treaties with the Indians, by which they were granted the right to occupy certain regions and white persons were prohibited from entrance into these areas, the establishment of trading houses among the tribes, and the introduction among them of "the implements and the practice of husbandry, and the household arts" were some of the methods by which the government tried to make adjustment between the Indians and whites. The United States must be credited with a degree of sincerity in its efforts to deal with the Indian problem in the early years of our history. Some persons even believed, as did Jefferson for a time, that the efforts put forth by the government would tend to civilize the Indians and prepare them to share in the benefits and duties of civil government.

Because of the friction resulting from the eagerness of individuals and states to secure the lands occupied by Indians many persons came to feel, soon after 1800, that the only way to deal with the situation was to separate the Indians and the whites by persuading the Indians to exchange the lands occupied by them for lands somewhere in the west. This plan was first officially suggested by Jefferson, was later stated with more definiteness by Monroe, and was carried out under Jackson and

his successor. This "removal policy" had by 1840 resulted in the erection of an Indian frontier extending from the Red river and Texas to the Great lakes. Many believed that beyond this frontier the United States would not expand.<sup>1</sup>

The new Indian policy had just been put into effect, with the completion of the Indian frontier, when the line of division was broken as a result of the annexation of Texas, the settlement of the Oregon question, the westward migration of the Mormons and the addition of an immense area to the United States by the treaty of Guadalupe Hidalgo. Through these events the United States became responsible for a large additional Indian population, and Indian treaties were broken by large numbers of people crossing the Indian country on their way to the new lands.

The acquisition of what is now California and subsequent events in the new region, especially the discovery of gold in 1848, added greatly to the burdens and the confusion of federal Indian administration. Changes in the general Indian policy also resulted. The large number of Indians in California, their low stage of development, and their history under Spain and Mexico had much to do with the character of the problems to be faced and the policy to be followed. A brief sketch of the Indian policy of Spain and Mexico in California is therefore in order.

The natives of California when found by Europeans were among the least developed of the Indians in America. There was no agriculture in all their territory. Some hunting and considerable fishing were carried on, but the food of the natives for the most part consisted of acorns, seeds, grasses, roots, and berries. The natives of the northwestern part of the region and those along the Santa Barbara channel were slightly more advanced than those in other parts of the territory, but everywhere there was an almost total lack of anything savoring of culture.

<sup>1</sup> In making this adjustment with the Indians the United States was guided by the principles upon which civilized nations had for a long time based their treatment of uncivilized peoples. These principles were restated and reinforced by decisions of the supreme court, which, while recognizing the Indian tribes as in a sense states with which formal treaties were to be made, regarded the governments of civilized states as having sovereignty over lands and peoples within their jurisdiction. For a full discussion of this subject see *Worcester v. Georgia*, 7 *Peters*, 517-518; *Johnson and Graham's lessee v. McIntosh*, 8 *Wheaton*, 572-583; *Cherokee nation v. State of Georgia*, 5 *Peters*, 1-2; *United States v. Rogers*, 4 *Howard*, 570-572.

There was also no tribal organization as it existed in other parts of the continent. The native groups, of which there were many, were defined and held together by language and by the topography of the country more than by any political or social bonds.<sup>2</sup>

The Spaniards began in 1769 the task of civilizing these unpromising natives of California, numbering, it is variously estimated, from 150,000 to 260,000 before the arrival of the whites.<sup>3</sup> In this year the mission of San Diego, the first white settlement within the present limits of California, was founded. This was followed by twenty other Franciscan missions founded between San Diego and the northern shore of San Francisco by 1823.

For a period of fifty years the missions were from certain standpoints a great success. There were times when they had in their care as many as 21,000 natives, who were taught the rudiments of Christianity, and some of the arts of industry and agriculture. Large numbers of horses, cattle, and sheep were raised at the missions. The yield of grain was said to have reached a total of 180,000 bushels in 1821. Many buildings were constructed by the labor of the Indians. The natives, though unacquainted with the arts and unaccustomed to labor before the missionaries came, did practically all of the manufacturing, weaving, tanning, leather work, milling, soap-making, building, and other work of the industries.

The secularization of the missions, provided for under a *reglamento provisional* passed on August 2, 1834, and practically carried into effect by 1839, undid the work of the faithful missionaries and scattered their protégés. Many of the Indians, unable to readjust themselves to their old way of living, died as a result. Others went into the natives' haunts, whence, joining with the wild Indians, they would come back, frequently with great success, to raid and to steal. Since they were acquainted with the

<sup>2</sup> Much information on the Indians of California is contained in the *Handbook of American Indians, north of Mexico* (Bureau of American ethnology, *Bulletin* no. 30, edited by Frederick M. Hodge—Washington, 1907-1910), Hubert H. Bancroft, *Native races* (San Francisco, 1883), vols. 1, 3, 4, Stephen Powers, *Tribes of California* (Washington, 1877), and *University of California publications in American archaeology and ethnology* (Berkeley, 1903-1917).

<sup>3</sup> See A. L. Kroeber, "California, Indians of," in *Handbook of American Indians*, part 1, p. 190; C. Hart Merriam, "The Indian population of California," in *American anthropologist* (new series), 7: 594-606.

country, the missions, and the ranches, they found it easy to drive off horses and cattle into the mountains. These raids, which resulted in much conflict between the Indians and the whites, continued up to and beyond the date of the American occupation.

The occupation of California by the United States on July 7, 1846, had important consequences for the history of Indian affairs in the United States. Indirectly, as has already been noted, it had much to do with breaking the established Indian frontier; and directly, it added to the burdens of Indian administration another Indian problem. This problem was one of rather large proportions and of some difficulty, for, in addition to the complications resulting from the character and previous history of the Indians in California, their number was still large at the beginning of American occupation, in spite of their great losses through pestilence and recent contact with the whites.<sup>4</sup>

There is no way to find out the exact number of Indians in California when the Americans took possession, but the best authorities now agree that it was large. When all available facts are considered it seems safe to say that in 1846 at least 100,000 or perhaps 125,000 Indians inhabited what is now California.<sup>5</sup>

The adjustment between this large body of Indians and the whites, whose numbers were to increase with great rapidity, was

<sup>4</sup> There were serious pestilences of smallpox in 1833, 1837, 1838, and 1844.

<sup>5</sup> Thomas B. King, in his *Report on California* (Washington, 1850), and Henry R. Schoolcraft, in *Information respecting the history, condition, and prospects of the Indian tribes of the United States* (Philadelphia, 1851-1857 — reprinted as *Archives of aboriginal knowledge*, Philadelphia, 1860-1868), have done much to perpetuate too low an estimate of the Indian population of the region by making use of figures given by writers who knew practically nothing about the matter. Statements of value in forming an estimate of the population are found in the following: *Handbook of American Indians* (Hodge ed.), part 1, p. 190; Merriam, "Indian population of California," in *American anthropologist* (new series), 7:594-606; Hubert H. Bancroft, *History of California* (*History of the Pacific states of North America*, vols. 13-18 — San Francisco, 1884-1888), 3: 357-358, 4: 73, 648; Governor McDougall to President Fillmore, March 1, 1851, in *Senate executive documents*, 32 congress, 1 session, no. 1, part 1, p. 138; L. Lea from George W. Barbour, O. M. Wozencraft, and Redick McKee, March 5, 1851, from R. McKee, March 24, 1851, from Adam Johnston, January 30, 1852, from E. F. Beale, November 22, 1852, *ibid.*, 33 congress, special session, no. 4, pp. 62-63, 67-69, 242, 379; Beale to G. W. Manypenny, August 22, September 30, 1853, *ibid.*, 33 congress, 1 session, no. 1, part 1, pp. 467, 472; *Report of the commissioner of Indian affairs*, 1856, p. 246.

not made without difficulty. Here, as in practically every other part of the United States where the whites took possession of lands occupied by, or in proximity to, the Indians, the government had a dual task. On one hand, it had to guard the whites who pressed in upon the territory against outrages by the Indians; on the other, it had to protect the Indians against the rapacity and cruelty of the whites.

