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A NAVAHO STRUGGLE FOR LAND

By FRANK D. REEVE

FOR approximately a century the Navaho have been struggling for possession of their traditional homeland against the intruding white man. Their biggest victory came when they were allowed to return to northwestern New Mexico and adjacent Arizona in 1868 from their imprisonment near Fort Sumner, in the Pecos valley. A minor, but important triumph, was won in the 1880's when they regained ownership of a strip of land on the south side of the San Juan river near Farmington and Bloomfield.

The Navaho had long grazed their flocks and grown some crops along the San Juan river and in tributary valleys. A government report in 1877 attests to the fertility of the soil in words written by Lt. C. A. H. M'Cauley:

still farther down the San Juan, the Navajoes are industrious farmers, corn being the main product, and as a sample of the crops they obtain, a handsome ear was brought back. The crop was raised upon one of the bottom holes along the San Juan, cultivated without irrigation, watered only during a high stage of the river. The corn tassels were of the height of a rider's head upon horse-back.¹

This glowing account could have precipitated the movement of the land-hungry white man into that area if settlement were not already underway, preparing the stage for

1. *Report on the San Juan Reconnaissance of 1877*. 45 cong., 3 sess., hse. ex. doc. 1, pt. 2, p. 1768 [1846]

For other articles on the Navaho see *NEW MEXICO HISTORICAL REVIEW*: July, 1941; January, 1943.

the coming conflict. But conflict was nothing new to the Navaho. He had never enjoyed quiet possession of the San Juan area due to the presence of his enemy, the Ute, to the northward. As late as the spring of 1878 their long-time strife flared up once more when the Ute raided the Navaho flocks in Las Animas valley, which extends northeastward from the town of Farmington. The Ute were accused of stealing 400 sheep and fifty horses in March. The Navaho pursued the marauders, but were beaten in the resulting fight. Fearful of further losses they began to move back toward their reservation proper,² and rumors of a general Ute outbreak against the whites circulated freely and stirred up considerable activity in official circles. Lieutenant F. T. Bennett of Fort Wingate reported the non-attendance of Navaho from the San Juan country at Fort Defiance on ration-issue day. This in itself should have excited no surprise because the Navaho from the northern area of the reservation had seldom been present on issue day; nevertheless, Chee Dodge was sent to investigate the situation and reported all was quiet.³

The rumor even embraced the possibility of a joint Navaho-Ute attack against the whites, and the Utes were credited with sending representatives into the heart of Navaholand seeking an alliance. This sounds like an extreme possibility in view of Navaho-Ute rivalry, but it must be kept in mind that the Navaho were a scattered, semi-nomadic people, and happenings in the San Juan country were of little concern to dwellers elsewhere on the reservation. On the other hand, the Navaho had learned their lesson about the futility of trying to fight the white man with force of arms. They still resisted his advance, but it was a stubborn individualized and localized struggle. Against the Ute, of course, a fight was still possible, but the

2. H. H. Holford (1st Lt. of San Juan County Militia) to Lt. G. Valais and Agent Weaver (Ute Indian agent), Lower Animas, 3/13/1878, National Archives, War Department Old Records Division. Adjutant General's Office, Letters Received New Mexico File, Letter No. 585, 1878. Subsequent citations will be abbreviated as follows: AGO, LR, 585/78.

3. Bennett to Post Adjutant (hereafter abbreviated to PA) Fort Wingate, 3/19/78, AGO, LR, 623/78.

Ute in turn were now in the process of being rounded up and placed on their permanent reservation. In the meanwhile, Colonel Hatch thought that

It is not likely the Utes can lead the Navajoes into War. I believe on the other hand furnishing the Navajoes arms with promise of all the horses they can capture⁴

from the Ute. Later on he resorted to the oft-tried and futile step of ordering the Navaho back onto their reservation in keeping with orders from his superior. They would return in fear of the Ute, but they had long ignored such orders from government officials because they followed the dictates of their need for water and grass for their flocks.⁵

The trouble with the Ute was only a prelude to a struggle with white settlers for unhampered use of the same territory. The entry of the whites into the San Juan country was made possible by the Executive Order of July 18, 1876, which restored to the public domain the Jicarilla Apache reservation, including the area between the San Juan and the Colorado boundary line extending eastward from the Navajo reservation.⁶ R. L. Smyth immigrated to Las Animas valley in September, 1877, locating about six miles below the Colorado line. He was the first settler to travel through Las Animas canyon, a rugged trip, bringing his family and possessions in two ox-drawn wagons, and driving sixty head of cattle.⁷ Fowler Kimball located near Farmington on November 5, 1878, and was followed the next spring by Albert White (June, 1879) and others. Within two or three years the irrigable land along the river bottom from near the mouth of Cañon Largo to the Navaho

4. Colonel Edward Hatch to Assistant Adjutant General (or AAG), Santa Fe, 3/16/78. National Archives, Office of Indian Affairs, Old Records Division, Letters Received, New Mexico File, Letter No. W836, 1878. Subsequent citations will be abbreviated as follows: LR, W836/78. Agent Irvine to Commissioner Hayt, 3/7/78, LR, 1395/78.

