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PROGRESS REPORT TO THE LEGISLATURE

by the

SENATE INTERIM COMMITTEE ON
CALIFORNIA INDIAN AFFAIRS

(Senate Resolution No. 124)

June 3, 1957

MEMBERS OF THE COMMITTEE

SENATOR CHARLES BROWN, *Chairman*

SENATOR STANLEY ARNOLD

SENATOR LUTHER E. GIBSON



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SENATE
OF THE STATE OF CALIFORNIA

HAROLD J. POWERS
President of the Senate

HUGH M. BURNS
President pro Tempore

JOSEPH A. BEEK
Secretary of the Senate

SENATE RESOLUTION No. 124, AS AMENDED

Relative to the creation of the Senate Interim Committee
on California Indian Affairs

WHEREAS, The Senate Interim Committee created by Senate Resolution No. 115 of the 1953 Regular Session of the Legislature, as amended by Senate Resolution No. 33 of the 1953 Regular Session, has filed its report relating to the Indians of California, and in its report has made certain recommendations and has pointed out the existence of certain current problems; and

WHEREAS, The Government of the United States is contemplating action to terminate all federal trusteeships with regard to California Indians; and

WHEREAS, There are several bills pending or to be introduced in the Congress of the United States that will vitally affect in many particulars the welfare of California Indians and also the welfare of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, As follows:

1. The Senate Interim Committee on California Indian Affairs is hereby created and authorized and directed to ascertain, study and analyze all facts relating to the welfare of California Indians and particularly to legislation now pending before the Congress of the United States or that may be hereafter introduced relating to the welfare of the Indians of California and to the interests of the State of California therein and to means of assisting the Indians of California to secure their full rights and the benefits that they may be entitled to including but not limited to the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Senate, including in the reports its recommendations for appropriate legislation.

2. The committee shall consist of three Members of the Senate appointed by the Committee on Rules thereof. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3. The committee is authorized to act during this session of the Legislature, including any recess, and after final adjournment until the commencement of the 1957 Regular Session, with authority to file its final report not later than the fifteenth day after the constitutional recess of that session.

4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly and of the Standing Rules of the Senate as they are adopted and amended from time to time at this session, which provisions are incorporated herein and made applicable to this committee and its members.

5. The committee has the following additional powers and duties:

(a) To select a chairman and a vice chairman from its membership.

(b) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created.

(c) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(d) To report its findings and recommendations to the Legislature and to the people from time to time and at any time, not later than herein provided.

(e) To meet and act both within and without the boundaries of the State of California in pursuing the investigation committed to it.

(f) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The sum of fifteen thousand dollars (\$15,000) or so much thereof as may be necessary is hereby made available from the Contingent Fund of the Senate for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid from the said contingent fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

PROGRESS REPORT ON CALIFORNIA INDIAN AFFAIRS

I. INTRODUCTION

Reference is made to the report of the Senate Interim Committee on Indian Affairs created by Senate Resolution No. 115 at the 1953 Session of the California Legislature. This report was submitted in January of 1955, and contains a substantial amount of background material on the problems of the various Indian groups within this State.

The present report is intended as a supplement to the 1955 report indicating various steps which have been taken since that time by the federal and state governments in an attempt to solve the problems outlined in said report.

It therefore seems appropriate to repeat in full the conclusions and recommendations of the predecessor committee so that an orderly analysis may be made as to the accomplishments, if any, toward the solution of each of the problems therein set forth.

These conclusions and recommendations read in full as follows:

REPRINT OF CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE (1955 REPORT)

1955. CONCLUSIONS

1. *Termination of Federal Responsibility for Indians in California*

The view of the committee continues to be that the question of whether the Congress of the United States should terminate supervision over Indians in California is one exclusively for the consideration of that body. Accordingly, the committee makes no findings and presents no recommendations as to the desirability of such federal termination. However, as earlier reported, Congress has already declared its intention to terminate supervision. Further, every act of all of the federal agencies involved has for some years last past indicated that termination was not only contemplated but was in fact being accomplished. With the passage of each year some federal service formerly furnished to or for the benefit of various Indian groups in California has been curtailed or discontinued. Many of the burdens theretofore assumed by the United States have become the responsibility of the State. Various payments to the State of California for these services have been diminished or abolished and the problem which was heretofore exclusively one between the Indians and the United States, has become a financial problem of the State of California as well. It is for this reason that the committee is suggesting what it considers to be an orderly and equitable plan for the completion of the termination of federal supervision in California.

2. *The Relationship Between the State of California and Its Indian Population*

For purposes of convenience the Indians of California may be divided into two classes.

