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**In the Senate of the United States. Letter from the Secretary of the Interior, transmitting papers concerning claim of Casuse Costello as settler on certain Indian reservation, with favorable recommendation for.**

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IN THE SENATE OF THE UNITED STATES.

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LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

*Papers concerning claim of Casuse Costello as settler on certain Indian reservation, with favorable recommendation for.*

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SEPTEMBER 12, 1893.—Referred to the Committee on Indian Affairs and ordered to be printed.

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DEPARTMENT OF THE INTERIOR,  
*Washington, September —, 1893.*

SIR: I have the honor to transmit herewith copy of a communication of 7th instant from the Commissioner of Indian Affairs and accompanying draft of a bill providing for the payment to Casuse Costello, a settler on the Round Valley Indian Reservation in California, of \$2,000 for improvements owned by and lost to him.

This matter has, as shown by the correspondence, received the consideration of the Department, and it is transmitted with recommendation for the favorable action of Congress.

Very respectfully,

WM. H. SIMS,  
*Acting Secretary.*

The PRESIDENT OF THE SENATE.

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DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, September 7, 1893.*

SIR: The commission appointed under section 3 of the act of Congress approved October 1, 1890 (26 Stats., 658) to appraise the value of the lands and improvements located within the ceded or restored portion of the Round Valley Indian Reservation, Cal., submitted the report of its work under date of April 6, 1893. Said report was transmitted by office letter of May 18, 1893, to the Department, recommended for approval with certain exceptions, and was approved, as recommended, by Department letter of August 7, 1893.

Included in the schedule of appraisements submitted by the Commissioners were seven cases noted by them as "complicated cases," which cases were explained by the Commissioners in a statement marked Exhibit D of the report.

One of the said complicated cases was that of Casuse Costello, and was accompanied by testimony marked exhibits F, G, H, and I. In this case the Commissioners reported, substantially, that Costello is a Spaniard from Mexico, and his wife a half-breed woman of the Uka tribe; that in 1885 he was permitted by United-States Indian Agent Willsey to go upon section 34, township 23 north, range 12 west, and build a house and make other improvements; that these improvements he valued at \$2,439, and the Commission valued them at \$2,000; that under the acts of 1873 (17 Stats., 633) and 1890 (*supra*) he is not entitled to purchase this tract or section at its appraised value, and he would hardly be able to purchase it if allowed to do so; that the Commissioners think some provision should be made for his relief, and recommend that Congress be asked to change the law so as to pay him for his improvements, or to allow him to purchase the E.  $\frac{1}{2}$  of the NE.  $\frac{1}{4}$  of section 34, and the W.  $\frac{1}{2}$  of the NW.  $\frac{1}{4}$  of section 35, township 23 north, range 12 west.

The Commissioners state that they make this recommendation for another reason, to wit, that since Costello made his claim known to the Commissioners, J. H. Rea, representing the estate of C. H. Bourne, and David T. Johnson, representing the estate of his father, David T. Johnson, claim that in 1869 or 1870 William Pollard built a house and fenced in a garden or pasture on the same place; that William Pollard testifies to the building of the house and fence by him and to his selling the same to Samuel Simmerly before 1893, and to the reported sale of the improvements by Simmerly to Bourne and Johnson; that David W. Ayres also testifies to helping Pollard build the house and fence, the sale by Pollard to Simmerly, and the reported sale by Simmerly to Bourne and Johnson, and that other evidence is adduced to show the sales and occupancy by Samuel Simmerly and the sale and occupancy by Bourne and Johnson.

The Commissioners further report that they find no appraisement made of said house and fence to anyone by the commission in 1873; that under the law Costello's wife and children are entitled to land in the reservation, but the Commission is informed that there is not enough good land to supply the others entitled thereto; that, therefore, unless these two sections can be withheld from sale until Congress can make some provision for him, he and his family will be very much injured by the course of the present law.

In said office report of May 18 attention was invited to the fact that the Commission appraised improvements in the sum of \$150 to Samuel Simmerly as the owner in 1873, and find Bourne and Johnson the owners of said improvements in 1893.

It was also stated in said report that the case was undoubtedly a hard one for Costello; that he went with his Indian wife on land belonging to the Indians in 1885, but that still, according to the report of the Commission, the assignees of Samuel Simmerly have technically the right of purchase, though their right rests upon a rather questionable state of facts; that it is true that the commission in 1873 appraised no improvements of Simmerly's, but reference to their report shows in the schedule of appraisement that "Samuel Simmerly agrees to remove his fencing." There is nothing, however, to show where this

fencing was located, what it was worth, or what sort of agreement was made respecting its removal.

After careful consideration of the matter this office expressed the belief that Costello should be compensated in the sum of \$2,000 for his improvements; that is, if he should not purchase the tract upon which they are located in the event of the parties having the prior right failing to do so, but that such compensation could only be made by the necessary Congressional action.

In your said communication of August 7 is found the following direction:

The Commission, your office, and the Assistant Attorney-General all agree that Costello, whose case is designated as Complicated Case No. 2, should be afforded some relief, if that be possible, but that such end can only be attained through Congressional action. I am not inclined to withhold said tract of land from sale even if I have the authority to do so, but, believing that it would be but a simple act of justice to compensate Costello for his improvements, valued by the Commission at \$2,000, I have to direct that you prepare a report to be submitted to Congress setting forth the facts, to be accompanied by a draft of a bill providing for the payment to him, out of the proceeds of the sale of these surplus lands, that sum of money.

In compliance with said direction, I have prepared, and have the honor to submit herewith, a draft of a bill intended to provide for compensation to the said Casuse Costello.

Very respectfully, your obedient servant,

D. M. BROWNING,  
*Commissioner.*

The SECRETARY OF THE INTERIOR.

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A BILL for the relief of Casuse Costello.

*Be it enacted by the Senate and House of Representatives in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to cause to be paid to Casuse Costello, a settler on the Round Valley Indian Reservation in California, the sum of two thousand dollars for improvements owned by and lost to him, payable from the proceeds of the sales of lands under sections three and four of the act of Congress approved October first, eighteen hundred and ninety, entitled "An act to provide for the reduction of the Round Valley Indian Reservation in the State of California, and for other purposes:" Provided, That should the said Costello be enabled to purchase the tract upon which the said improvements are located, when sold under the provisions of the act aforesaid, this act shall then be null and of no effect.*

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