5. See LR, W845/78. "the Navajos Indians who have been keeping their sheep and horses in the Las Animas valley for years have taken their stock out of the country" because the Ute are preparing for war in the spring. Thos. B. Hart, deposition re Ute trouble in southwestern Colorado, 3/14/78, LR, W836/78.

6. Reeve, "Federal Indian Policy in New Mexico 1858-1878." *N. M. H. R.* XIII, 186 (April, 1938). M'Cauley, *op. cit.*, p. 1768.

7. *Ibid.*, p. 1777.

boundary was settled.⁸ By the spring of 1881 there was an estimated 1,000-1,200 people along Las Animas and San Juan rivers, owning about 20,000 head of cattle and 50,000 sheep.⁹

The settlers and the Indians promptly quarreled about the use of grazing land along the south side of the San Juan and east of the reservation. Both parties needed the forage for their livestock. The white man took his stand on the grounds of legal right; the public domain was theirs to exploit, the Indian should be confined within the artificial lines of the reservation. The Indian, on the other hand, was motivated by a sense of traditional right and by sheer economic necessity. The settlers drew up a petition addressed to Colonel George P. Buell, commanding a detachment of the 15th Infantry near the mouth of Las Animas, requesting removal of the Indians from the disputed area.¹⁰ Buell, in turn, referred the matter to Agent Eastman at Fort Defiance. Individuals took more direct action by writing to Washington. J. E. Storie, who lived about thirty miles east of the reservation, complained that "we the Settlers in this vicinity are annoyed almost beyond endurance by the indians."¹¹ And S. H. Conrad stated that

many of the settlers have been induced to leave by the Navejo Indians who are permitted to roam at will. Grazing their sheep herds in the poor squatters dooryard depriving him of all means of sustaining the life of his domestic animals. Breaking into houses. Stealing property. Flogging citizens and impoverishing the country.¹²

In response to the complaints of the settlers the commissioner of Indian affairs sent the oft-repeated instructions to Agent Eastman to order the Indians back to the reservation. Navaho chiefs were sent to the trouble zone

8. Kimball to Secretary Schurz, Farmington, 2/20/80, LR, K277/80 and Kimball to United States Land Agent, 4/19/80, LR, L730/80. *The Daily New Mexican*, 3/6/81. Max Frost (Adjutant General Territory New Mexico) to Lew Wallace, 5/9/81, in *ibid.*, 5/14/81. M'Cauley, *op. cit.*, see map on p. 1808.

9. Max Frost, *op. cit.*

10. Farmington, 11/1/79, LR, W2493/79.

11. Storie to Schurz, Bloomfield, 11/5/79, LR, S2335/79.

12. Conrad to Secretary Interior, Farmington, 11/17/79, LR, C/1206/79.

and in due time reported that their people were returning to their own lands.¹³ This report, if true, did not mean the end of the difficulties between the two groups. Meanwhile, in response to a long-time recommendation from the agent, the government granted, on January 6, 1880, an increase in the reservation area by extending the boundary eastward fifteen miles in the country south of the San Juan. In order to further minimize quarrels over the use of land, the new boundary line was surveyed by army engineers so that the Indians and the whites would know their respective areas without doubt. The old boundary line had been surveyed in 1869, but the markings had long disappeared; the new monuments soon suffered the same fate. When the surveyors appeared on the scene of their work, the Navaho promptly made known their dissatisfaction:

They all objected strongly to the location of the line, insisting that it ought to be farther East, some going so far as to claim all the country as far East as Cañon Largo. They tried by every means they could think of to dissuade me from attempting to run the line, saying there was no grass or water in the country. And even threatening to stop the party by force.¹⁴

The Navaho destroyed the new boundary markings, but nature more than the government was the basic influence in their behavior. The fifteen mile strip of land gave them what might be termed a legal additional length of access to the waters of the San Juan. In that sense it was a confirmation rather than a modification of traditional practice. Otherwise the new line was meaningless to Navaho economy because it could not change the location of water holes nor add to their number. The surveying party reported that there was no water for eighty-five miles south of the river and, in the final analysis,

The strip of 15 miles recently added to the reservation on the east is almost utterly worthless to the Indians on account of the absence of water.

13. Eastman to Commissioner, 1/5/80, LR, E37/80.

14. Lt. M. C. Martin to P. A. (Fort Lewis), 9/1/83, AGO, LR, 4153/82.

What little water exists is alkaline, not permanent, and lies off the reservation.¹⁵

The settlers along the course of the river were faced with the loss of their hard-won homesteads if the boundary extension was not changed. They promptly protested to important officials of government. William White (a son of Albert White), who settled near Farmington in November, 1879, now made a plea to Senator Teller for help, and in a not too subtle way:

I hope it may be so that our next Sec. of Interior may be a Coloradoan or other Western man and not of the 'dutch persuasion,' we may then at least stand an equal chance with an Indian. . . .