The intention to fulfill this task was evidenced in two proclamations issued by the military authorities in California immediately after the Americans took possession. One of these documents proclaimed that "The California Battalion of Mounted Riflemen will be kept in the service of the Territory, and constantly on duty to prevent and punish the aggressions by the Indians or any other persons upon the property of individuals or the peace of the Territory." The other was a proclamation in the district of San Francisco ordering the release of all Indians held to service against their wills, but providing that those having chosen their own employers were to abide by their contracts unless they should be given permission in writing to leave or unless the magistrate should annul the contract. By this order also the Indians were prohibited from wandering about the country in an idle and dissolute manner, and if so found they were liable to arrest and punishment by labor on the public works at the discretion of the magistrate.<sup>6</sup> The proclamations were an assertion of sovereignty by the United States over the Indians and the territory occupied by them, and might be criticized on purely sentimental grounds; but the policy indicated was to prove a godsend to the whites and some protection to the Indians themselves.

The Indians were a source of great annoyance to the early white settlers in California because of their continued depredations, in which they drove off large numbers of horses and constantly endangered the safety of persons in the settlements. These marauding expeditions, which were the scourge of the

<sup>6</sup> The first of these documents was issued on August 7, 1846, by R. F. Stockton, commander-in-chief of the military forces and governor of California. See the *California Star*, January 9, 16, 23, 1846. The second was a public order of John B. Montgomery, in military command of the district of San Francisco. See *ibid.*, February 20, March 6, 1847.

whole country from Sonoma to San Diego, called the military forces into frequent service.<sup>7</sup>

In spite of these difficulties, General Kearny, who became governor of California on March 1, 1847, believed that conciliatory methods could be used effectively in dealing with the natives. Accordingly, he recommended that presents should be given the Indians as a means of maintaining peace. In addition to adopting this measure, on April 7, 1847, by virtue of authority vested in him as military governor of the territory, he appointed John A. Sutter subagent for the Indians on and near the Sacramento and San Joaquin rivers; and on April 14 he appointed Mariano G. Vallejo to the same office for the Indians on the north side of the bay of San Francisco. These agents were instructed to secure information concerning the Indians in their districts, to establish local regulations with the approval of the governor, and to regard themselves as protectors of the Indians. Evidence is abundant that these agents and the military governor did much to see that justice was done the Indians and that peace was maintained.<sup>8</sup>

The efforts of the federal authorities to maintain peaceful relations in the country resulted in only partial success. Depredations by the Indians continued, and the military force was

<sup>7</sup> Walter Colton, *Three years in California* (New York, 1854), 25, 29-31; *California Star*, March 13, 20, April 10, 17, 1847; unbound documents, manuscript archives of California, 1846-1850, in the Bancroft library, Berkeley, California, pp. 146-147, 168-169; the *Californian*, August 15, 1846, p. 4, August 22, 1846, p. 11, September 26, 1846, p. 37, December 26, 1846, p. 96. The *Californian*, a weekly, was the first newspaper published at Monterey. It continued publication from August 15, 1846, to May 6, 1847. An abstract of the paper, which makes a large volume of manuscript, is in the Bancroft library, where it is listed as *Cal. MSS.* no. 72.

<sup>8</sup> Mariano G. Vallejo, *Documentos para la historia de California*, tomo 1, p. 23, tomo 12, p. 281, in the Bancroft library; Major Hardie to Vallejo, July 26, 1847, *ibid.*, tomo 12, p. 308; General Kearny to W. T. Marcy, April 28, 1847, in *Senate executive documents*, 31 congress, 1 session, no. 18, p. 275; *ibid.*, 175; Kearny to Vallejo, W. T. Sherman to J. D. Hunter, August 1, 1847, Governor Mason to Lieutenant Anderson, to John A. Sutter, August 16, 1847, to Vallejo and Sutter, August 19, 1847, to L. W. Boggs and Vallejo, November 11, 1847, H. W. Halleck to Vallejo, September 15, 1847, circular letter of Halleck, August 16, 1847, *ibid.*, 285, 332, 334-335, 356-359, 360-361, 370-371, 396; Sutter to Kearney, March 18, May 27, 1847, Mason from Captain Folsom, August 15, 1847, from Boggs and Vallejo, October 30, 1847, in unbound documents, manuscript archives of California, 1846-1850, pp. 86-87, 90, 124-126, 175; John A. Sutter, *Personal reminiscences*, 42, in the Bancroft library; Sutter to Mason, July 12, 1847, in *California Star*, July 24, 1847.

inadequate for the situation. The result was that Lieutenant Sherman, through Alcalde Burton of San José, authorized persons to shoot Indians caught stealing horses. Likewise, a general order went into effect on November 1, 1847, directing all persons having Indians in their service to give every Indian employed or hired a certificate to that effect. Indians found wandering about without such certificates were to be arrested and punished as horse-thieves. Wild Indians and Indians not employed who wished to visit settlements for the purposes of trade were required to secure passes from the Indian subagent of the district.<sup>9</sup> These measures, it will be seen, bear close resemblance to the black codes of the south. If they would seem to make atrocities against the Indians possible and to be harsh and discriminatory, it must be remembered that the character and the conduct of the Indians gave some justification for the methods used in dealing with them.

While the Indians brought much trouble upon themselves, the evil of drunkenness among them was wholly the fault of the whites. An honest effort, which met with only partial success, was made to remedy this evil. A proclamation was issued on November 29, 1847, making anyone who in any manner disposed of liquor to Indians liable to severe punishment, and providing that in cases of prosecution Indians were to be held competent witnesses. Alcaldes and Indian subagents were directed to carry the provisions of the proclamation into effect. Vigorous action was demanded against all violators of the law and numbers of persons were prosecuted with rigor.<sup>10</sup>

Questions of property ownership involving the rights of Indians and others to lands were called to the attention of the military authorities on various occasions during the years 1847 and 1848. General Kearny and his successor, Governor Mason, desired to maintain the *status quo* of the missions and the mission lands until proper legal tribunals should determine their

<sup>9</sup> Halleck to Vallejo, August 16, 1847, Lieutenant Sherman to John Burton, September 6, 1847, in *Senate executive documents*, 31 congress, 1 session, no. 18, p. 358; *California Star*, September 18, 1847.

<sup>10</sup> Vallejo, Documentos para la historia de California, tomo 12, pp. 319, 324; *Senate executive documents*, 31 congress, 1 session, no. 18, p. 413; Mason to Colonel Stevenson, to I. Callaghan, June 11, 1848, to W. R. Longley, June 16, 17, 1848, Halleck to P. C. Carrillo, July 20, 1848, *ibid.*, 539-542, 547-548.

ownership and the rights of Indians in relation to them. It was held by the authorities that the law of secularization gave the Indians lands for their own use, but that they could not in any way dispose of the lands and that all sales of mission property made by them were void. The question of the right of Indians to own and to sell or lease lands outside the missions was disposed of by Mason with a statement to Sutter and Marshall, who sought a sanction for the lease of lands from Indians on the American fork of the Sacramento river, that the United States did not recognize the right of Indians to sell or lease the lands on which they resided.<sup>11</sup>

With peace secured between Mexico and the United States, steps were taken toward some permanent and general policy for the administration of Indian affairs in the new territory. On July 17, 1848, congress asked for a report as to the number of Indians in Oregon, California, and New Mexico. On November 30 the commissioner of Indian affairs reported that the acquisition of California and New Mexico had increased the number of Indians in the United States and that this would require the appointment of additional agents for the proper management of affairs of the department; and on December 5 the president in his message to congress recommended the appointment of a suitable number of Indian agents for the territory.<sup>12</sup>

On April 3, 1849, George W. Crawford, secretary of war, notified General Persifer F. Smith, commanding the Pacific division of the army, that the proper officers for the management of Indian affairs in California had been appointed and would repair with convenient dispatch to the scene of their labors. On the same day the secretary of state gave instructions to Thomas Butler King, who had been appointed by the president to study conditions in California and to secure information concerning

<sup>11</sup> *Californian*, March 27, 1847, p. 169; *Senate executive documents*, 31 congress, 1 session, no. 18, p. 430; Mason to J. M. Bonilla, November 30, 1847, to the commanding officer at San Francisco, February 5, 1848, Halleck to Colonel Stevenson, July 25, 1848, *ibid.*, 413-414, 448, 552-555. In this letter Halleck gives a summary of all the decrees in his possession relating to the missions of California since their secularization. For Governor Mason's letter to J. A. Sutter on the right of Indians to own or to lease land see *ibid.*, 466.

