

PROVIDING THAT THE UNITED STATES HOLD IN TRUST FOR THE INDIANS ENTITLED TO THE USE THEREOF THE LANDS DESCRIBED IN THE EXECUTIVE ORDER OF DECEMBER 16, 1882, AND FOR ADJUDICATING THE CONFLICTING CLAIMS THERETO OF THE NAVAHO AND HOPI INDIANS

JULY 19, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs, submitted the following

R E P O R T

[To accompany S. 4086]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 4086) to provide that the United States hold in trust for the Indians entitled to the use thereof the lands described in the Executive order of December 16, 1882, and for adjudicating the conflicting claims thereto of the Navaho and Hopi Indians, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

The purpose of S. 4086 is to provide that the United States shall hold in trust for the Indians entitled to the use thereof certain lands described in the Executive order of December 16, 1882, and that the United States shall adjudicate the conflicting claims of the Navaho and Hopi Indians on said lands. Companion bills H. R. 11876 and H. R. 12059, introduced by Congressman Udall and Congressman Rhodes of Arizona, were considered jointly with S. 4086.

S. 4086 has two specific provisions: First, it would declare that the lands (2,472,216 acres) described in the Executive order dated December 16, 1882, are held in trust by the United States for the Indians entitled to be thereon. Second, it authorizes an adjudication by a three-judge district court of the conflicting claims of the Navaho and Hopi Indians to the lands set aside by the 1882 Executive order. The litigation will be in the nature of a quiet title action.

The 1882 Executive order set aside the lands "for the use and occupancy of the Hopi and such other Indians as the Secretary of the Interior may see fit to settle thereon." These lands are now completely surrounded by the Navaho Reservation, and ever since the establishment of the 1882 reservation there has been a dispute between the Navaho and the Hopi Tribes as to their respective rights on these lands. The Hopi Indians claim that they have exclusive use of the 1882 reservation, and the Navaho Indians claim they are the "other Indians" whom the Secretary of the Interior has seen fit to settle on the lands and that they have valid interests in the reservation.

Although repeated efforts have been made to settle this conflict administratively, the situation has become progressively worse. The committee does not believe that Congress should attempt to determine the merits of this controversy, which is primarily legal in nature. Therefore it recommends the passage of this enabling legislation to permit the controversy to be litigated in the courts.

The Navaho Tribe and the Hopi Tribe, through their governing bodies, have requested this legislation, and the bill was drafted by the attorneys representing the tribes, in consultation with representatives of the Department of the Interior. The litigation to determine the conflicting interests of the Indians may be started by either tribe, or, if they do not take the initiative, by the Attorney General.

SECTION BY SECTION ANALYSIS OF THE BILL

Section 1 of S. 4086 provides for the conversion of the present interests of the Indians under the Executive order of December 16, 1822, into a trust title, and then authorizes an adjudication of the conflicting claims of the Indians who assert those interests. The Navaho and Hopi Tribes are authorized to act in the litigation on their own behalf and also on behalf of clans, villages, or individuals claiming an interest in the lands. This will prevent any question arising about the right of the recognized governing body of the tribe to represent all component parts of the tribe.

Section 2 of the bill provides that any lands in which the court finds that the Navaho Tribe or individual Navaho Indians have the exclusive interest shall thereafter be a part of the Navaho Reservation, and any lands in which the court finds that the Hopi Tribe, village, clan, or individual has the exclusive interest shall thereafter be a reservation for the Hopi Indian Tribe. Lands in which the Navaho and Hopi Indians have a joint or undivided interest shall be added to either the Navaho or the Hopi Reservation according to the court's determination of fairness and equity. Provision is also made in section 2 of this bill for the Navaho and the Hopi Tribes, respectively, to sell, buy, or exchange land within their reservations with the approval of the Secretary of the Interior. By permitting sales or exchanges between the two tribes, it will be possible for the Navaho and Hopi Tribes to make satisfactory arrangements for any Indians displaced by the litigation.

Section 3 of the bill expresses the intent of Congress that this bill is not to be construed as a congressional determination prior to adjudication of the rights and interests in the lands set aside by the Executive order of December 6, 1882.

The departmental reports requested on S. 4086 have not been received, but in view of the agreement reached by the Indians to settle their dispute in the manner provided in the bill, the committee members recommended that this legislation be enacted.

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