[My father is Republican] I have started in the republican ranks and *hope* to continue there.¹⁶

Kimball and Albert White journeyed to Santa Fe in March of 1881 to lay their complaint before Governor Lew Wallace in person. They stated that they had not been informed by Agent Eastman of the boundary extension and that their first knowledge of it came when Indians ordered them off their land. They even made the extreme assertion that "The Navajoes assert that they gave Galen Eastman three sacks of silver to get the country for them."¹⁷ As late as the summer of 1882 W. M. Rambos was still clinging to his farm despite the filling of his irrigation ditches by the trampling feet of Navaho sheep, and appealing to Teller for help: "We know your past Honorable Career as not wholly for the nations wards where justice to white settlers is concerned."¹⁸ The pleas of these men were eventually to bring favorable results, although only temporary, but meanwhile other frontier influences were

15. Lt. O. M. Carter to AAG, 6/9/84, LR, 12215/84. Martin to PA. *op. cit.*

"Though his monuments [Lt. Martin's] have been destroyed, in not one instance did I find any ignorance as to the location of the line. The Indians do not pretend to live on their reservation, however. They can not do so. They are harassed and annoyed beyond measure by the whites near them." Carter to AAG, *op. cit.*

16. White to H. M. Teller, February, 1881, LR, 4292/81.

17. *The Daily New Mexican*, 3/6/81.

18. Rambos to Teller, 7/25/82, LR, 14202/82.

Other settlers had given up the struggle. Mathias Ebert to Carl Schurz, Farmington, 4/5/80, LR, E222/80.

at work in this struggle for land in the persons of cattlemen—and even the miner.

Lieutenant Martin had mentioned in his report on the boundary survey that some Navaho even claimed the country as far east as Cañon Largo. This was quite true. Not only Cañon Largo, about thirty miles east of the new line, but the intervening Cañon Gallegos¹⁹ and Cañon Blanco furnished grazing for Navaho and white stock. Land north of the river was also in dispute. The Indians crossed the river with their flocks near Hogback mountain and grazed the area extending eastward from their reservation to La Plata river. Settlers had increasingly objected to this competition for the range, and open conflict was a possibility. In the fall of 1882 the military took action to send the Navaho back to the reservation.²⁰

The Navaho were also far beyond the reservation line to the south of the San Juan this same season. Captain Bean reported about thirty in Cañon Largo, Blanco and Gallegos, living there on the plea that Chief Manuelito had advised them that the boundary line was to be extended again to include those areas. Mr. Brown, the Captain wrote, who "knows them well informs me that they are very cross and ugly at what they term an unwarranted military interference in this matter."²¹ Under pressure from the military this group of Navaho began to move toward the reservation, when lo and behold forty-six more arrived carrying permits from Agent Eastman for hunting deer two or three months. The permits were issued under provisions of

19. "Cañon Giago [Gallegos] is named after a Mexican Scout who was killed at its head in 1859 by Navajoes. B. C. Lockwood to PA (Fort Lewis), 12/11/83, AGO, LR, 4980/83.

20. John Reid to General Buell (CO at Animas City, Colorado), Parrott City, Colo., 12/8/79, AGO, LR, 3224/79.

Capt. J. W. Bean to AAAG, Camp Roy near Farmington, 9/23/82, *ibid.*, 3962/82.

Narbonna was the principal chief who talked with Captain Bean when ordered back to the reservation. "All this they promised to do. The talk was quite long but plain and to the point and there was no evidence of ill humor." Captain J. M. Marshall to AAAG, 9/15/82, AGO, LR, 3811/82.

21. Bean to AAAG, Camp Roy, 10/7/82, AGO, LR, 4132/82. Bean to AAAG, 9/26/82, *ibid.*, 4051/82.

John W. Brown (presumably the Mr. Brown mentioned above) stated: "The Navajo Indians are the most law abiding people in this country." 2/25/82, LR, 4855/82.

the treaty of 1868 and were technically correct, but the action can hardly be construed as promoting solution of the Navaho-white conflict over land; Navaho stock consumed grass whether their owners were hunting deer or not. However, by November the Navaho were all back on the reservation. The officials experienced a sense of relief since "This ends all prospects of trouble with the Navajoes this year,"²² and the settlers rendered thanks in the form of a resolution.

The satisfaction of the settlers at the return of the Indians to the reservation did not indicate a complete settlement of difficulties between the two peoples. Relations were improving on the whole, but there still remained the basic problem of land use as well as minor points of friction. The Navaho not only crossed the San Juan to graze their flocks, but also to trade with the white men. When traveling to a store, they moved on the simple principle that the shortest distance between two points was a straight line, consequently instead of going around a settlers field with growing crops, they would sometimes cross it. Captain William Conway attributed this behavior to "ignorance or indifference."²³ Furthermore, there were some difficulties incidental to a frontier area. The Navaho individually was not a troublesome person, although he could not be molested with impunity, but liquor was available to him in the San Juan country as elsewhere around the reservation, despite the law to the contrary. This specific source of trouble, when added to the contempt that an individual might feel toward Indians, was bound to cause some friction until law and order had grown strong with the development of civic consciousness.

This aspect of affairs was illustrated in the winter of 1881 when a cowboy named Meyers shot a Navaho at Farmington, allegedly without provocation. Colonel George P. Buell testified that the business men welcomed the presence

22. R. S. MacKenzie to AAG, 11/18/82, LR, 21271/82. See also LR, 21272/82, 22081/82, 22868/82.

Whether the return of the Navaho to the reservation included the hunting party is not clear.