<sup>12</sup> *House executive documents*, 30 congress, 2 session, no. 76, pp. 1-5, 11-12; *ibid.*, no. 1, pp. 407-408.



the natives there. The commissioner of Indian affairs gave a commission on April 7 to John S. Wilson as Indian agent at "Salt Lake, California," and on April 14 to Adam Johnston as Indian subagent on the Sacramento and San Joaquin rivers. On July 15 William Carey Jones was sent to California under instructions from the secretary of state and the secretary of the interior. He was directed specifically to study land titles, but as part of his duties he was to make inquiry into the nature of Indian rights as existing under the Spanish and Mexican governments, to indicate from authoritative data the difference between the privileges enjoyed by the wandering tribes and those enjoyed by the tribes who had made actual settlements, and to report their general form, extent, and locality, together with the manner in which such rights had been recognized.<sup>13</sup>

While these officials were preparing to take up their respective duties in California, changes which had an important bearing on the Indian question were taking place in that region with great rapidity. Gold had been discovered in the previous year, and in 1849 tens of thousands of people poured into the country. Indians were crowded from their accustomed haunts, hostilities were frequent, and the military problem became a serious one because soldiers deserted to go to the mines. Governor Riley made the best distribution of troops that seemed possible, but he was not able to prevent injustice to the Indians, retaliation on their part, and consequent bitter feelings.<sup>14</sup>

<sup>13</sup> *Senate executive documents*, 31 congress, 1 session, no. 1, part 1, p. 157; William C. Jones, *Report on the subject of land titles in California* (Washington, 1850), 3; John M. Clayton to T. B. King, April 3, 1849, W. Medill to John Wilson, April 7, 1849, to Adam Johnston, April 14, 1849, in *Senate executive documents*, 31 congress, 1 session, no. 18, pp. 9-11, 97-98, 409-410. On November 17, John A. Sutter was notified of his appointment as Indian subagent on the Sacramento river. Adam Johnston was directed to give his services to the valley of the San Joaquin. See *Senate executive documents*, 33 congress, special session, no. 4, p. 4. Sutter appears to have been receptive at first, but he evidently changed his mind, for on May 23, 1850, he declined the appointment and Johnston took over the duties of his district. *Ibid.*, 115.

<sup>14</sup> The correspondence concerning these occurrences and developments is so voluminous that it is impracticable to give the references here.

The attitude of the people of California toward the Indians, which grew in part out of the hostilities between natives and immigrants as the immigrants crowded the Indians from their sources of food supply, should be noted in this place. The convention which drew up the constitution for California after a long debate

The men who were appointed to various offices in California reached the field and took up their work in the summer and fall of 1849.<sup>15</sup> William Carey Jones examined the question of land titles and made his report under date of April 10, 1850. The only part of his report having direct bearing on this study is the section dealing with the nature of Indian rights to the soil under the Spanish and Mexican governments. He found that "In the wild or wandering tribes, the Spanish law does not recognize any title whatever to the soil." But with respect to other Indians he learned that it was a principle laid down in the Spanish colonial laws that the Indians should have a right to as much land as they needed for their habitations, for tillage, and for the pasturage of their flocks.<sup>16</sup>

The report of Thomas Butler King, dated March 22, 1850, was communicated to congress by the president on March 26. While King devoted a portion of his space to Indian affairs, the report had no great importance for Indian administration. Little that he said regarding Indians was based on first-hand information, and the figures given have no reliability whatever. King did observe correctly that the number of Indians had greatly declined since earlier days. Remains in all the valleys of the Sierra Nevada and along the foothills of that range gave indications that at no remote period there must have been a numerous population where none existed at the time of his investigation.

and much shifting of position by various delegates denied to Indians the right to vote, but a proviso was added to the effect that nothing in the law should be construed to prevent the legislature by a two-thirds vote from admitting Indians or their descendants to the right of suffrage. *Report of the debates in the convention of California on the formation of the state constitution in September and October, 1849* (edited by J. Ross Browne—Washington, 1850), 7, 61-74, 305-308, 458, appendix, iv. The first legislature of the state passed an act for the government and protection of the Indians which provided that "in no case shall a white man be convicted of any offense upon the testimony of an Indian, or Indians," which made the Indians subject to many forms of punishment for petty offenses, which recognized their possessory rights to lands but provided for their dispossession by an easy process, and which created for certain Indians under age a wardship that made possible something akin to slavery. *Statutes of California*, first session, pp. 408-410. See also *Journals of the California legislature*, first session, pp. 3, 224, 257, 333-334, 337, 366-367, 369, 384, 575, 1284.

<sup>15</sup> Nothing further need be said concerning John Wilson, for by the settlement of the eastern boundary of California along the ridge of the Sierra Nevada his agency was excluded from California.

<sup>16</sup> Jones, *Report on land titles in California*, 32-34.

Many of the Indians seen by him were of the lowest grade of human beings, with little inclination to work or to improve their condition. They had never pretended to hold any interest in the soil, nor had they been regarded by the Spaniards or by the American immigrants as possessing any. It was King's opinion, and this may have influenced to some extent the policy of the administration, that it might be possible to collect the Indians together and to teach them in some degree the arts of civilization.<sup>17</sup>

Adam Johnston, whose services in the Indian affairs of California were of more importance than those of any other person of the period, began his active work in the spring of 1850. The results of his observations were set forth in several reports made to the Indian department. By September 16 he had visited many tribes of Indians and had noted their low stage of development. That they were declining in numbers seemed to him apparent on every hand. The fact that they were being crowded out of their old homes by the rapid incoming of the immigrants, and thus were being deprived of their accustomed food supply, led him to recommend that at various points depots should be established for the distribution of supplies.<sup>18</sup>

The suggestion of King, referred to above, that the arts of civilization might be taught to the Indians if they were collected together, seems to have been the first official suggestion for the concentration of the California Indians. Adam Johnston believed that supplies ought to be systematically distributed to the Indians to compensate them for their losses. The military officials evidently had similar ideas, for, in a report to the war department, General Riley recommended that as far as practicable the Indians of California should be concentrated in districts over which the United States should have exclusive jurisdiction.<sup>19</sup>

Partly as a result of definite suggestions from the civil and military officials in California and partly because of a desire to act for the best interests of both Indians and whites, but with little understanding of the situation in that remote region, con-

<sup>17</sup> *House executive documents*, 31 congress, 1 session, no. 59, pp. 1, 2, 6-8.

<sup>18</sup> Johnston to O. Brown, March 1, July 6, September 6, 1850, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 37, 41-43, 45.

<sup>19</sup> *Senate executive documents*, 31 congress, 1 session, no. 52, pp. 56-57.

gress passed, and the president approved on September 28, 1850, "An act to authorize the appointment of Indian agents in California." On September 30 a measure became law appropriating \$25,000 to enable the president to make treaties with the various Indian tribes in California.<sup>20</sup>

Redick McKee of Virginia, George W. Barbour of Kentucky, and O. M. Wozencraft of Louisiana were appointed as Indian agents, or commissioners, under the laws passed by congress; and as early as possible they set out for the field of their labors. Dr. Wozencraft reached San Francisco on December 27, Colonel McKee on December 29, and Colonel Barbour on January 8. The commissioners decided to act collectively for a time, though their instructions permitted them to work separately, and John McKee, son of Redick McKee, was chosen secretary of their body.

On January 14 the agents went to the capital at San Jose to consult with the governor and to secure information from the members of the legislature about Indian troubles in their respective districts. They found the governor and the legislature much concerned by reports of Indian depredations in various parts of the state. As a result of the excitement a bill was passed by the legislature authorizing a loan not to exceed five hundred thousand dollars to be used in case of war to repel invasions or to suppress insurrections. Another act provided for the payment of liberal salaries to officers and soldiers who had previously aided in putting down uprisings. Still another authorized the governor to call out troops to defend the frontier and provided liberally for their compensation. It was expected that the state would be reimbursed by the federal government for all expenditures called for under these acts.<sup>21</sup> These mili-

<sup>20</sup> *Statutes at large and treaties of the United States of America, from December 1, 1845, to March 3, 1851* (Boston, 1851), 519, 544-559.