By far the greater number of Indians of all degrees of blood in California are in the same category as other American citizens residing in this State. They do not live on reservations or other trust property. They appear to have little or no contact with the Bureau of Indian Affairs. They receive no special benefits of any character from the United States Government, except insofar as they may be eligible to participate in Indian claims proceedings involving all of the Indians of California as an entity. These nonreservation Indians number about 25,000. They are for the most part nonorganized and have become integrated into the various California communities in the same manner as citizens of other racial extractions.

The remaining Indians in California, comprising between 7,000 and 8,000, presently reside on reservations, rancherias or allotments, or have an individual and immediate interest therein. It is this group who would be directly affected by the proposed termination of federal administration of Indian affairs. Most of the Indians in this category have an interest in an individual parcel of land, either by virtue of an allotment direct from the Federal Government or by a so-called assignment of property held in trust for the benefit of the tribe as a whole. Upon this group will fall the primary impact of the termination of federal ownership of trust properties.

There is yet another classification of California Indians which cuts squarely across both of the foregoing classifications. Both reservation and nonreservation Indians in considerable numbers have a common and undivided interest in either lands or money held in trust by the United States for the tribe or group to which they belong. Termination of the trust upon which the United States holds these tribal properties will necessarily involve distribution of these undivided interests. The manner in which these interests are held indiscriminately by reservation and nonreservation Indians complicates the problem of distribution in a very material manner.

The reservations, rancherias and allotments now held in trust by the United States vary in both size and value between wide limits. The details of these holdings will be found in other sections of this report.

The committee has been unable to formulate any general formula for the equitable distribution of the varied individual interests in specific parcels of land which now exist. Suffice it to say, therefore, at this point that the rights of Indians or others in and to these lands and in and to various cash funds held by the United States must by force of circumstances be determined and distributed on a reservation by reservation basis.

However, from the standpoint of the services furnished by the State of California there is no distinction between an Indian or a person of Indian extraction living on a reservation and one who lives elsewhere in the State and who owns his property and conducts his affairs in the same manner as any other citizen. The committee has found, for example, that the following services are rendered by the State of California to all of its citizens, Indians and non-Indians, wherever they may reside:

a. Indian citizens of this State are entitled to and utilize school facilities in the same manner and to the same extent as non-Indians.

Financing for these school facilities comes in part directly from the State of California and in part from local real property taxation.

- b. Welfare benefits to indigent Indians are furnished by the political subdivisions of this State to Indians on the same basis and to the same extent as to non-Indian citizens.
- c. Old age and survivors' benefits are paid to the Indian citizens of this State in the same manner and to the same extent as those paid to non-Indians.
- d. Indians are entitled to other governmental services, such as police protection, the use of the courts, the facilities of public defenders, district attorneys, legal aid societies, etc., to the same extent and in the same manner as non-Indian citizens.

In short, the State of California makes no legal distinction in providing services to any class of its citizens, including Indians. The committee believes that this is proper and that Indians are entitled to the full facilities of the state and local governments to the same extent as any other person. The committee was gratified to find substantially no evidence of discrimination against Indians by public agencies of the State and its political subdivisions. There was some testimony of racial prejudice against Indians by members of the public but this seems to be limited to very few instances. Certainly, where discrimination exists it is to be deplored and every effort should be exerted to remove the last vestiges of this concept.

3. *Financial Relationships Between the State of California and the United States Government*

Neither the United States nor the Indians themselves are paying real property taxes on the lands held in trust by the United States for various Indian groups in this State. The State of California and its political subdivisions are, therefore, in the position of furnishing governmental services to the Indians who reside on these lands or have an interest therein without receiving tax benefits on the value of the holdings. This casts an unfair tax burden on the other real property taxpayers in these areas, whether these other taxpayers be Indian or non-Indians. It has been conservatively estimated that a minimum of \$454,288 per annum is being lost to the political subdivisions of this State because of the nontax status of these trust lands. (A complete breakdown by county of this estimate, together with a communication from the Department of the Interior on the subject will be found attached to this report marked Appendix "H.")

The termination bill which was before the Eighty-third Congress in 1954 (S. 2749 and H. R. 7322) would have granted exemption from taxation by California on certain categories of trust land even after termination of federal ownership thereof. It would seem that there is grave doubt as to the constitutionality of the United States endeavoring to project its sovereign immunity from taxation beyond the period of time when the United States itself holds title to such California property. Aside from the question of constitutionality, however, the committee suggests that if the United States desires to relieve certain classes of Indians such as minors and aged persons from the bur-

den of taxes then it should compensate California in an equivalent amount in lieu thereof.

