

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 28, 1968.

HON. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: You have requested our views on H.R. 13516, a bill "To amend the Act of September 21, 1959, relating to the Palm Springs Indian Reservation."

We recommend that H.R. 13516 be enacted in the form of the enclosed draft bill.

The 1959 Act (73 Stat. 602) provided for the granting of equalized allotments of tribal land located in and near Palm Springs, California, to all members of the Agua Caliente Band of Mission Indians living on September 21, 1959. Children born after that date received no allotments. Section 4 of the Act provides:

"The Secretary shall request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who in his judgment are in need of assistance in handling their affairs in accordance with applicable State laws before making any equalization allotment or payment to such persons."

Under this provision, guardians were appointed for all minor members of the band for whom guardians had not previously been appointed, and conservators were appointed for adult allottees considered in need of assistance in handling their affairs. These guardianships and conservatorships are administered by the Superior Court of Riverside County, California.

The Department, through a special task force, has recently completed a review of the administration of these guardianships and conservatorships, and has concluded that the system has been intolerably costly to the Indians in both human and economic terms and should be replaced or radically revised. A copy of the task force report was sent to you by letter of April 2, 1968. The task force found that more than 44 percent of the ordinary income (exclusive of proceeds from sales of land) accruing to 84 (out of a total of 92) Indian estates had been expended for administration, primarily for fees paid to fiduciaries and their attorneys. It concluded that, quite apart from consideration of how honestly or efficiently it has been administered, a system which consumes so large a part of what it produces in administrative expenses must be deemed aberrant.

The task force also found great dissatisfaction among the Indians because of the state of dependency and ignorance of their own affairs in which they are kept under the present system. Adults have little opportunity to learn to manage their own affairs. Almost routinely, upon an Indian's coming of age he is subjected to a conservatorship.

Although the Secretary of the Interior is charged by law to supervise and approve all transactions involving Indian trust property, such transactions are cited in justification of the major portion of fiduciary and attorney fees. There is considerable duplication of the proper functions of the Secretary by the fiduciaries and attorneys to the economic detriment of the Indians.

We have reviewed H.R. 13516 and a draft bill transmitted to us by counsel for the Agua Caliente Band. We are persuaded that steps stronger than those contemplated by either of these proposals should be taken. We believe that our substitute bill would provide the necessary authority to take the actions to remedy this situation.

While it is our belief that the Secretary under existing law has some of the authority which the substitute bill provides, we feel that it would be helpful to reinforce this authority by legislation which, among other reasons, would obviate doubts of title of examiners and financial institutions.

H.R. 13516 would amend section 4 of the 1959 Act by retaining its present provision, quoted above, as subsection (a) and adding subsections (b) through (f). There is no need to retain the language of the present section 4 since all allotments authorized by the 1959 Act have been made, and the provision of the section has been executed.

The new subsection (b) would direct the Secretary to review periodically the guardianships and conservatorships established for allottees whose estates contain trust property or income from trust property; to petition for termination of conservatorships for adult allottees capable of managing their own affairs; and to petition for removal of fiduciaries whose actions endanger the estates of allottees under their charge.

Subsection (c) would authorize the Secretary to request accountings from