<sup>21</sup> *Senate executive documents*, 31 congress, 2 session, no. 1, part 1, pp. 28-29, 41-42; *ibid.*, 33 congress, special session, no. 4, pp. 46-48. When the agents were about ready to set out for California it was discovered that by some oversight no appropriation had been made to pay their salaries. But provision had been made for paying three commissioners for services in behalf of the Indians of California. To avoid delay it was decided to appoint the same persons commissioners who had been nominated and confirmed as agents. These commissioners made report immediately on their arrival in California. See *ibid.*, 53-54. The attention of the depart-

tary provisions would have been none too great if the governor's statement that there were one hundred thousand warriors in the state had been true.

Early in February the commissioners set out for the Indian country in the San Joaquin valley. They were accompanied by a military escort of the United States army under the command of Captain E. D. Keyes. The company went to Stockton, then up the San Joaquin valley to the Mariposa river. After much effort, six tribes of Indians were assembled at the commissioners' camp, where on March 19 the first treaty was arranged for the United States with the Indian tribes.

By the treaty the jurisdiction of the United States over the Indians and over lands occupied by them was jointly recognized, provisions and beef cattle were promised in abundance to the Indians, and it was agreed that all cases of dispute between Indians and white men were to be adjudicated by the civil authorities. The Indians in agreeing to the treaty provisions relinquished all title to lands claimed by them. In return for such relinquishment a large tract of land between the Merced and Tuolumne rivers was set apart for their exclusive occupancy. As soon as the treaty had been concluded the Indians left for the reservation under the charge of Redick McKee and Adam Johnston.<sup>22</sup>

The commissioners now proceeded south. By April 14 they had established themselves at Camp Barbour on the upper San Joaquin river and were successfully persuading many Indians ment was called to the high cost of living in California with the hope that congress might be induced to raise the commissioners' salaries.

Some reports of Indian troubles were well authenticated. See *Message of the governor*, January 7, 1851, in *Journals of the California legislature*, second session, 793-796; also see *ibid.*, 40, 51, 59-60, 68, 72, 563-565, 878-879, 941-944, 946, 1368. The various acts passed are in *Statutes of California*, 1851, pp. 402-403, 489-491, 520-521.

<sup>22</sup>Lea from R. McKee, February 11, 1851, from Barbour, McKee, and Wozen-craft, February 17, March 25, 1851, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 54-58, 69-71; *Message of the president of the United States communicating eighteen treaties made with Indians in California*, 32 congress, 1 session (Washington, 1905), 44-47. This document was published under order of the senate in executive session, January 19, 1905. The injunction of secrecy was not removed from these treaties and other documents belonging with them until the day before, January 18. This document will be referred to in what follows as *California treaties*, 1851-1852.

to meet with them there. On April 29 a formal treaty was made with sixteen tribes, or bands. Promises were given in the treaty to supply the Indians with food and equipment, and a large tract of land was set apart as another reservation.

The agents evidently relied much on a full stomach as a guarantee of peace, for they stated that experience had taught that the best way to keep the Indians in California quiet was to give them plenty of food. In order to supply this necessity, the commissioners considered themselves under compulsion to make liberal promises under the head of "subsistence." The department was advised that this course must be pursued throughout the state for, according to the commissioners' view, "it is *cheaper* to feed the whole flock for a *year* than to *fight* them for a week." <sup>23</sup>

Adam Johnston did not entertain the same feelings of optimism concerning the effects of treaty-making as did the other officials; he believed that Indian depredations would continue in spite of the treaties. He knew of many whites, too, who, having lost property or friends at the hands of the natives, had declared their intention of shooting them on sight, whether treaties were made or not, and he thought the establishment of a line of military posts along the valley of the San Joaquin, with an Indian agent at each one, would be the most effective means of meeting the problem.<sup>24</sup>

The original instructions of the commissioners permitted each to adopt a separate course of action. On their arrival in

<sup>23</sup> *Journal of the United States Indian commissioners for California*, April 12, 15, 19, 23, 25, 26, 28, 29, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 90-97. For a period the commissioners kept a chronological record of their activities. This will be referred to as *Journal of the commissioners*. For the treaties see *California treaties*, 1851-1852, pp. 47-49. On May 1 the commissioners reported their movements and acts to the Indian department. It was stated that 600 or 700 Indians were residing in the reserve between the Tuolumne and the Merced rivers. It was expected that this number would be increased to 1000 or 1200 when the *monas* or wild Indians should come in. At the second reservation 711 Indians were counted. It was reported that these would probably increase to 2000 or more. The commissioners optimistically asserted that the two treaties had broken the confidence of the hostile tribes in their ability to contend with the whites. McKee, Barbour, and Wozencraft to Lea, May 1, 1851, in *Senate executive documents*, 31 congress, 1 session, no. 1, p. 486.

<sup>24</sup> Johnston to Lea, March 3, April 11, June 24, 1851, *ibid.*, 33 congress, special session, no. 4, pp. 63-67, 72-74, 105.

California, because of their slight knowledge of the country and of their problem, they had deemed it wise to act as a joint board for a time. It was later decided, however, to divide the country among them, and on May 1 the division was made. In the drawing of lots for districts "the northern district, or that portion of the State north of 40° or 41° of latitude, until it reaches the headwaters of the Sacramento, fell to McKee. The middle district, extending from San Joaquin on the south to the headwaters of the Sacramento, and east of the coast range to the eastern boundary of the State, fell to O. M. Wozencraft. The southern district, extending from the San Joaquin south and west, and east to the state boundary, fell to G. W. Barbour."

With the division arranged, on May 3 Wozencraft, McKee, and John McKee left Camp Barbour for San Francisco. On their arrival in that city they were disappointed at finding no remittance of funds as expected. Their disappointment was increased when they read in a paper that Lea's estimate of money needed for their purposes had been cut from \$75,000 to \$25,000 by congress, a procedure which McKee characterized as an egregious blunder, the result of which would be to handicap him and his colleagues greatly in their undertaking.<sup>25</sup>

Barbour entered upon the duties of his district in the south as soon as the division of territory was made. As rapidly as possible he brought Indian tribes together and made treaties with them similar to the two already made. In each case a large tract or tracts of land were set apart as Indian reservations. On May 13 a treaty was made on King's river with twelve tribes or bands of Indians; on May 30 one was arranged with seven tribes on the Kaweah river; on June 3 another was made with four tribes on Paint creek; and on June 10 another was concluded with eleven bands at Tejon Pass.<sup>26</sup>

From Tejon Pass Barbour went on to Los Angeles, but he was disappointed to find on his arrival that no money was contained in the letter which awaited him from McKee. Because of his

<sup>25</sup> *Journal of the commissioners*, April 19, 30, and May 1, 1851, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 91-92, 97-98; R. McKee to Barbour, May 13, 1851, *ibid.*, 81.

<sup>26</sup> Barbour to Lea, May 14, July 28, 1851, *ibid.*, 81, 122-123; *California treaties*, 1851-1852, pp. 10-16, 19-21.

lack of funds and of the great difficulty of crossing the desert, he gave up his plan to go to the Colorado river, and dispensed with practically all of his military escort. He then made arrangements to visit and treat with some tribes below Los Angeles, but before he started south news reached him of a threatened outbreak of Indians in the Tulare valley and thither he went instead in the last part of June. By inducing the trespassing miners to leave the reservations, by holding friendly talks with the Indians, and by making assurances to them that the beef promised would soon be supplied, he secured a fair degree of satisfaction among the natives.<sup>27</sup>

From the Tulare valley Barbour went on to San Francisco. On his arrival there on July 28 he found a letter from the department advising him that only \$25,000 had been appropriated for the Indian work in California and that as soon as this sum was expended the commissioners were to confine themselves solely to their duties as agents. Since he had been unable to make his intended trip to the Indians below Los Angeles because no funds were available for it, and since things were moving along harmoniously in the valley under Johnston, Barbour decided to go to Washington and to visit his family in Tennessee. Accordingly on October 4 he left San Francisco for the trip east.<sup>28</sup>

<sup>27</sup> Barbour to E. D. Keyes, June 17, 1851, to Lea, July 28, 1851, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 125-126, 128.