23. Conway to PA, 3/27/83, AGO, LR. 1079/83.

of the Indians because of the handsome profits derived from trading; but "The cattle-man and Cow-boy is the Indian's avowed enemy, considering no rights of the Indian that he shall respect."²⁴ On the other hand Captain B. H. Rogers records:

the ranchmen tell me that the Indians when they come to the ranches are habitually courteous and kind, that the exception has been very rare, and that they fear bad white men much more than they do Indians.²⁵

In short, the Navaho was neither saint nor devil, nor was the white man, but some of them were contesting for the same source of livelihood, the land, and quarreling on less important grounds.

When Agent Riordan succeeded the incompetent Eastman, in the winter of 1883, he reported the Indians as saying that they would never cross the river with their stock if they could have another extension eastward of the reservation line. This granted, he believed, would end all trouble: "It is so patent to any one here on the ground that the mention of it even seems superfluous."²⁶ There was some truth in his statement, particularly if the line were set far enough to the east to include the entire traditional Navaho homeland. But such possibility was remote; the white cattlemen were well entrenched in certain portions of that area. Further friction occurred in the fall of 1883, despite the fact that the Navaho had been driven back only the previous season.

Military scouting parties in the spring reported only a few Navaho off the reservation, and only minor depredations, but in the fall about fifty families were found in Cañon Gallegos. The Kansas-New Mexico Land and Cattle Company had taken possession of that area, and their foreman, Fred Bunker, called on the military to remove the trespassers. Lieutenant B. C. Lockwood was dispatched to the scene in December and compelled the Indians to

24. Buell to AAG, Fort Lewis, Colo., 3/13/82, LR, 9328/82.

25. Rogers to PA (Fort Lewis), 2/4/81, AGO, LR, 575/81.

26. Riordan to Commissioner, 2/10/83, LR, 3258/83.

retrace their steps to the reservation: "They left that part of the country with sad hearts as they liked it very much and hated to give it up."²⁷ But if they had not moved there would have been sad hearts in the white man's bosom. Harold Carlisle, probably a part owner of the cattle company, claimed that "he would rather lose thirty thousand dollars than have to give up this range, as it was a most desirable one."²⁸

The migration of the Navaho was as constant as the change of seasons. In the spring of 1884 the cattle company representative reported the Indians in Cañon Gallegos again: "I think they are induced to come by W. B. Haines who has located a store on Canon Gallego."²⁹ The military were called to the scene again and the Navaho, this time with Manuelito as spokesman, promised to retire once more to the reservation. They had, on this occasion, burned some lumber, and defended their action on the plea that the act was in retaliation for the burning of their hogans, and that they had acted on the advice of a trader they called Barba. Such behavior was incidental to the more serious problem of land ownership, and occurred elsewhere along the San Juan frontier. But the main problem was now dramatized by an act of the government for which no specific explanation can be found in official documents and must be

27. Lockwood to PA (Ft. Lewis), 12/23/83, AGO, LR, 4478/83. "These Indians are enticed from their reservation by mean white men, who have stores. . . .". *Ibid.* Conway to PA, 3/27/83, LR, 7529/83.

28. Lockwood to PA, 12/23/83, AGO, LR, 4478/83. Six other cattlemen used the range between Cañon Gallegos and Cañon Largo. *Ibid.*

John Reed stated: "These same Indians went along after the surveyors, last summer, and tore down the piles of stone that were put up to mark the line," so they would not know the location. *Ibid.*

See also Riordan to Commissioner, 12/31/83. LR, 327/84. Price to Riordan, 12/22/83, Office of Indian Affairs, Letter Book No. 181, p. 224 (hereafter cited as LB 181, P. 224).

Bunker stated that the Indians on this occasion were drunk, they terrified the women and children of the rancher, killed stock, and stole horses. J. G. Willét (Deputy United States Marshal) to General Stanley at Santa Fe, Farmington, 11/21/83, LR, 23182/83.

The Kansas-New Mexico Land and Cattle Company was owned by English capitalists. See LR, 10742/84 and Office of Indian Affairs, Authority 20788. Hse. report #1325, 48 cong., 1 sess. [2257]

29. W. E. Faris (for Harold Carlisle) to Post Commander (Fort Lewis), 3/9/84, AGO, LR, 229/84.

judged the result of influences working through the routine political channels in behalf of the San Juan settlers.³⁰

By Executive Order of May 17, 1884, "all those portions of townships 29 north, ranges 14, 15, and 16 west of the New Mexico principal meridian, south of the San Juan River," were restored to the public domain. In short, the irrigable portion of land along the river that was added to the Navaho reservation by the boundary extension in 1880, was now reopened to white entry. The protests of White and Kimball had finally born fruit, but their success was to be short lived because the Navaho refused to surrender possession of the land. Agent Bowman, successor to Riordan, sent two agency employees to the scene in February, 1885. On the basis of their report the agent advised Washington that the difficulties had been settled amicably except for a dispute between Cas-i-an-a and White. The next month Bowman visited the San Juan country in person and again sent in an optimistic report,³¹ but matters were far from going favorably for the settlers.