The State of California and its political subdivisions are now receiving from the United States certain sums for special purposes in connection with its Indian population, as follows:

- a. Education—\$205,000. (The details of the payment constituting this total will be found in another section of this report. It should also be noted that the latest information indicates that it is the plan of the Government of the United States to reduce this allotment by the sum of \$50,000 each year so that within a short period of time no special funds will be provided for this purpose.)
- b. Hospitalization—\$75,046. (The details of the payments constituting this total will be found in another section of this report. It is also understood that these payments may be discontinued in the foreseeable future.)
- c. Division of Forestry—(The details of the payment constituting this payment will be found in another section of this report.)

It appears clear, therefore, that even the modest assistance now being rendered to the State of California by the United States is being rapidly discontinued and will soon cease to exist.

4. *Problems of Termination and the Direct Cost Thereof*

It is the opinion of the committee that the following problems must be solved and the financial cost thereof provided for by the United States prior to the termination of federal interest in the Indians of California:

- a. The general access roads involving Indian properties should be completed to such a standard as will make the same acceptable for maintenance by the counties. It has been estimated that there are 400 miles of such roads, including 10 bridges and that the construction cost would be \$5,000,000.
- b. Provision must be made for the establishment of water rights under state law at all trust properties. To this end a commission, such as that suggested in the report of the State Department of Water Resources, should be established at an estimated immediate cost of \$75,000, which funds need to be supplemented to the extent that any subsequent proceedings or litigation is required to determine these rights. Provision should further be made for the establishment of the rights of individual water users within the trust property after the division of the land has been finally determined. No estimate of the ultimate cost of establishing these water rights is presently available.
- c. All of the exterior boundaries of the trust properties should be surveyed and a report made of any variances between the survey lines presently established and the original boundaries contained in the particular parcel. Provision should also be made for the designation and survey of individual parcels within the trust property when the distribution of these parcels shall have become established. (No estimate of the cost of these surveys is presently available.)

- d. Provision should be made for the final determination of all cases involving heirship or probate matters affecting Indian properties now under the jurisdiction of the Department of the Interior. (No estimate of the cost of these proceedings is presently available.)
- e. Provision should be made for the immediate official and final establishment of the persons entitled to share in the lands or other assets now held in trust status, with adequate provision for an appeal by persons claiming an interest in said properties who have been denied the same. Further provision should be made for a vote of the persons found to be entitled to land ownership as to its ultimate disposition to the extent that such disposition has not already been committed to any individual or group. (No estimate of the cost of these proceedings is presently available.)
- f. A statewide education and orientation program should be undertaken under the direction of qualified educators to fully inform all Indians as to the nature and extent of their rights and to orient them to special problems which will be presented to them in the event of termination of federal supervision. (No estimate of the cost of this program is presently available.)
- g. Provision should be made for the immediate completion of irrigation and other works projects deemed necessary on the trust properties in order that the same will be in reasonable usable condition at the time of termination. (No estimate of cost for this construction is presently available.)
- h. A complete accounting should be furnished by the Department of the Interior to each group of persons entitled to a property interest in a trust property of all funds received by the United States in trust for these persons and any disbursements which have been made therefrom. A recent report on this subject by the Bureau of Indian Affairs is attached hereto as Appendix "I." (The cost of a complete accounting is not presently available.)
- i. Provision should be made for the cancellation of all liens held against trust property by the United States. Details as to the amount and nature of liens presently existing will be found elsewhere in this report. In this connection the committee is of the opinion that many of the projects which form the basis for these liens were either not economically feasible when constructed or constitute such a burden in relationship to benefits that it is economically not feasible for the liens to be repaid.
- j. Provision should be made for legal and other assistance to the Indian owners of trust properties to enable them to make intelligent decisions and legally sound arrangements for the management of any properties they desire to operate as community ventures. In this connection it should be noted that the report of the Division of Forestry of the State of California alone indicates an increased annual expenditure of \$44,865 for forest fire protection and an additional sum for timber supervisory service.

1955 RECOMMENDATIONS

The committee recommends that in order to avoid injury to the affected Indians of California any federal legislation for termination of trusteeship status shall be accomplished in the following fashion:

A. Establish Lists of Property Owners

That prior to the thirty-first day of December, 1956, the Department of the Interior finally and officially establish ownership lists (or rolls) for each of the affected Indian properties in California. It is believed that persons having an interest in these properties should be entitled to vote as to the method of disposition of the property but that no such vote could be either authentic or complete until such time as these ownership lists are established since the right to vote should be dependent upon the right of an ownership interest. In this connection rules of general applicability should be established, setting forth tests which will govern the right to an interest in the properties. The rules should be reviewed by a special panel of judges preferably appointed by the Judicial Council of California with power to recommend changes to the Secretary of the Interior prior to actual establishment of the "lists." (Under present practice, for example, it has been observed that in some instances the right of a person to an ownership interest in trust property may be dependent upon the vote of an existing tribe or group who stand the most to gain by not having additional participants. This in turn has given rise to a series of complaints of unfair discrimination and similar matters.) Adequate provision for appeal in individual cases should also be provided probably through the same panel of judges.