Great supplies of beef were promised to the Indians in connection with every treaty made. On May 28 when the treaty was being arranged at Camp Keyes, Barbour completed a contract with John C. Frémont to supply the beef promised to the Indians in the southern part of the state. This contract was without authorization from Washington, and Frémont understood that it was subject to the approval or rejection of the authorities there. Frémont proceeded to supply the beef cattle according to the contract. By Barbour's instruction some of the cattle were delivered to the different Indian tribes and some 1900 to Barbour on the San Joaquin river. Barbour turned these over to Adam Johnston. At the request of Frémont, Barbour drew drafts on the secretary of the interior for \$183,825 when he received the cattle. See Barbour's report to Lea (not dated), received at the Indian office February 2, 1852, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 258-259; Frémont to Barbour, May 19, 1851, Barbour to Frémont, May 28, 1851, Johnston's receipt for cattle, August 28, 1851, *ibid.*, 267-268; Hayes collection, Indians, vol. 2, no. 4, in the Bancroft library. This last is a collection of scrapbooks containing both printed and manuscript materials, but made up chiefly of newspaper clippings.

<sup>28</sup> Report of Barbour to Lea, February 2, 1852, in *Senate executive documents*, 33 congress, special session, no. 4, p. 260.



It has already been stated that Johnston did not consider the making of treaties an effective method of dealing with the California Indians. Nevertheless, it became necessary for him as Indian subagent to coöperate in making some of the treaties and to assume responsibility for certain reservations after the treaties had been made. The greater part of his services were given to the southern, or Barbour's district, although some of his time was spent north of this region. Johnston's work resulted in the accumulation of large claims against the United States, for he took upon himself the responsibility of furnishing greater supplies of beef than were stipulated in the treaties. The delivery of the beef was placed in the hands of traders whom he licensed for the respective reservations. Furthermore, he employed a physician, Dr. W. M. Ryer, to visit the Indians and vaccinate them, relying upon the government to pay in the future for Dr. Ryer's time and skill.<sup>29</sup>

Johnston did commendable work for the Indians and made valuable reports to the department; but by reason of his subordination when the commissioners entered upon their duties in California, he became dissatisfied. By the end of the summer of 1851 his position had grown almost intolerable to him. He was unable to get help from the military authorities in forcing unlicensed traders and other intruders from the reservations, friction developed between him and Wozencraft, and he was left without funds to carry on his work. The result of all this was that he not only failed to report regularly to the Indian department, but carried on the business of his agency in a desultory manner. As a consequence he was relieved of the office, notice of his dismissal being sent to him by Lea under date of January 9, 1852.<sup>30</sup>

Wozencraft, who with McKee arrived in San Francisco on May 8, began immediately to make preparations for a journey into the central district. Before his arrangements were completed he was advised by McKee, as the disbursing officer, that, in view of the very limited appropriation made by congress,

<sup>29</sup> Report of Johnston, June 24, 1851, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 104-105.

<sup>30</sup> Johnston to General Hitchcock, August 4, 1851, to the commissioner of Indian affairs, October 8, 1851, to A. H. H. Stuart, December 4, 1851, to Lea, February 25, 1852, Wozencraft to Lea, December 1, 1851, Lea to Johnston, January 9, 1852, *ibid.*, 24, 196, 200, 229, 233-234, 293.

it would be inexpedient for the commissioners personally to incur any large financial responsibility or by their actions to implicate the Indian department until congress should provide adequate funds.<sup>31</sup>

Wozencraft left San Francisco for the Indian country on May 24. As rapidly as possible he made treaties with many tribes of Indians and, like the other agents, set apart large reservations for them. His first treaty was made on May 28 with six tribes of Indians who met at Dent and Vantine's ferry on the Stanislaus river; the next was concluded with ten tribes at Camp Union on the Yuba river; another was made on August 1 with nine tribes of Indians near Bidwell's ranch on Chico creek; five tribes entered into a treaty at Reading's ranch on August 16; eight tribes made a treaty at Camp Colus on September 2; and four tribes on the Consumnes river entered into a treaty on September 18. After the treaties were made, an addition of some twelve tribes was made to the reservation near Chico. Wozencraft expected, according to his statement, which partook of his characteristic exaggeration, that eventually as many as 75,000 or 80,000 Indians would be included in the provisions of the six treaties. While traveling and making these compacts, the agent was piling up heavy claims against the United States, for the estimate of the amount required to fulfill the stipulations contained in the several treaties reached the sum of \$346,138.<sup>32</sup>

In addition to those in the central district, two reservations were set apart by Wozencraft for Indians in southern California. When Colonel Barbour left for the east, he asked Wozencraft to take charge of his district in his absence. During the months of November and December reports reached Wozencraft of Indian trouble in the south, and in particular among those tribes whom Barbour had failed to visit below Los Angeles. With a military escort, therefore, Wozencraft left on December 8 for the scene of the trouble. The Indians were found in a warlike attitude, but quiet and confidence were soon restored. On January 5 a treaty was made with three of these tribes and two days later

<sup>31</sup> R. McKee to Wozencraft, May 13, 1851, Wozencraft to Lea, May 14, 1851, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 80, 83-84.

<sup>32</sup> R. McKee to Lea, May 29, 1851, Wozencraft to Lea, May 28, September 30, October 14, 1851, statement of O. M. Wozencraft, *ibid.*, 84, 86, 133, 187-190; *California treaties*, 1851-1852, pp. 22-37.

one was concluded with the Diegan Indians. The territory set apart for the use of these tribes embraced a large area.<sup>33</sup>

Redick McKee's journey into the northern district was delayed until August 11, because funds failed to arrive from Washington. He was able to start when he did because Collector King advanced him \$5,000 on a draft against the department. His escort on the expedition was a company of dragoons under Major W. W. Wessels. The party proceeded north by way of the Russian river country, Humboldt river on the coast, Klamath river valley, and Scott's valley, where the journey ended.

With various tribes of Indians McKee made treaties of the same general character as those negotiated by Barbour and Wozencraft. The first one was made with eight tribes at a camp near Clear lake on August 20, and another, with four more tribes in the same general region on August 22. On October 6 a treaty was arranged on the South fork of the Trinity river with the lower Klamath, upper Klamath, and Trinity nations. On November 4, after locating a reservation site in Scott's valley — though with great difficulty because of the objections of the settlers — McKee concluded a treaty with three nations who resided severally in twenty-four, nineteen and seven *rancherias* or villages.<sup>34</sup>

On December 29, the day after his return to San Francisco, McKee made a report to Washington on his activities in the north. Now, as at other times, he indicated a desire to make a temporary return to Washington, but the department did not

<sup>33</sup> Wozencraft to Lea, December 1, 3, 1851, undated, received at Indian office February 18, 1852, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 229-230, 285-287; Wozencraft, Statement on Indian affairs, pp. 8-13, manuscript in the Bancroft library; *California treaties*, 1851-1852, pp. 38-43. Wozencraft's work practically ended with the making of these treaties. At this time and later he was involved in controversy with McKee. He also became involved in differences with the Indian department, especially after the appointment of a superintendent of Indian affairs for California.

<sup>34</sup> John McKee, *Minutes*, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 134, 141-142, 144-145, 161-162, 170-177. A daily record of the trip north was kept by John McKee, son of Redick McKee and secretary of the commissioners. R. McKee to T. B. King, T. B. King to R. McKee, July 11, 1851, *ibid.*, 118-120; George Gibbs, "Journal of the expedition of Colonel Redick McKee, United States Indian agent, through north-western California," in Schoolcraft, *Indian tribes of the United States*, 3: 106-112, 166-173; *California treaties*, 1851-1852, pp. 52-53, 59-60, 65-67.

consider that the public interest would be promoted by his presence at the capital and virtually ordered him to remain in California.<sup>35</sup>

The services of McKee from this time to the end of his relations with the department in the early part of 1853 were less expensive to the government than those formerly rendered, but they were likewise of slight practical value. Some of the time he spent with little success in defending the treaties before the legislature and in the press, but the greater part he spent in controversies with the military authorities over the way in which meat had been furnished to the Indians on the expedition north, with Governor Bigler and members of the legislature over the blame for difficulties between Indians and whites in the northern part of the state, and with Superintendent Beale over the question of their relative authority.<sup>36</sup>

The chief work of Barbour, Wozencraft, and McKee had been the negotiating of treaties with the Indians of California. In

<sup>35</sup> R. McKee to Lea, December 29, 1851, January 15, 31, 1852, Lea to R. McKee, February 4, 1852, John McKee, *Minutes*, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 25, 178-180, 235-236, 239, 248-249.