In December, 1885, the pressure of Navaho opposition was highlighted by a bit of violence. Costiana, son of Largo, was accused of driving a settler named De Luche off his homestead and setting fire to his house. This action probably occurred in section 8, township 15W, which seemed to be the focal point of resistance for Costiana's band, and lay on the route that the Indians used when they crossed the river to graze their flocks on the north side.³² The settlers laid their complaints before the territorial officials. Hugh A. Carman and Joseph Wilson wrote to Governor Ross in December; forty-eight other citizens sent a petition to General Bradley at Santa Fe for military protection;

30. Lt. Col. R. E. A. Crafton to AAAG, Fort Wingate, 4/28/84, LR, 9681/84. Captain E. M. Heyl to PA, 5/15/84, LR, 10742/84.

A report from Bowen's Ferry stated that an American had stolen a Navaho horse, and Navaho were stealing stock "to a degree almost intolerable" They also shot a Mr. Nichols on the Rio Mancos. J. C. Bowen to Navaho Agent, Bowen's Ferry, San Juan, 4/3/84, LR, 8230/84.

31. LR, 2682/85, 4302/85; and document 46593/09, Navajo File No. 308 1/2.

32. S. D. Webster (surveyor) to Governor E. G. Ross, Olio, New Mexico 12/8/85, LR, 29976/85. Ross to Atkins, 1/20/86, LR, 2933/86. Ross repeated the common story about the Navaho claim to the land on the basis of purchase from Eastman, who secured the extension, for a bag of silver.

in January, 1886, John S. and Nelson B. De Luche petitioned the governor for aid; and the following month H. A. Carman, J. E. Wilson, and Simon Hendrickson added their plea for protection.³³

Governor Ross requested the commissioner of Indian affairs to provide a small body of troops for protection of the settlers, but the commissioner took a calmer view of the situation, although aware of possible trouble, and dispatched a special investigator to the scene in February with instructions to "not exercise undue haste, but study the situation thoroughly"³⁴ Colonel William Parsons, the special agent, found little difficulty in analyzing the situation and making appropriate recommendations.

One basic difficulty in the relations between the two peoples was their different way of using land. The Navaho was a seasonal occupant; the white man was permanent. The Indian planted a crop on the San Juan bottom land in season and wandered elsewhere with his flocks during the balance of the year. The white man lived the year round on his homestead. Furthermore, the status of the Indian under the homestead law was not thoroughly worked out, so the withdrawal of this strip of land from the Navaho reservation had been done with little consideration of any right of preëmption on the part of the Indian. And the white settler, of course, was not likely to be thoughtful of Indian rights. One of the settlers, S. (Simon?) P. Hendrickson, was an example of this attitude, at least it can be so inferred. He had settled upon a tract of land that a Navaho named Charley claimed. "'Charley,' has lived upon, and cultivated, this same land for years, has a house upon it, and lives there now, and has protested all the time against Hendricksons occupancy of the land"³⁵ The settlement of this dispute proved to be particularly difficult for the government, but meanwhile Agent Parsons was making his recommendations.

33. LR, 29976/85, 2983/86, 4716/86, 6529/86.

34. Atkins to Parson, 2/4/86, LB, 144, p. 278 (Land Division). "I think the present condition of affairs if continued, would soon lead to open rupture between the Indian and settlers." *Ibid.*

35. Marshall to Commissioner, 11/29/86, LR, 31812/86.

Before arriving at the San Juan in March, Parsons journeyed to Fort Defiance and conferred with agency officials from whom, he probably received a pro-Indian impression. After his arrival at the scene of trouble, he held councils with the Indians and whites on March 5 and 6. He concluded that there was little likelihood of a general clash between the two peoples, but that disputes between rival claimants for specific land holdings was quite possible; in conclusion, he recommended that the strip of land severed in 1884 be restored to the Navaho reservation.³⁶ In a subsequent report, Parsons was of the opinion that the crux of the matter was water, not land; that is, the Indians needed the land along the south bank of the river in order to have access to water for their flocks.³⁷ The white man was interested in cultivating the land, but also wanted the arid area to the south for grazing his animals. The problem of water of course, had long been apparent to the observer on the scene, so the agent's opinion was not original. Some of the settlers, or at least Hendrickson, challenged this idea on the ground that water resources should be developed on the reservation.³⁸ The government had long attempted to carry out such a policy and was to continue doing so, but the water of the San Juan was still the best supply for a great area of country regardless of whether Indian or white gained control of it.

In the light of Parson's March report, Commissioner Atkins recommended to the secretary of interior that the disputed land be restored to the reservation, and he advanced the argument about water as the prime reason, with the additional comment that the area should never have been withdrawn in the first place.³⁹ This recommendation

36. Parsons to Commissioner, Fort Defiance, 2/26/86, LR, 6501/86. Parsons to Atkins, 3/10/86, LR, 7888/86.

37. Parsons, *Report*, 4/27/86, LR, 12532/86.

38. Mrs. S. P. Hendrickson to Atkins, Olio, New Mexico, 12/23/87, LR, 155/88. "We can furnish the papers to prove that they [Navaho] are wintering . . . 18000 stock" for other parties." *Ibid.*

39. Atkins to Secretary, 4/14/86, LB 147, p. 64 (Land Division). Atkins to Secretary, 4/14/86, Navaho File No. 308 1/2, 46593/09.