The committee has avoided the use of the term "tribal roll" for the reason that as applied to the trust properties it appears to be exceedingly confusing. For the most part groups or bands of persons living on the trust properties or most directly claiming an interest therein are not necessarily members of the same tribe. More often than not, these persons represent composites of many tribes with a considerable percentage of non-Indian blood noted. The committee, therefore, believes that the problem should be dealt with on the basis of *persons* rather than either "tribe" or percentage of Indian blood. It is recognized that historically certain lands were acquired for or were the property of certain tribes or certain named bands. To the extent that these members or their successors can be identified, this would undoubtedly constitute one of the tests in the rules adopted for determining an interest in the property. However, the problem is compounded by others moving into the property, marrying into the group or otherwise establishing a property claim. In other cases, properties were acquired for landless "Indians" and a different test will undoubtedly have to be applied.

Accordingly, the committee has come to the conclusion that the problems of each of the parcels of trust properties must be separately considered since they are so varied that no exact pattern could be established on a statewide basis. It is to emphasize this point that the committee has sought to avoid generalities by not using the term "tribal rolls" and by not seeking to define the percentage of Indian blood required for participation.

The term tribal "roll" has also been avoided for another reason. Since 1928 federal authorities have compiled a so-called "roll" or "enrollment" of California Indians in connection with claims asserted by the Indians of California against the United States. The first roll was in connection with a proceeding brought against the United States in the Court of Claims on which judgment has been rendered. More recently this enrollment has been extended for the purpose of claims presently being prosecuted before the Indian Claims Commission. Because of the nature of the claims asserted in these proceedings, eligibility of enrollment was based upon the ability of any person to trace his ancestry to an Indian who was resident in California in 1852 or upon other designated dates. It is believed that these existing rolls have no necessary relationship to the problem of ascertaining the identity of persons entitled to share in the distribution of specific trust properties for the reason that these distributive rights arise out of entirely different circumstances.

B. Interim Activities of the United States

The committee believes that many of the subsequent steps involved in termination cannot be undertaken until after the final establishment of the ownership lists for the reason that these subsequent procedures in part depend upon the wishes of the property owners and no decision from such owners could be obtained until properly identified. However, there are several matters which can be accomplished during the same period that the lists are being concluded and it is recommended that the following fall within that category and should be accomplished as indicated.

1. Construction of Roads

An immediate appropriation should be made in the amount necessary for the complete construction of access roads within trust properties, as indicated elsewhere in this report, and contracts be entered into with the county boards of supervisors in the affected counties, providing for the construction of such roads by the county. In this manner such construction will be speeded up and completed and the counties placed in a position where the roads can be brought up to standard and accepted for maintenance.

2. Exterior Surveys of Trust Properties

Sufficient money should be appropriated to survey all exterior boundaries of trust properties and authority provided to the Bureau of Indian Affairs or some other federal agency to contract the work to be performed. Here, also, the work would be accomplished much more rapidly through private contracts to make way for the next step in the termination process.

3. Audits of Trust Funds Provided

The Department of the Interior should provide audit statements on the exact origin, history and usage of trust funds for each of the trust properties.

4. Preliminaries Regarding Water Rights

Fact-finding and other procedures in connection with water rights should be instituted and sufficient funds appropriated for this purpose, as indicated in the committee report.

5. *Limit Interim Activities of Indian Bureau*

The management of trust properties, construction and maintenance of irrigation and other works within the properties should continue but, with this exception, the Bureau of Indian Affairs should stop all of its activities in California except those related to termination in the successive steps as outlined. Such cessation of activities should include immediate discontinuance of the sale of Indian properties or Indian assets or any other activities pending final determination of the persons entitled to designate what they wish done with the property and assets involved.

C. *Interim Activities of the State of California*

During the period prior to the adoption of the final ownership lists it is believed that the State of California may and should render substantial assistance to the California Indians and to the United States Government in the following manner:

1. *Governor's Commission on Indian Affairs*

Upon the recommendation of this committee, the Honorable Goodwin J. Knight, Governor of the State of California, has created a Governor's Commission, consisting of representatives of the state departments most affected by the problems of Indian trust properties, to act as a liaison and to provide technical assistance in the transition period prior to termination. The committee considered and discarded the idea that a special Indian Bureau should be set up by the State of California for the reason that it is difficult to see how the situation would be improved by the transfer of jurisdiction from one bureau (federal) to another bureau (state). However, the committee believes that the enormously complex problems attendant upon this transition requires that every assistance be available to the Indians and to the United States and for this reason the Governor's Commission has been established as a coordinating body at the highest levels of State Government. The need for this organization is considered temporary but vital and additional liaison with the California Legislature has been provided by the designation of the counsel of this Senate Committee as a member of the Governor's Commission. The order of the Governor in connection with this matter and designating the membership of the commission is attached to this report as Appendix "J."