<sup>36</sup> The dispute with the military authorities grew out of the charges made against McKee by army officers, who alleged that supplies were furnished to the Indians in a careless and criminal way. The business connection of John McKee with those who furnished the supplies complicated the matter. From the evidence in the case it appears that John McKee's relation to the sale of the beef was injudicious, but not criminal; that McKee's general plan for handling the supply matter was unwise; that General Estelle of the state militia, who sold most of the beef to the government, was not guilty of wrong doing; and that General Hitchcock of the United States army had a desire for orderliness in methods, and was a jealous military man with an ear for gossip. For material bearing on this dispute, see *House executive documents*, 34 congress, 3 session, no. 76, pp. 67-68; *Senate executive documents*, 33 congress, special session, no. 4, pp. 24-25, 27, 298-299, 300-308, 347-355.

The controversy between McKee and the state officials resulted from reports of hostilities in the northern part of the state. McKee charged that the whites were to blame, and the governor and members of the legislature supported the other side. United States military forces were finally provided for that region. *Ibid.*, 310-326, 353, 364; *Journal of the senate of California*, 1852, pp. 304, 703-708, 710-711, 721-723; O. C. Coy. The settlement of the Humboldt bay region, 163, manuscript in the Bancroft library.

The difficulty with Beale which ended McKee's services in California was caused by McKee's disappointment that Beale and not himself was appointed superintendent of Indian affairs in California. McKee proved a problem for Beale, and his services came to an end as a result of insubordination and the controversy in which they became involved. See *Senate executive documents*, 33 congress, special session, no. 4, pp. 33, 308, 324, 364-366, 372-373, 381-389.

all, 18 treaties were made by them, affecting 139 tribes or bands. It is not possible to state with accuracy the number of Indians included in these tribes, but it is safe to say that there were not fewer than 25,000. Only a fraction of this number, however, was ever taken to the reservations. The reservations set apart for the Indians included a total of 11,700 square miles, or 7,488,000 acres of land.<sup>37</sup> This vast space is equal to the combined areas of Massachusetts, Connecticut, Delaware, and Rhode Island, or to about that of the present counties of Fresno, Alameda, Sacramento, and San Diego in California, or to seven and one-half per cent of the total area of the state.

The government of the United States had authorized the commissioners to make treaties with the Indians of California, and had appropriated \$50,000 for their use in doing so. This they consumed as they had a right to do. In addition they let contracts for supplies and incurred other expenses which amounted to nearly one million dollars. As to the latter points, it is difficult to say to what extent they were justified in their action. Certainly they had no authorization to commit the government in the way they did, but they defended their action on the ground that it was necessary under the circumstances.

To make these treaties effective their ratification in Washington was necessary. The sentiment in California with reference to the treaties, divided from the first, grew increasingly hostile as time went on. The main objection was to giving the Indians such large areas of valuable land. The subject of the treaties was taken up early in the session of the legislature of 1852, where intense opposition was manifested. The assembly passed resolutions condemning them and asking for their rejection by the United States senate. The senate voiced its opposition in much hostile discussion and by a section in a memorial on the subject of the public domain of California.

By February 18, 1852, when the last of the treaties had been received in Washington, officials of the interior department were aware that violent opposition had developed against the treaties in California and that the California delegation in congress was solidly against them. L. Lea, the commissioner of Indian

<sup>37</sup> This statement is made after a careful calculation based on the description of the reservations contained in *California treaties*, 1851-1852.

affairs, and Edward F. Beale, the newly appointed superintendent of Indian affairs for California, were in favor of their ratification. Secretary Stuart, in submitting the treaties, together with a mass of documents, to the president on May 22, was non-committal.

The eighteen treaties were submitted to the senate by the president on June 1. On June 7 the president's message accompanying them was read in the senate and, with the treaties and accompanying documents, was referred to the committee on Indian affairs. The treaties were next considered in secret session of the senate, and all were rejected by that body. While the reasons for the action of the senate do not appear in the records, it is quite certain that the main causes for the defeat of the treaties were the methods of the commissioners in piling up immense claims against the United States, and the violent opposition to the treaties in California because they removed such large areas of land from public and private use. Senator Weller of California at a later time said: "Public policy demanded that these treaties should be rejected."<sup>38</sup>

The treaties had been rejected, but they left a disagreeable aftermath. The question of the disposition of the claims against the United States growing out of the work of the commissioners came up in congress as early as March 26, 1852, when an amendment to the deficiency bill was proposed appropriating \$520,000 toward their liquidation, but no action was taken at this time. The next step was on April 6, when the senate called upon the department of the interior for information on the subject. In return, a statement of claims amounting to nearly \$800,000 was received. The question came up several times during the remainder of the session, but still nothing was done.<sup>39</sup>

Most of the claims were never paid because of prejudice against them and evidence of fraud in many cases. One of the claims allowed was that of John C. Frémont for \$183,825. A bill providing for the payment of this claim, with interest from

<sup>38</sup> *California treaties, 1851-1852*, pp. 1-8; *Congressional globe*, 32 congress, 1 session, part 3, pp. 2103, 2172.

<sup>39</sup> *Ibid.*, 880-890, 2104; *ibid.*, 33 congress, 1 session, part 2, p. 1335, part 3, pp. 2103-2110; Lea to W. R. Graham, April 13, 1852, W. A. Graham to W. R. King, April 14, 1852, in *Senate executive documents*, 32 congress, 1 session, no. 61, pp. 1-3. See also many miscellaneous documents, *ibid.*, pp. 2-26.

June 1, 1851, was approved by the president on July 29, 1854. A claim of Wozencraft for the reimbursement of \$7,000 expended by him in the course of his duties was paid in July, 1856. In 1860 Samuel J. Hensley was paid \$96,375 for beef furnished to the Indians. The payment of other claims, although discussed from time to time, was never made. The whole question was finally disposed of in 1871 without further adjustment.<sup>40</sup>

On March 3, 1852, an act creating a California Indian superintendency became a law. On the day following Edward F. Beale was appointed to the newly created office. Appropriations were made to meet the expenses of the superintendency and an additional appropriation of \$100,000 was made for the purpose of preserving peace with the Indians who had been dispossessed of their lands, until arrangements could be made for their future settlement.<sup>41</sup>

On September 16 Beale reported his arrival in San Francisco, and he at once made a tour into one part of his field. From what he saw and heard he became convinced that some definite Indian policy was immediately necessary for California. On October 29 he reported to the department that he was maturing a plan which was "recommended alike by its practicability, humanity, and economy," which he would be prepared to develop fully after his proposed visit to the south. In brief, the basis of what he would propose was outlined as follows:

In the first place I propose a system of "military posts" to be established on reservations, for the convenience and protection of the

<sup>40</sup> Edward F. Beale investigated some of the claims and found that much fraud had been practiced. See *Senate executive documents*, 33 congress, special session, no. 4, pp. 368-370; 32 congress, 2 session, no. 57, pp. 1-5.

For action on the claims of Frémont, Wozencraft, and others, see *United States statutes*, 33 congress, 1 session, *Private acts*, 80; *ibid.*, 34 congress, 1 session, *Private acts*, 31; *ibid.*, 36 congress, 1 session, *Private acts*, 15; *Congressional globe*, 34 congress, 1 session, part 2, pp. 1369, 1461, 1575; *ibid.*, 36 congress, 1 session, part 2, pp. 1001, 1277, 1503, 1524, 1557, 1575, 1832, part 3, p. 2807; *Senate reports*, 36 congress, 1 session, no. 111, pp. 1-5; *House reports*, 35 congress, 1 session, no. 133, pp. 1-2; *Report of the commissioner on Indian affairs*, 1857, pp. 10-11; *ibid.*, 1871, pp. 17-18, 153-154.

<sup>41</sup> Lea to Beale, August 2, 1852, in *Senate executive documents*, 33 congress, special session, no. 4, p. 38; *United States statutes*, 32 congress, 1 session, pp. 2-3, 18, 55. The appropriation for the expenses of the superintendency was only about one-fourth of what Beale requested.

Indians; these reservations to be regarded as military reservations. The Indians to be invited to assemble within these reserves.

A system of discipline and instruction to be adopted by the agent who is to live at the post.

Each reservation to contain a military establishment.

The expenses of the troops to be borne by the surplus of Indian labor.