"There has been continuous strife between the Indians and whites, growing out of that action [withdrawal of land from reservation], and of late the relations

was followed by an executive order of April 24 restoring the disputed land to the reservation. About six bona fide settlers, only one proved up, were affected, but about thirty claims (ultimately twenty-four) for compensation from the government were filed.⁴⁰

In the light of court decisions, the claims were of doubtful validity, and the commissioner of the general land office so held,⁴¹ but the commissioner of Indian affairs was willing to recommend compensation for losses, so Edwin S. Bruce was dispatched to the region to secure the necessary data for that purpose.

The mere issuance of the executive order was not sufficient to settle the dispute. In anticipation of trouble, Agent Patterson at Fort Defiance had sent S. E. Marshall as sub-agent to the San Juan in April, somewhat to the annoyance of the commissioner who cancelled the appointment but promptly reaffirmed it. On April 28, two companies of soldiers were moved to the scene.⁴² Marshall reported that

A strong effort will be made by Citizens on North side River (*for selfish motives,*) through Senators to have President Cleveland revoke his order of Apl 28th. Do try and prevent this, his order was a *righteous* one back of that 18 mile water front, is a magnificent grazing land, but no water for 40 miles, and that only a *small spring*.

The property owners on the north side, he wrote, opposed the restoration of the land to the Indians because it

between them have become so strained as to give rise to the most serious apprehensions. The Indians are unwilling to give way to the whites, and they in turn are determined to settle on the disputed lands." *Ibid.*

"From all the information at my command I find that most of these threatened troubles comes from the white settlers . . ." trying to drive Indians off their land. S. S. Patterson to Commissioner, 4/9/86, *Ibid.* Patterson succeeded Agent Bowman in the spring of 1886.

40. Parsons, *Report*, 4/27/86, LR, 12532/86. General Land Office Memorandum, LR, 9389/86, gives 24 entries of all kinds.

41. *Hutchings v. Iow*, 15 Wall. 77. *Atherton v. Fowler*, 6 Otto 513. *Daily New Mexican*, 5/22/86. L. I. C. Lamar to Commissioner General Land Office, 5/25/86, Navaho File No. 308 1/2, 46593/09.

42. LR, 11533/86, 11892/86, 12298/86. Marshall to Commissioner, 5/22/86, Navaho File No. 308 1/2, 46593/09.

would cause a general depreciation of values: "now you have the whole matter in a 'nut shell.'"⁴³

There was some truth to the assertion made by Marshall. D. Baldwin and about sixty other persons signed a petition addressed to Bruce in which they advanced the arguments that the Indian was not a desirable neighbor, that he neither improved the land nor paid taxes, when drunk he was subject to no legal restraint, the settlers had a legal right to the south side land, and lastly there was a good coal field south of the San Juan that the Indian could never develop.⁴⁴ It was true that coal did exist in the region, and attempts to develop it had been made as early as 1882 by the Porter Mining Company at a location about fourteen miles east of the reservation. A building was erected despite the objection of the Indians, but they promptly burned it.⁴⁵

In addition to proceeding by petition to Bruce, Baldwin, who professed to have no personal investment in land south of the San Juan, also wrote to John A. Logan urging reversal of the government policy because the land "is a very good Lignite Coal field," and advanced the old argument that "It was once taken from the white settlers by proclamation of Hayes through the knavery of the then Indian Agent [Eastman]." And to the secretary of the interior he pointed out that the disputed area was a suitable railroad route and that Indian possession would retard the civilization and development of the San Juan country.⁴⁶ He even gave expression to the frontier contempt for the Indian in a bitter attack against the office of Indian affairs. The officials, he wrote, had encouraged the Indians to harass the settlers until now they could be bought out by the government and land turned over "to the drunkenness licentious-

43. Marshall to Commissioner, 6/22/86, LR, 16876/86. See LB 150, pp. 187, 196.

44. D. Baldwin et al to Special Investigator [Bruce], 5/28/86, LR, 16940/86.

"Now the people of Farmington do not love the Navajoes anyway, this bad feeling having existed ever since by the extension of the Navajo reservation they were cut off from some valuable coal lands . . ." *The Daily New Mexican*, 2/13/81.

45. Wm. Slane, *Affidavit*, 2/6/82. AGO, LR, 687/82.

46. Baldwin to Logan, 5/25/86, LR, 14587/86. Baldwin to Secretary of Interior, 6/21/87, LR, 16850/87. Upshaw to Logan, 6/8/86. LB 149, p. 111 (Land Division).

ness and debauchery of savagery and all these settlements exposed to the alarm or fear of an Indian outbreak every spring."⁴⁷ But contempt for Indians has always been balanced by a more favorable view. In this case Agent Parsons came to their defense:

The Indians I found there are the very best of citizens and are anxious to abide by the law and live in peace. I admire the western frontiersman as a rule, but I must admit that in this case the Indian settlers are far better citizens, more enterprising and law abiding, than the white people who harass them.⁴⁸