2. *Orientation Program by the Department of Education*

The State Department of Education should establish a one-year statewide orientation and education program to insure that all of the affected Indians within this State are fully informed as to the pending decisions they will be called upon to make and generally to provide an intensive course of study in special problems to those Indians who may not have the opportunity to advance themselves as rapidly as other citizens of this State. Discussions with the Department of Education have indicated that such a program is practical and that its execution through coordination by the state department with local school districts is feasible. It would provide also the additional advantage of finally and completely integrating the education of Indians within the local school districts where this has not already been accomplished. Finally, it would reduce to a minimum the number of

Indians who, it has been feared, might not be competent to handle property transactions without being imposed upon by designing persons. It is obvious, of course, that the measure and intensity of this planned education and orientation program will vary considerably with the locality of residence of Indians involved since many of the trust properties contain Indians of a very high degree of education, and little or no additional education facilities would have to be offered there. On the other hand, in some instances the remote location of the trust property or the residence of the Indian may require mobile units to attract sufficient interest and to bring the program close enough to the individual family or group to be effective.

3. *Assistance From Successor Senate Committees*

A successor committee of the California Senate should be appointed and the staff thereof be assigned the responsibility of co-ordinating the State's activities in termination. The staff of such successor committee should also be available for consultation with the attorneys of the Department of the Interior to thoroughly analyze and investigate the cost of an expeditious termination of all pending heirship cases. No detailed plan for such termination is suggested at this time because of insufficient information on the exact status of each of these probate matters. However, disposition of these cases should be concluded or at least adequate provision be made for their conclusion prior to termination since the cost of handling these matters would be beyond the financial ability of the individual Indian or family to pay. It is to be hoped, therefore, that during the period prior to the completion of the ownership lists the State of California, in consultation with the Department of the Interior, can evolve a plan which will provide for speedy and satisfactory conclusion of these cases.

D. *Voting and Distribution of Trust Properties*

Upon the final adoption of all ownership lists it will then be possible to take a vote of the eligible owners of each of the affected trust properties as to what the owners thereof wish to do with the same. Thereafter, insofar as is practical, this committee recommends that the property be disposed of in accordance with such vote. It is expected, therefore, that soon after January 1, 1957, the second phase of the termination program can be undertaken. Thereafter it is suggested that the following steps may be concluded *and final termination completed prior to July 1, 1959.*

1. Determination by the owners of trust properties as to how much they wish to become individually owned and how much they wish to operate in common followed by internal surveys and establishment of internal water rights in accordance with distribution plans.
2. As to the items which the group determines should be operated in common, decision can be made by the owners as to the methods of such operation; that is, whether nonprofit associations or corporations would be desirable or whether some other form of recognized legal entity should be used.
3. Prior to January 1, 1957, final plans for the handling of heirship cases together with the costs thereof should be formulated. Staff and appropriations should be made available to expedite the winding up of

heirship estates in anticipation of the date when actual federal ownership of the trust property involved will occur. Consideration should be given to a provision in the termination act which would immediately divest federal ownership of trust property allotted to any individual who may die following the effective date of the termination act with provision that such property should immediately pass into the jurisdiction of the California probate courts for distribution in accordance with the laws of California.

E. Validation of Custom Marriages for Inheritance Purposes

The committee has been informed that so-called tribal custom marriages are recognized as valid by the Department of the Interior in probating estates involving properties within its jurisdiction. To provide like protection to the Indians as to properties within or to come within the jurisdiction of the succession laws of this State, it is recommended that the following statute be passed by the California Legislature:

An act to add Section 257.5 of the Probate Code, relating to succession from members of Indian tribes, bands, and groups.

The people of the State of California do enact as follows:

SECTION 1. Section 257.5 is added to the Probate Code, to read: 257.5. For the purpose of application of the laws of succession set forth in this code, an alliance, entered into prior to December 31, 1954, which by custom of the Indian tribe, band, or group of which the parties to the alliance, or either of them, are members is commonly recognized in such tribe, band, or group as marriage, is deemed a valid marriage under the laws of this State. In the case of such marriages and for such purpose a separation, effected prior to December 31, 1954, which by custom of the Indian tribe, band, or group of which the separating parties, or either of them, are members is commonly recognized in such tribe, band, or group as a dissolution of marriage, is deemed a valid divorce under the laws of this State.