The reservations to be made with a view to a change in location, where increase of white population may make it necessary.<sup>42</sup>

A little later Beale set forth the plan in greater detail. In this elaboration he made it clear that he proposed to care for the Indians somewhat after the manner of the missions, without the religious emphasis of those institutions, and that he expected success to attend his plan because a similar method had been successful in the Spanish days. He estimated the number of Indians in California at from 75,000 to 100,000, and thought an appropriation of \$500,000 should be made to begin the new system. General Hitchcock expressed himself officially as heartily in favor of the plan and asserted that the choice of the government lay between accepting Beale's plan or giving the Indians over to rapid extermination or expulsion from the state.<sup>43</sup>

Soon after sending his proposal to the Indian department Beale set out on a trip south. He began preparations for putting his plan into operation, in case approval were given it by the Indian office, by selecting as a location for some of the Indians a tract of land between the San Joaquin and Fresno rivers. No treaty was made with the Indians who were asked to go upon it, nor was a reservation set apart in the usual sense. It was his purpose to ask that the land be set aside as a government reservation to be held by the Indians by a simple agreement, so that the Indians might be removed at the government's pleasure.<sup>44</sup>

While the government at Washington was groping blindly

<sup>42</sup> Beale to Lea, September 16, October 29, 1852, in *Senate executive documents*, 33 congress, special session, no. 4, pp. 36, 374.

<sup>43</sup> Beale to Lea, November 22, 1852, *ibid.*, 378-380; General Hitchcock to Colonel Cooper, November 29, 1852, *ibid.*, 32 congress, 2 session, no. 57, pp. 16-18.

<sup>44</sup> Beale to Lea, December 14, 1852, *ibid.*, 33 congress, special session, no. 4, pp. 390-392.



for some wise Indian policy for California, Beale's earlier suggestions were received. In response to an order of December 3, Beale went to Washington, where he reported the distressing conditions of the natives of California and the need for prompt action in their behalf on the part of congress. He presented with vigor his plan for small reservations where the Indians could be protected and taught to work. He proposed that the Indians should be persuaded to go on the reservations by simple agreement between them and the government, but that no treaties should be made.<sup>45</sup> The result was that congress gave authorization for the creation of five military reservations in California not to exceed 25,000 acres each, and appropriated \$250,000 to defray the expenses of maintaining the Indians in California and removing them to the reservations. On April 13 Beale was ordered to return to California by the most expeditious route, in order to put the new plan into operation.<sup>46</sup>

Immediately after his arrival in Los Angeles on August 22, Beale began the execution of his plan by going to Tejon Pass, where a conference was held with some Indians and the purposes of the government concerning them were explained. He also conferred with some army officers, who had traveled much in the state, as to the best place for a reservation. The result of their discussion was a decision by Beale to locate a reservation in the Tejon region.<sup>47</sup>

As Beale passed on down the valley, still working on the plan for his first reservation, he visited the experimental farm which he had located the previous year on the San Joaquin river. He expressed himself as satisfied with the results. He found that the wild Indians that had been placed upon it had been able

<sup>45</sup> Lea to Beale, December 3, 1852, in *Senate executive documents*, 33 congress, special session, no. 4, p. 33. On his arrival in Washington Beale showed by abundant evidence the sad condition of the California Indians. He presented the fact of their unfair and cruel treatment by the whites, who in numerous instances perpetrated atrocities upon them, and exploited and enslaved them. *Ibid.*, 32 congress, 2 session, no. 57, pp. 8-16.

<sup>46</sup> *Congressional globe*, 32 congress, 2 session, pp. 1085-1086; *United States statutes*, 32 congress, 2 session, p. 38; R. McClelland to Beale, April 13, 1853, in *Senate executive documents*, 33 congress, 1 session, no. 1, part 1, pp. 464-466.

<sup>47</sup> Gwin H. Heap, *Central route to the Pacific from the valley of the Mississippi to California* (Philadelphia, 1854), 10-11, 110-118; *Daily Alta California*, September 22, 1853; Beale to Manypenny, September 30, 1853, in *Senate executive documents*, 33 congress, 1 session, no. 1, part 1, pp. 469-470; *ibid.*, 478-479.

to support themselves. He believed that their success would be a means of inducing other Indians to settle on a reservation. The reservation Indians had learned to plow, to reap, to build corrals, and to tend gardens, and Beale was enthusiastic.<sup>48</sup>

A problem now presented itself in connection with the establishment of a reservation at Tejon because part of the land desired was covered by a Spanish land grant, and the law under which Beale was working gave no authority for the purchase of lands for Indian purposes. Beale asked the opinion of the California congressional delegation as to the wisdom of proceeding. Being advised that he should make such conditional arrangements, subject to the approval of congress, as he considered indispensable to the successful operation of the law, he went ahead with his plan, even though the commissioner of Indian affairs advised postponement of the enterprise until there should be further legislation on the part of congress.<sup>49</sup>

The Tejon reservation started out well. By February, 1854, the Indians gathered there had under cultivation some 2,500 acres of land. Later in the year a company of men who paid a visit to the reservation reported 3,265 acres of land under cultivation, and more than 400 Indians working in the fields. The visitors wrote of what they had seen as a remarkable achievement. Their statements were concurred in by the editor of the *Pacific*, and were corroborated by the testimony of Captain P. E. Connor, who said that he saw on the reservation a great grain crop valued at a large sum, and Indians working at their various occupations with utmost cheerfulness.<sup>50</sup>

<sup>48</sup> Beale to Manypenny, September 30, 1853, H. B. Edwards to Beale, September 20, 1853, *ibid.*, pp. 471-474. Beale's enthusiasm over accomplishments and prospects was shared by others. The editor of the *Daily Alta California*, September 22, 1853, commended the plan of putting the Indians on reservations where they could learn to support themselves. Then he said: "Five years after the first settlement is made and put into successful operation the Indian affairs of California will cease to be an item of expense to the General or State Government; all hostilities will be over; the whites will be entirely free from annoyance by the Indians; the Indians will be transformed from a state of semi-barbarism, indolence, mental imbecility, and moral debasement, to a condition of civilization, Christianity, industry, virtue, frugality, social and domestic happiness and public usefulness."

<sup>49</sup> Beale to W. M. Gwin and M. S. Latham, September 27, 1853, to Lea, September 30, 1853, Manypenny to Beale, November 18, 1853, in *Senate executive documents*, 33 congress, 1 session, no. 1, part 1, pp. 470-471, 474-476, 480-481.

<sup>50</sup> Beale to Manypenny, February 8, 1854, in *Report to the commissioner of Indian*

But further progress of the reservation system under Beale was rudely checked by reason of political developments and his own neglect properly to attend to certain business matters. During the early part of 1854 political opposition to Beale began to manifest itself, and some of his friends feared that congress would refuse to appropriate the money needed for further expansion of the system.<sup>51</sup> Unfortunately Beale had neglected to use care and promptness in dealing with the department to such an extent that a large part of the appropriation of \$250,000 remained unaccounted for in the spring of 1854. This neglect proved disastrous to him when the question of providing for the future of Indian administration in California came before congress.

It was on May 1, 1854, while the question of the amount to be appropriated for Indian affairs in California was under consideration in congress, that Beale's accounts were reported in arrears to the extent of nearly \$250,000. The result was that when the measure providing for funds for Indian service in California was passed, the appropriation for the development of the reservation system was cut down to \$125,000 and the number of reservations which might be created was reduced from five to three. Until just before the final passage of the bill, a provision was attached estopping Beale from drawing any portion of the amount appropriated until he had accounted for the former appropriation, but this was withdrawn before the final action on the measure, because Beale was removed from office while congress was taking action and another person was appointed in his place.<sup>52</sup>

Beale's successor was Thomas J. Henley, an able man and a *affairs*, 1854, pp. 298-299; *Los Angeles Star*, June 17, 24, 1854; *Stockton Republican*, in Hayes collection, Indians, vol. 2, nos. 124, 129, 144; *Pacific*, June 30, 1854.

<sup>51</sup> *Los Angeles Star*, June 17, 24, 1854, in Hayes collection, Indians, vol. 2, nos. 124, 129; T. H. Benton to Beale, April 3, 1854, in Stephen Bonsal, *Edward Fitzgerald Beale* (New York and London, 1912), 186-187.