During the summer of 1886 and into the following year the claims adjuster prepared his reports, the Indians pressed the settlers to get off the land, and the settlers kept up the struggle to retain possession, or to get a prompt settlement of compensation for losses. The Indian's flocks grazed in some instances right up to the boundary line of the settler's homestead and even crossed the line, and while a stray sheep munched the grass in the forbidden area the owner might surreptitiously steal a melon. The Hendrickson family in particular became a focal point in the situation. They resented the attempt to evaluate their property on the curious ground that it was "a gross assumption of power" on the part of the government, and yet they wanted prompt action toward a final settlement of the issue.⁴⁹ Bruce wrote that [S. P.?] Hendrickson "is one of the most unreasonable men I ever knew, and I think you will agree with me when you come to read his bills and statements." He put in a claim for \$729.10 and then demanded not less than \$2,000 for the loss of his home, "if not I am *robbed*."⁵⁰ Hendrickson's irritation was partly due to the behavior of the Indians who persisted in trying to water their stock by crossing his land whereas they could have secured access to the river at several other points

47. Baldwin to Logan, 6/18/86, LR, 16940/86.

48. *The Daily New Mexican*, 4/20/86.

49. W. P. Hendrickson to Governor Ross, 7/26/86, LR, 20824/86. Patterson to Atkins, 7/3/86, LR, 18064/86.

50. Bruce to Commissioner, 8/20/86, LR, 20788/89 (Authority).

without troubling him. He finally threatened that "a conflict is inevitable unless the government *moves the Indians* from the settlements or *moves the settlers*, and that 'right soon'."⁵¹

Both the military and civil officials in the field urged strong action to get the settlers off the land so that the Indians could make their spring planting in 1887, or, as Colonel Grierson recommended, use force to keep the Indians off the land; but he reminded his superior that the Navaho could muster about 6,000 warriors.⁵² The administrative routine of the general land office produced decisions in April on nineteen of the land claims. Seven preëmption filings were cancelled for invalidity on their merits, and twelve were cancelled on the basis of previous court decisions and administrative rulings. This action did not immediately affect the actual state of affairs on the San Juan because a settler was allowed sixty days to appeal the decision. The office of Indian affairs now reiterated the old fear of conflict between the contenders and urged the immediate removal of the settlers. Secretary Lamar was not willing to take such strong measures, but he did request the war department to send troops again and laid down the policy that the settlers could remain on the land until their claims were finally adjudicated, and the Indians should have access to the river, passing over the land of the settler only as a last resort.⁵³

The attempt to compromise between the Indian and white until final rulings were made did not work well in practice. About forty Navaho families occupied the land that had been vacated, but on the understanding in some

51. Hendrickson to Commissioner, 8/10/86, LR, 21928/86.

The military were called upon to settle one dispute between a Navaho and a settler over possession of a hut on the disputed land. The Indian in the case was accused of having been on a drunk. Captain Wm. Conway to AAG, 9/20/86, LR, 30783/86.

Patterson advised the commissioner that the troops could be withdrawn until the next spring. He probably reasoned that the Navaho disputants would wander elsewhere until spring planting time. LR, 26795/86.

52. Patterson to Atkins, 2/25/87, LR, 5750/87. Grierson to AAG, 3/18/87, 20788/89. (Authority).

53. LR, 10795/87, LR, 11008/87; LB 160, p. 124 (Land Division).

cases that they would leave in the fall of the year after raising a crop. Three settlers remained on their holdings, S. P. Hendrickson and his hardy spouse, Hugh A. Carman, and Thomas M. F. Whyte. The Hendricksons in particular were obdurate and Patterson served official notice on them not to obstruct Indian access to the San Juan, and recommended to his superior their immediate removal without prejudice to their claim. He feared the outbreak of fighting between the two groups. Colonel Grierson likewise felt uneasy about the situation. The Indians, he reported, had been securing a supply of the best arms and ammunition: "I most earnestly recommend the *immediate removal* of the few white settlers . . ." to assure peace and security.⁵⁴

In the face of official pleas to move and warnings of impending violence, the three settlers held on and fought to the last for their holdings. The Hendricksons had earlier secured political support from former secretary Teller. Mrs. Hendrickson now wrote to Secretary Lamar claiming that the executive order of April had been based on a misrepresentation of facts, a rather far-stretched allegation, to be sure, but it was at least a straw to cling to. As for Patterson's fear of violence, "A settler on the frontier must take his own chances," she retorted. Furthermore, they were not land speculators; "we came here to stay & we mean to if we can."⁵⁵ But their fight was in vain. The views of the government officials in the field about the necessity of removal finally prevailed. On July 18 the secretary of war issued an order that troops could be used to move the settlers. Lieutenant Scott notified them to move by August 10, but they refused. Agent Patterson then issued a notice of eviction against Hendrickson on the 24th, setting the deadline for moving at 10 A. M. the following day. He refused to move, so the troops marched in, loaded Mrs. Hendrickson with three children and their household goods in a wagon and transported them off the land.

54. Patterson to Atkins, 6/16/87. Authority 20788/89. Grierson to AAG, 6/10/87, *Ibid.*

55. Mrs. S. P. Hendrickson to Secretary of Interior, Olio, New Mexico, 6/22/87, LR, 17283/87. W. P. Hendrickson to Ross, Denver, Colo., 4/27/87, LR, 12147/87.

