

5-24-1886

Mission Indians, State of California

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>

 Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Rep. No. 2556, 49th Cong., 1st Sess. (1886)

This House Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

MISSION INDIANS, STATE OF CALIFORNIA.

MAY 24, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LA FOLLETTE, from the Committee on Indian Affairs, submitted the following

R E P O R T :

[To accompany bill S. 53.]

The Committee on Indian Affairs, to whom was referred the bill (S. 53) for the relief of the Mission Indians in the State of California, having considered the same, submit the following report:

The Mission Indians of Southern California, numbering approximately four thousand, live chiefly in little villages on Government lands and upon lands within the limits of old Mexican grants. These grants had been made, prior to the cession of California, to Spanish and Mexican citizens, and had been recognized, surveyed, and patented by the United States; the patent by the United States not enlarging, of course, the grant in any way, but the patent being subject to all limitations and restrictions imposed in the original grant.

These Indians had been in interrupted occupation of these lands generation after generation. By the laws of the Mexican Government they became possessed of certain estates in all lands so occupied. All grants made by that Government were expressly limited and made subject to the occupancy of these Indians, and so restricted as not to impair their estates therein. When these lands and the Indians upon them passed by the treaty of Guadalupe Hidalgo under the jurisdiction of the United States, there passed with them at the same time unimpaired all the rights, title, and estate which had been recognized by the Mexican law. No law of the United States could affect that title; no enactment dispossess them. More than that, there fell upon us at the time the charge of protecting each individual in all property rights vested in him under the laws of the Government to which he had been subject. The manner in which we have discharged these obligations is a lasting reproach to us. We have permitted these Indians to be driven year after year from these lands, yielding up to the rapacious land-grabbers village after village and valley after valley which they had reclaimed from desert waste, by irrigation rendered rich and fertile.

Had their rights been guarded for even a short time after their accession they would have easily become a part of our civilization, and aided greatly to simplify, instead of complicate, one of the great problems of our time.

Under the Spanish and Mexican Governments they had rapidly advanced in civilization. They cultivated lands, lived in villages, received education, reared chapels, observed religious rites, and followed its teachings with devotion.

In a report made to the Interior Department in 1853, touching their former condition, we find the following :

These same Indians had built all the houses in the country, planted all the fields and vineyards. Under the Missions there were masons, carpenters, plasterers, soap-makers, tanners, shoemakers, blacksmiths, millers, bakers, cooks, brick-makers, carters and cart-makers, weavers and spinners, saddlers, shepherds, agriculturists, horticulturists, vineros, vagneros—in a word, they filled all the laborious occupations known to civilized society.

They came in contact with a civilization which was a law unto itself. The Spanish and Mexican law was under them, but it was impotent. The law of the new Government was over and about them, but it was not for them. They began to be deprived of their property, and with it went their independence and thrift. Wherever they were in immediate contact with the whites many of them became homeless, broken, begging, dissolute beings. Yet there are in Southern California at this time many isolated villages in the mountain valleys, where they live quietly and comfortably, tilling their lands and tending their flocks; a survival of what has been a suggestion of the development they once fairly promised.

Each month brings some new encroachment upon them. They are poor, simple, weak. They are totally unable to ascertain what rights they have, or assert them if they were defined.

It remains for us to repair in some measure the wrongs we have permitted to be worked upon them.

This subject has been pressed for consideration by special message from the Executive during the present session of Congress, and action in the premises urged by the Secretary of the Interior and the Commissioner of Indian Affairs. (See Ex. Doc. No. 15.)

Looking to the accomplishment of this most desirable object this bill (S: 53) is herewith presented by your committee.

Except some slight modifications, it embodies the same provisions as the Senate bill which unanimously passed that body on the 3d of July, 1884, and again during the present session of Congress. It comes from your committee after most pains-taking consideration with a few amendments noted later in this report.

The bill creates a commission of three to be appointed by the Secretary of the Interior for the purpose of arranging a satisfactory settlement of the Mission Indians upon reservations to be selected by the commission, as far as possible from lands now in possession of these Indians. The selection so made for reservation purposes shall only be valid on approval by the President and Secretary of the Interior.

This commission is authorized to appraise the value of the improvements belonging to any person to whom valid existing rights have attached where the improvements are within the limits of such selected reservation.