<sup>52</sup> *Congressional globe*, 33 congress, 1 session, part 2, pp. 1027, 1028, 1041-1051, part 3, pp. 1895, 1945, 1983; *United States statutes*, 33 congress, 1 session, p. 332. It should be said that a thorough investigation of Beale's accounts was made. A report on the subject by the comptroller to the secretary of the treasury, April 9, 1885, completely vindicated Beale and partially restored him to public confidence. See J. M. Broadhead to James Guthrie, April 9, 1855, in *Senate executive documents*, 34 congress, 3 session, no. 69, pp. 1-7; Hayes collection, Indians, vol. 2, no. 153.

successful politician. He received his instructions under date of June 2, 1854, and entered upon his official duties on July 15. He went first to Tejon, where he took possession and began supervision of the public property located there. While it seemed to him that Beale had somewhat overstated the degree of prosperity at Tejon, things were in most respects as represented. Henley was convinced by what he saw that the military reservation system furnished the only wise method of dealing with the Indians, and he planned to develop the establishment at Tejon along the lines on which it had been begun. He spent more than a month at this place getting things in order for development under his assistants who were left in charge.

From Tejon Henley went north over the emigrant road, examining the country and studying the Indians as he proceeded. From the San Joaquin valley he continued farther north, intending to spend the remainder of the year among the hundreds of small tribes of Indians in that section. Before the end of September he had established Nome Lacke reservation in Colusa county, which was to become one of the most permanent and useful of all the reservations. A site for a military post was selected on the reserve, a subagent was put in charge, and the natives began to assemble at once and to prepare winter quarters.<sup>53</sup>

The reports of Henley to the department, full of details of the work at Tejon and Nome Lacke, were optimistic concerning the progress and promise of the reservation system. Indeed, it was made to appear that the organization and development were so satisfactory at Tejon that there would be little necessity for expenditures there after the year 1854-1855. While impressing the department with the progress of affairs, Henley recommended the modification of the law under which he was working so as to permit the making of five reservations instead of three, and asked for an appropriation of \$200,000 for the two additional establishments. His request was granted. The law was modified in accordance with his wishes as to the num-

<sup>53</sup> T. J. Henley to Manypenny, August 28, 1854, in *Report of the commissioner of Indian affairs*, 1854, pp. 300-307; *Senate executive documents*, 34 congress, 3 session, no. 69, p. 1; *Weekly Placer Times and Transcript*, September 30, 1854; E. D. Keyes to E. D. Townsend, December 12, 1854, in *House executive documents*, 34 congress, 3 session, no. 76, pp. 88-89.

ber of reservations, and an appropriation of \$150,000 was made for removing and supporting the Indians on the two additional reservations. With this added appropriation, the total sum provided for Indian affairs in California for the year 1855-1856 was \$360,300.<sup>54</sup>

Up to September, 1856, there had been established four permanent reservations. These were Tejon, Nome Lacke, Klamath on the Klamath river, and the Mendocino on the shores of the Pacific. In addition, temporary reserves or farms had been established on the Fresno and King's rivers, and at Nome Cult valley in the coast range of mountains. Henley's report indicated a flourishing state of affairs at practically all locations; but, unfortunately for his credibility, his glowing accounts of progress were contradicted by the reports of army officers to whom General Mackall addressed an inquiry in August, 1856. These reports indicate that Henley grossly exaggerated the prosperity and development of the reserves, and that they were improperly managed.<sup>55</sup>

Although differences of opinion had developed in California with reference to the success of the Indian administration, the federal government continued for two years more to make large appropriations for the maintenance and development of the system of military reservations, relying upon the accuracy of the reports of Henley and his agents. But in 1858, just at the time when Henley was gathering from his agents their statements of progress,<sup>56</sup> Godard Bailey was given instructions as a special agent to visit the reservations. He was instructed to acquaint himself with their history and actual conditions, in order that he might furnish the Indian office with the data

<sup>54</sup> Manypenny to R. McClelland, November 25, 1854, in *Report of the commissioner of Indian affairs*, 1854, pp. 15-16; Henley to Manypenny, December 18, 1854, in *Senate executive documents*, 33 congress, 2 session, no. 42, pp. 3-4; *United States statutes*, 33 congress, 2 session, pp. 698-699.

<sup>55</sup> Henley to Manypenny, September 4, 1856, in *Report of the commissioner of Indian affairs*, 1856, pp. 236-239, 245; J. Edwards to W. W. Mackall, August 24, 1856, B. L. Beall to W. W. Mackall, September 29, 1856, L. Loeser to W. W. Mackall, October 28, 1856, John E. Wool to L. Thomas, November 3, 1856, in *House executive documents*, 34 congress, 3 session, no. 76, pp. 138-141.

<sup>56</sup> *Congressional globe*, 34 congress, 3 session, pp. 529, 532, appendix, p. 408, 35 congress, 1 session, appendix p. 572; *United States statutes*, 34 congress, 3 session, p. 183, 35 congress, 1 session, p. 330.

upon which to base an intelligent opinion upon the practical working system, and upon its value as applied to the Indians of the state.

Bailey visited several of the reserves, and in his report he discussed in some detail the conditions in each one. His communication, which in no sense took the form of an attack upon Henley or his agents, stated that the plan devised by Beale for collecting the Indians on farms and thereon supporting them by their own labor had proved a lamentable failure. He said:

At present the reservations are simply government alms-houses, where an inconsiderable number of Indians are insufficiently fed and scantily clothed, at an expense wholly disproportionate to the benefits conferred. There is nothing in the system, as now practiced, looking to the permanent improvement of the Indian, or tending in any way to his moral, intellectual, or social elevation, the only attempts at anything of the sort that fell under my observation seeming to be rather the result of individual effort than to spring from the system itself.<sup>57</sup>

When the California Indian question came before congress in 1859, no move was made to abolish the reservations, but the appropriation for the removal and subsistence of Indians was cut down to \$50,000 and that for incidental expenses of the superintendency, to \$7,500. With the reduced appropriation James Y. McDuffie, the successor of Henley as superintendent, undertook to continue the system of Beale. His reports indicated that all the reservations with the exception of Klamath were in a dilapidated condition. Under these conditions, the commissioner of Indian affairs recommended the repeal of all laws authorizing the appointment of a superintendent and agents in California, the abandonment of the system in use, and the substitution of some other plan.

The scheme proposed by him was the division of the state into two districts, with a superintending agent in each, a supervisor to lead and direct the Indians in their labors, and only such mechanics and laborers as might be necessary to keep tools in repair. The Indians in the southern part of the state who worked on lands should have these furnished them. Reserva-

<sup>57</sup> G. Bailey to C. E. Mix, November 4, 1858, in *Report of the commissioner of Indian affairs*, pp. 298-305.

tions might be provided for the dispossessed Indians of the valleys, but the Indians who should settle on them were to be taught that they were not to be fed and clothed at government expense.<sup>58</sup> Based on these suggestions, after much discussion, a bill providing a new method of administering Indian affairs in California became a law on June 19, 1860.<sup>59</sup>

Under this law the secretary of the interior divided the state into a northern and a southern district. The northern district included all that part of California north of the southern boundary of the counties of Marin, Sonoma, Solano, Sacramento, and El Dorado, to the eastern boundary of the state; the southern district included all the rest of the state. Two superintending agents were appointed, and a modified, less expensive, but no more effective system of administration for dealing with the natives was instituted.<sup>60</sup> It consisted of placing the Indians on small reservations to which they were to go by simple agreement and not by treaty. This policy of small reservations, begun in California in 1853, was rapidly extended over the west. California thus made a distinct contribution to our Indian policy.

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<sup>58</sup> *Congressional globe*, 35 congress, 2 session, part 1, pp. 694, 734-735; *United States statutes*, 35 congress, 2 session, p. 400; A. B. Greenwood to J. Thomson, November 26, 1859, in *Report of the commissioner on Indian affairs*, 1859, pp. 23-24.

<sup>59</sup> *Congressional globe*, 36 congress, 1 session, part 3, pp. 2368-2369, part 4, p. 2904; *United States statutes*, 36 congress, 1 session, p. 57.

<sup>60</sup> A. B. Greenwood to J. Thompson, November 30, 1860, in *Report of the commissioner of Indian affairs*, 1860, pp. 20-21.

Between 1850 and 1859 the United States expended a total of \$1,737,493 on Indian affairs in California. In addition to this amount spent in Indian administration, \$924,259.65 had been appropriated to reimburse California for expenses incurred in Indian wars. There was yet some \$600,000 in bonds of the state outstanding for which the state expected to be recompensed. These figures do not include the expenses incurred by the United States army in policing the Indian country and in suppressing Indian uprisings.