Now, perfect quiet was reported as reigning on the reservation.⁵⁶

Peace may have reigned on the San Juan, but sorrow reigned in the heart of Mrs. Hendrickson, and courage too. She made a last appeal for justice to the highest power in the case, the president of the United States: "Why rob us of our homes where we toil so hard to build up, to enrich, and to beautify the valley of the wilderness . . . we beseech you to give to us our homes."⁵⁷ The letter of course eventually found its way to the office of Indian affairs where it evoked no sympathy and brought about no change in policy. Commissioner Upshaw stated

there are no sentiments of 'justice', 'humanity' or 'generosity', more strongly appealing to the impartial mind in the matter of this recent land controversy, than are to be found on the Indians' side of the case.

He pointed out that the Indians had long occupied the land in dispute and that the executive order of April, 1884, "proved to be a serious mistake" because access to the waters of the San Juan was a matter of life and death to the Navaho. The answer to Mrs. Hendrickson explained that only three settlers were moved and that action "was deemed necessary to permanently maintain peace between the Indians and settlers."⁵⁸ One consolation for the complainant was to have the last word: "Oh shame on a government that will willingly rob its citizens."⁵⁹

The final step in the case was to compensate the settlers

56. See Authority 20788/89. LB 161, pp. 451, 165, 441. (Land Division). Lamar wrote to Teller prior to the eviction urging him to use his influence with the Hendrickses toward their peaceful removal in order to avoid trouble. 7/14/87, Authority 20788/89.

57. *Ibid.*

58. Upshaw to Secretary, 10/14/87, LB 166, p. 40 (Land Division). Atkins to Mrs. Hendrickson, 10/29/87, *ibid.*, p. 340.

59. Mrs. Hendrickson to Atkins, 12/23/87, LR, 155/88.

She made a final appeal to the Harrison administration: "myself & [three] children [were] loaded in a government wagon & left on the county without food or shelter except" for the charity of neighbors. My stepmother was a sister of Joseph A. Wright, governor of Indiana, who died while minister to Prussia. I worked for Harrison in the campaign in Indiana. Mrs. Hendrickson to Secretary of Interior, 4/18/89, Authority 20788/89.

for their losses. Senator Teller introduced an amendment to the Indian appropriation act of June 29, 1888, in the amount of \$10,000 for that purpose. The remaining difficulty was to arrive at a just figure for each settler. Previous reports on this matter were not considered satisfactory. On the instruction of the secretary of interior that all records on the San Juan dispute "should be placed by you in the hands of one of the most intelligent, discreet and painstaking Special Agents of your Office," who should visit the San Juan and investigate the claims in great detail, the commissioner selected George W. Gordon for the task. He made his report in May, 1889. Twenty-one claims were allowed, ranging from \$20 to \$1,520, for a total of \$18,270.70. Disallowing about one-third of each claim, the total was reduced to \$12,280.70, or \$2,280.70 more than the amount appropriated. This difficulty was solved by pro-rating the \$10,000 among the claimants; Hendrickson, for instance, with an allowed claim of \$643.30, was entitled to the sum of \$523.85. This proceeding was held legal by the attorney general.⁶⁰

The outcome of the struggle between the Indian and the white man for a small strip of land along the south bank of the San Juan, was decided in favor of the Indian. This represented a rebuff to the westward rolling pioneer. The attorney general of the United States had advised the secretary of interior that the dispute was of a judicial nature and should be settled in court by a test case. The Navaho was not yet thoroughly familiar with the white

60. Secretary of Interior to Commissioner, 1/29/89, LR, 2976/89. Gordon, Report, 5/29/89, LR, 16079/89. Geo. H. Shields (Asst. Atty-Gen.) to George Chandler (Acting Secretary), 8/31/89, LR, 18773-14, File No. 260.

In the report of Bruce, the claim of Hendrickson was itemized as follows: log house \$150, land grubbed \$7.50, land plowed \$13, crops \$145, fence \$25, corral \$10, ditch \$69, fruit trees \$80, total \$504.50. Acting Commissioner General Land Office to Lamar, 5/13/87, LR, 12794/87.

An assistant to Bruce informed Gordon that the first appraisal had been made hastily and with a too-strong pro-government bias. Blair Burwell to Geo. W. Gordon, Durango, Colo., 6/1/89, Authority 20788.

Wm. P. Hendrickson "impressed me as a weak, foolish, unreasonable, exacting and self-sufficient man." He refused to make out a claim, but wanted \$2,000 or more. Gordon; Report.

W. P. and S. P. Hendrickson may be the same person.

man's judicial practice in all its intricate pattern. He relied upon his own sense of justice, and upon a dogged, determined will to keep the land at all cost. It was his by traditional right, so he believed, and was not to be surrendered. Its economic value to him was above question; to the white people in general, its occupancy by a handful of settlers could be of little importance, either to the general economy or to the progress of civilization, which Mr. Baldwin worried about. Lastly, this struggle is an episode in the history of a land problem that still plagues the Navaho and the government of the United States.