F. Decentralization of Termination Procedure

The committee strongly recommends that the administration of the termination process be decentralized. Authority to make the innumerable decisions inherent in the termination process should be vested in an official located in California where decisions can be made on the spot. The committee suggests that the Termination Act should provide for the appointment by the Secretary of the Interior of a personal representative, responsible to him alone, in whom such authority is vested. This "Director of Termination" should be wholly independent of existing procedures within the Bureau of Indian Affairs in order to concentrate on the termination process and should be responsible directly to the Secretary of the Interior.

The committee believes that litigation of certain matters will become necessary before the termination process can be completed. Consideration should therefore be given to providing prompt and adequate legal service to the Director of Termination consistent with the duties and responsibility of the Attorney General of the United States.

G. Each Reservation or Rancheria Should Be Separately Considered

One of the major problems of termination is the diversity of land acquisition, the extent of prior distribution or usage, and the possible choices as to permanent distribution vary from parcel to parcel.

For example, a Southern California reservation may contain 2,000 acres of which only 200 are arable and presently used for purposes of residence and farming. The remaining 1,800 acres are rocky hillside and arid land which has no productive value because of the lack of water. A small group of families, numbering perhaps 50, live on the reservation. The reservation has been patented to a designated tribe by name of which there may be 500 living members. The 450 members live off the reservation are scattered throughout Southern California. Many of them are at least one generation removed from any residence or actual interest in the use of the reservation itself.

This pattern while subject to infinite variations is typical. Variations include residence on the reservations of nonmembers of the tribe to which the reservation is patented. Small groups of nonresident members of the tribe may make some seasonal or annual use of available pasturage for herding cattle. In at least one case residence by a nonmember of the tribe was authorized by the Bureau of Indian Affairs at a time when no member of the tribe had been in residence or shown any interest in the reservation for some period of time.

It seems evident that actual distribution of the land in such instances poses complex and difficult problems. Not the least of these problems is the balancing of interest between residence on a favored part of the reservation and the undivided common interest of tribal members who have been long nonresidents. The problem is not lessened by the long established policy of encouraging reservation Indians to leave the reservation and enter the white man's community.

The committee understands that some reservations such as Palm Springs and Hoopa are sufficiently valuable to justify the incurring of substantial costs in working out the details of an equitable distribution of communal properties. However, by far the greater number of reservations and rancherias do not fall within this category. Many of them comprise lands and facilities which have at best a very nominal value. There are literally thousands of acres so arid and nonproductive that their individual owners will find difficulty in developing a profitable use which will warrant the payment of taxes. Consequently the committee feels that the problem of distribution can only be approached on a reservation by reservation basis.

Termination of federal ownership of trust properties should also be carried out on the basis of maximum return to the Indian and the minimum cost of administration. The cost of administration must, of course, be borne by the United States. The testimony given before the committee establishes very clearly that the cost of any equitable distribution of certain reservations will far exceed the value which the Indians entitled thereto will receive. Nevertheless, the problems may be exceedingly complex and, within reasonable limitations, the interests of justice require that the problems of all reservations and rancherias receive competent and careful attention.

of Indian Affairs. The additional expenditures involved in this bill, together with those involved in the three similar bills before your committee with respect to different rancherias, are estimated at approximately \$22,450 for all four bills.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

HATFIELD CHILSON
Acting Secretary of the Interior

ANALYSIS OF H. R. 2838

Section 1 of the bill specifies the rancherias and reservations involved and directs the distribution of their assets in accordance with the provisions of the bill.

Section 2 of the bill requires the Indians involved, or the Secretary of the Interior after consultation with the Indians, to prepare a plan for distributing the assets, or for selling the assets and distributing the proceeds of sale, or for conveying the assets to a corporation designated by the group or to the members of the group as tenants in common. General notice of the plan must be given, and after the Indians affected have been given an opportunity to object the plan must be submitted to the vote of the Indians who will participate in the distribution. If a majority of those voting approve the plan, it will be carried out. No provision is made for any further action if a plan is not approved.

Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups are not well defined. Moreover, the lands were for the most part acquired or set aside by the United States for Indians in California generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land.

Section 3 of the bill requires the Secretary of the Interior to make any surveys that are necessary to convey marketable titles, to complete the construction of any access roads that are scheduled for transfer to the state or local government, to install or rehabilitate the irrigation or domestic water systems that he and the Indians agree within a reasonable time should be completed by the United States, to cancel all reimbursable debts that are charges against the land, and to make any land exchanges that are desirable before the federal trust is terminated.

Section 4 of the bill affirms present Indian water rights, makes inapplicable for 15 years the California law with respect to loss of water rights by nonuse if the land remains in Indian ownership, and requires the Attorney General of the United States to represent the Indians in any proceedings during that period involving their water rights.

