fiduciaries appointed under section 4 of their management of trust property and income therefrom, and would request removal of those who fail to give a satisfactory accounting.

Subsection (d) would require Secretarial approval of appointments of fiduciaries for allottees whose estates contain trust property or income from trust property.

Subsection (e) would require Secretarial approval before a conservator can be appointed to administer the trust property of an Indian under guardianship, upon his coming of age.

Subsection (f) would preserve existing Secretarial authority to protect the interests of allottees.

H.R. 13516 seeks to remedy the deficiencies and abuses of the present system by interposing the Secretary of the Interior between the court-appointed fiduciaries and the Indians. Under its provisions, the Secretary could request the removal of malfeasant fiduciaries and control the appointment of future fiduciaries, but only with respect to trust lands and income therefrom and to members of the band who were allottees under the 1959 Act.

We believe that these limitations are unwise and unnecessary. When trust land is sold or leased, the proceeds, if paid over to fiduciaries rather than being retained under Secretarial control, lose their Federal trust identity. The court-appointed fiduciaries manage such proceeds and other nontrust assets. Attempting to measure or limit the powers of the Secretary to take protective action as to that portion of an Indian's estate in the hands of a fiduciary which represents proceeds from trust property would be a complex undertaking, practically and conceptually.

Moreover, the protective powers which would be granted under H.R. 13516 are all referenced to guardianships and conservatorships established under section 4 of the 1959 Act. Their exercise would thus be restricted to situations involving members of the band who were allottees under that Act, and could not be exercised on behalf of other members for whom guardianships or conservatorships may have been set up under State law outside of that Act; for example, children born after September 21, 1959, who have received trust property by devise or descent. We are convinced that the Secretary should have full control over the appointment and continuance of fiduciaries for any members of the band; that such fiduciaries should take no part in the management of trust property, except upon request by the Secretary; that the Secretary should assume control, wherever necessary, of funds of Agua Caliente Indians now under fiduciary control; and that he should, wherever necessary, control and manage, for members of the Agua Caliente Band, all their funds and property held in trust by the United States.

Our proposed bill would amend the 1959 Act by striking the present language of section 4 and substituting a new section 4 containing five subsections. As noted, the present provision of section 4 has been executed and its retention is unnecessary.

Subsection (a) of the proposed substitute bill stipulates that no guardian, conservator, or other fiduciary shall be appointed under State law for any member of the band, or continued in office, without Secretarial approval. This not only encompasses the provisions of subsections (b), (d), and (e) of H.R. 13516, but goes beyond them in that its operation is not limited to trust property and income therefrom. Moreover, this section, as do all sections of the proposal, covers not only the estates of allottees under the 1959 Act, but those of all members of the band. It will enable the Secretary to remove fiduciaries whose activities are not clearly in the best interests of the Indians; to prevent the automatic appointment of conservators for minors when they reach majority; and to control all appointments of guardians and conservators.

Subsection (b), which follows closely the provisions of the bill proposed by the band, prohibits court-appointed fiduciaries, even those serving with the approval of the Secretary, from handling trust or restricted property or from receiving fees for services in connection with such property without specific Secretarial approval. It furthers authorizes the Secretary to regulate the management and disposition of trust property and to provide protection for minor and incompetent members of the band without the participation of the court-appointed fiduciaries.

While we are of the view that the Secretary possesses the authority provided by this subsection—since existing laws providing for the disposition of trust property stipulate that such dispositions shall be subject to the approval of the