These reservations, upon selection, definite location, and due approval, are to be held by the United States in trust for the benefit of the Indians twenty-five years, and then patented to the proper band or village. No patent, however, shall issue, embracing any lands to which existing valid rights have attached in favor of any person under the land laws of the United States, until such person accepts and acquiesces in the appraisal of said commission, and until subsequent legislation shall be enacted by Congress with a view to securing the release and quit-claim of such person thereto. Neither shall any lands be selected for reservations which any railroad is or may be entitled to receive a patent for, unless such railroad company, with the approval of the Secretary of the

Interior, and at such place as he may designate, shall select an equal quantity of land of like value in exchange therefor.

The title to any reservation in any band, tribe, or village provided for in the bill is expressly subject to the limitations that the Secretary of the Interior may in his discretion cause allotments to be made to individual Indians out of such reservations when in his opinion any of them are sufficiently advanced in civilization to warrant such allotment, and the individual patent is made superior to the patent to the band or village.

Provision is made that the allotment to each head of a family may be 640, and shall not be less than 160 acres, of which not exceeding 10 acres shall be arable land. To each single person over the age of twenty-one years not less than 80 acres shall be allotted, apportioned in like manner as to arability.

It is absolutely necessary, in the opinion of your committee, to invest the Secretary of the Interior with a large discretion in this matter. The land from which these reservations are to be selected will of necessity embrace large tracts nearly worthless, when a quarter of a section would scarcely graze a single animal, in order to secure a few little narrow valleys capable of irrigation. It is therefore impossible to fix to a certainty the amount of land proper to be allotted in each case. The quantity will from natural conditions have to be greatly varied in different allotments.

The bill further provides that the Secretary of the Interior may defend in the United States courts the rights secured to these Indians in the original grants from the Mexican Government; or he may bring suit to protect the legal or equitable rights of said Indians in such lands. Bringing or defending any action under this section is left entirely to the judgment of the Secretary, and the power conferred would of course never be invoked except in the interests of justice to these utterly dependent Indians and economy to the General Government.

Your committee therefore recommend the early passage of said Senate bill No. 53, with the following amendments to the printed bill:

Amend section 2 by inserting in line 7, after the word "requirements," the following words: "which selection shall be valid when approved by the President and Secretary of the Interior."

Amend section 3 by striking out the word "patent" in line 3 of said section, and inserting in lieu thereof the word "certificate;" and by striking out the word "patented" in line 5 of said section, and inserting in lieu thereof the word "certificate;" and by striking out the word "patented" in line 7 of said section, and inserting in lieu thereof the word "certified;" and by adding after the word "village" in line 10 of said section the words "subject to the provisions of section 4 of this act;" and by adding after the word "patent" in line 12 of said section the words "or certificate;" and by adding after the word "domain" in line 15 of said section the words "unless such person shall acquiesce in and accept the appraisal provided for in the preceding section in all respects, and shall thereafter, upon demand and payment of said appraised value, execute a release of all title and claim thereto, and a separate certificate and patent in similar form may be issued for any such tract or tracts at any time thereafter. Any such person shall be permitted to exercise the same right to take land under the public land laws of the United States as though he had not made settlement on the lands embraced in said reservation;" and by striking out all of said section after the word "which" in line 21 and inserting in lieu thereof the following words: "any railroad company is, or shall hereafter be, entitled to receive a patent; such

railroad company shall upon releasing all claim and title thereto, and on the approval of the President and Secretary of the Interior, be allowed to select an equal quantity of other land of like value in lieu thereof, at such place as the Secretary of the Interior shall determine."

Amend section 4 by adding after the word "reservation" in line 2 the words "certified or;" and by striking out after the word "shall" in line 3 of said section the words "desire allotments of," and inserting in lieu thereof the following words: "in the opinion of the Secretary of the Interior be so advanced in civilization as to be capable of owning and managing;" and by inserting after the word "Indians" in line 4 of said section the words "out of the lands of such reservation;" and by inserting after the word "each" in line 5 of said section the word "head."

Amend section 5 by striking out the word "patents" in line 3 of said section, and inserting in lieu thereof the word "certificates;" and by striking out after the word "Provided" in line 17 of said section the remainder of line 17, all of lines 18, 19, 20, and the first three words of line 21; and by inserting after the word "these" in line 21 of said section the words "certificates or;" and by inserting after the word "village" in line 25 of said section the words "certificates or."

C