Section 5 of the bill authorizes the disposition of federal property on the rancherias or reservations that is not needed for the administration of Indian affairs.

Section 6 of the bill requires the distribution of all funds held by the United States in trust for the Indians of the rancherias or reservations.

Section 7 of the bill protects pending claims.

Section 8 of the bill provides for protecting the interest of minors and incompetents by guardianship proceedings or by such other means as the Secretary deems adequate, which includes the use of private trusts if advisable.

Section 9 of the bill provides for an accelerated program of education and vocational training before the assets are distributed.

Section 10 of the bill authorizes the issuance of necessary rules, regulations, and conveyancing instruments.

Section 11 of the bill authorizes necessary appropriations.

2. BACKGROUND MATERIAL ON BIG SANDY, COLD SPRINGS, NORTH FORK, PICAYUNE AND TABLE MOUNTAIN RANCHERIAS

Background Data on the Big Sandy Rancheria, Fresno County

History. The people living on this rancheria belong to the Mono Tribe of Indians. The early habitat of the Mono Tribe was in Inyo County in western California and neighboring counties in Nevada, a little to the west of the location of the rancheria. In recent years the tribe has been identified with the Paiutes and were counted with that group in the 1930 census. The Big Sandy Rancheria (Auberry) was established in 1909 when 280 acres were purchased for \$2,800 with funds appropriated by the act of June 21, 1906 (31 Stat., 325-333), and the act of April 30, 1908 (35 Stat., 70-76), which made funds available "to purchase for the use of the Indians of California * * * suitable tracts or parcels of land, water, and water rights in the said State. * * * " The people of this rancheria are not organized under the Indian Reorganization Act.

People. In 1909 the rancheria was purchased for the use of 114 people. A census in 1933 enumerated 129 people living here, but at present the population is 54. Many Indians who are considered members of this group moved away during the war and have not returned. This group does not have a current approved roll.

Lands. Title to the 280 acres comprising this rancheria is in the name of the United States in trust for the Indians in California. The land is generally of poor quality which accounts for the fact that it is used primarily for homesites. The homesites are scattered throughout a plot of approximately 80 acres. The remaining land is steep slopes covered with brush and scrub trees. There is a domestic water system pipe line to the homesites, but it is in bad repair. The Government owns two buildings on the rancheria, a former school house, and a former teacherage, which are now being used by the Indians as residences. There is a question as to whether the cemetery is actually located on these trust lands. The access roads do not extend to all parts of the rancheria.

Sources of Income. The income of this group is derived primarily from lumber work. The workers must leave the rancheria to obtain this

employment. The wages are good and those who follow this trade can adequately support themselves. No distinction is made by the county between these people and other citizens. Those who qualify are given social services and other welfare benefits.

Bureau Services. The only service rendered by the bureau is in connection with the trust status of the 280 acres. The children of school age attend public school in Auberry, which is about two miles from the rancheria. The local school district does not receive additional funds under the Johnson-O'Malley Act between the bureau and the State of California. The water system was put in by the bureau in 1938, but is now in a bad state of repair. There is a lien of \$225.75 against the land because of this improvement.

Attitude Toward Withdrawal of Federal Trusteeship. The group on this rancheria passed a resolution on December 7, 1953, requesting that a fee patent be issued to each resident of the Big Sandy Rancheria for their share of the rancheria property.

Special Problems in Connection With Termination of Federal Trusteeship. They ask that a road be built at government expense to the isolated part of their rancheria; that the domestic water system be repaired and enlarged; that the government buildings be given to the Indians who are now using them as homes; and that, if a survey indicates that their cemetery is not on trust lands, it be acquired to be held in common. As of August, 1955, it was estimated that the amount needed to carry out their requests would be as follows:

Roads (1.2 miles) -----	\$17,000
Land survey -----	1,700
Domestic water system -----	8,000
Assistance to establish legal entity in conformance with California state laws -----	1,000
Appraisal of property -----	700
Programing and planning -----	2,000
Total -----	\$30,400

Background Data on the Cold Springs Rancheria, Fresno County

History. By Executive Order No. 2075 of November 10, 1914, the President excluded 160 acres from the Sierra National Forest for the Cold Springs Band of Indians living in the area. The order did not mention the number of Indians there, but in 1933 there were 90. Today there are 48. These people belong to the Mono Tribe and have habitually made their home in the area where the rancheria was established. In recent years this group has been identified with the Paiutes and they were counted with that group in the 1930 census. These people are not organized under the Indian Reorganization Act, but they have an informal council with recognized officers.

People. The people are occupying this land under 13 informal assignments made with the consent of the group. The rancheria is divided into two 80-acre tracts. One family lives on one of these tracts and the other people make their home on the other 80-acre parcel. They use the land primarily for homesites. Four of the people who make their home here are over 65 years of age, and there are 16 children of school age. There are 13 wage earners among these people. This group does not have a current approved roll.

Land. The two 80-acre parcels are not contiguous. There are steep slopes on both of the parcels with an elevation rise to 2,041 feet. These pieces of land are isolated from main avenues of traffic, but there is a fairly good road to the nearest town, Tallhouse, some seven miles distant. The land is not suitable for cultivated agriculture, but it has some grazing potential, and it is used for that purpose to a limited extent. Each of the parcels has a source of water. In one location there is a spring, and on the other location there is a dug well. Tungsten may be present on one of the plots, and a mining lease has been issued to some outsiders interested in making explorations. No Indian cemetery is on the rancheria.

Sources of Income. One of the assignees has a herd of Hereford cattle and supports his family from income from this herd. Most of the workers, however, earn their livelihood by seasonal work off the rancheria, usually in the agricultural pursuits. Many of the homes are in a bad state of repair since the average yearly income of the wage earner is below what is considered adequate.

Bureau Services. Services extended by the bureau are limited to the trust status of the land; no social services are performed by the bureau for the people living here. The bureau leased part of the land for tungsten explorations and maintains an account (\$60 in 1955) for the group from these rentals. A water system was installed in 1938. There is a lien in the amount of \$331.56 against the land because of this improvement. All the children attend public school.

Attitude Toward Withdrawal of Federal Trusteeship. On December 14, 1955, at a general meeting of the assignees, a resolution was passed requesting that the government give them fee patents to their holdings. They asked that an internal survey be made in order that each assignee would have a legal description of his property.

Estimated Cost to Effect Withdrawal of Federal Trusteeship. In December of 1955, it was estimated that the following amounts would be necessary to carry out the wishes of this group:

Land surveys -----	\$1,100
Improvement of domestic water system -----	2,000
Legal assistance -----	500
Property appraisals -----	400
Programing and planning -----	1,500
Total -----	\$5,500

Background Data on the Table Mountain Rancheria, Fresno County

History. In 1914, 160 acres of land were purchased for \$4,600 in Fresno County to establish the Table Mountain Rancheria. There were 90 Indians in this vicinity at that time. These lands were purchased under the authority of the act of August 1, 1914 (38 Stat. 582-589). The Indians living on this rancheria did not accept the Indian Reorganization Act.

People. Today there are 55 people on the Table Mountain Rancheria, consisting of 12 families. They are a comparatively young group of people, with 32 children (13 of whom are of school age).

There are 10 wage earners. None of the inhabitants are over 60 years of age. There is no approved membership roll.

Land. Only part of the rancheria is used for rural homesites. The remaining acres are steep and rocky, but are used by a non-Indian under a grazing lease. The rancheria is adjacent to a paved county road, with access roads leading to the homesites. These access roads are in need of considerable improvement. The cemetery for this group is not located on the rancheria land. The people there are concerned about access to this burial ground. A water system was developed, but the well went dry and another one is needed. There is a lien against the land in the amount of \$1,055.07 because of the water system.

Sources of Income. These people work at miscellaneous jobs in the area, mostly in farming. Their incomes are uncertain since employment opportunities are definitely limited.

Bureau Services. The bureau proposes to expend \$20,000 to complete the road system. This amount was set up in the 1958 budget. The bureau also proposes to improve the water system. These projects are being undertaken because of the trust status of the land. The bureau renders no services to these people because they are Indians. They receive social welfare services from the county and the State. The bureau maintains in its Sacramento office an individual money account for this group and deposits in it receipts from the grazing lands (\$820).

Attitude Toward Withdrawal of Federal Trusteeship. On November 4, 1955, this group, through a resolution, asked that they be given fee title to their individual assignments after the water systems and roads had been completed. They also asked that the lien against the land be canceled.

Estimated Cost to Effect Withdrawal of Federal Trusteeship. The local Bureau of Indian Affairs' officials estimated that the following sums would be necessary to effect transfer of titles:

Land survey	\$1,000
Domestic water system	3,000
Legal assistance	500
Appraisals of property	700
Programing and planning	1,500
Total	\$6,700

Background Data on the North Fork Rancheria, Madera County

The 80 acres making up this rancheria were purchased in 1914 for \$550. At that time there were an estimated 200 Mono Indians living in this area. By 1933, however, the number had dropped to a mere seven, and today only a mother and her two sons occupy the land as a rural homesite.

The land has a very limited grazing value. It is not used for that purpose. The domestic water is obtained from a spring. The land does not have a lien against it because of any improvement. The homesite is about two miles from an improved road. The Susan Johnson family has an assignment to the entire 80 acres. There is no approved membership roll for this group.