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SENATE
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REPORTS ON
PUBLIC BILLS
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SENATE REPORTS
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has refused to accept a highest bid if it was not consistent with the value of the property offered for sale. There is no reason to think that it would do otherwise in the case of the General Aniline & Film stock.

We have directed our remarks thus far to the General Aniline & Film stock, which represents two-thirds of the \$150 million of unliquidated vested assets, since the prevention of its sale is the stated reason for the committee's approval of S. 1639. However, if enacted, S. 1639 would prevent the liquidation of \$50 million of other vested property of various kinds and keep the Government in the business of administering it indefinitely. Included in this property is a majority of the outstanding shares of stock of Hugo Stinnes Corp. which are the subject of a registration statement filed with the Securities and Exchange Commission in March preparatory to an offering for sale. Another asset which would be affected by S. 1639 is the majority stock interest in Spur Distributing Co., of Nashville, Tenn., which operates a large number of filling stations throughout the southeastern part of the United States. The 45 percent of nonvested shares of stock in this company are owned by American citizens, one of whom has a prewar option to purchase the shares which were vested. Litigation seeking return of the vested shares has been decided favorably to the Government at the trial stage and is now before an appellate court under circumstances preventing sale of these shares. Final judgment for the Government (which is expected momentarily) will, of course, not free the stock for sale if S. 1639 passes. The bill would therefore indefinitely frustrate the rights of the American option holder.

We are firmly of the opinion that the passage of S. 1639 will greatly interfere with the Government in its handling of unliquidated enemy property and will adversely affect the rights of American citizens. The harm thus engendered by S. 1639 cannot be justified by the benefit to be granted to unsuccessful litigants in the Interhandel case who, it is hardly necessary to point out, are entitled to no more consideration than any other claimants to vested property, past or present.

We recommend against the enactment of S. 1639.

ESTES KEFAUVER.
THOS. C. HENNINGS, Jr.
JOSEPH C. O'MAHONEY.
M. M. NEELY.
ALEXANDER WILEY.

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.

MAY 1, 1957.—Ordered to be printed

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

REPORT

[To accompany S. 692]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 692) 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, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

- (1) On page 1, lines 5 and 6, delete "Indians who are entitled to be thereon" and insert in lieu thereof "Hopi Indians and such other Indians as heretofore have been settled thereon by the Secretary of the Interior".
- (2) On page 2, line 12, after "claims" insert "pursuant to such Executive order".
- (3) On page 2, line 20, delete "Any lands" and insert in lieu thereof "Lands, if any,".
- (4) On page 2, line 23, delete "Any lands" and insert in lieu thereof "Lands, if any,".

- (5) On page 3, lines 2 to 8, delete the sentence reading:

If the court determines that the said Navaho Tribe, Hopi Tribe, including any Hopi village or clan thereof, or individual Indians have a joint or undivided interest in any part of the lands subject to section 1 of this Act, the court shall de-

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. 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 expresses the intent of Congress that nothing in this bill is 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 16, 1882, or affect the liability of the United States, if any, under litigation now pending before the Indian Claims Commission.

Legislation similar to that proposed in S. 692 was contained in S. 4086, 84th Congress, which passed the Senate on July 16, 1956. The committee again recommends the passage of this legislation and has incorporated all of the amendments suggested by the Department of the Interior.

The favorable reports of the Department of the Interior and the Bureau of the Budget on S. 692 follow:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,

Washington, D. C., March 7, 1957.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR MURRAY: Your committee has requested a report on S. 692, a bill 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. We recommend that the bill be enacted if it is amended as suggested below.

The bill authorizes an adjudication by a three-judge district court, with a right of appeal directly to the Supreme Court, of the conflicting claims of the Navaho and Hopi Indians to the lands that were set aside by Executive order dated December 16, 1882. The litigation will be in the nature of a quiet title action.

The Executive order set aside the lands "for the use and occupancy of the Moqui [Hopi] and such other Indians as the Secretary of the Interior may see fit to settle thereon."

The 1882 reservation is completely surrounded by a reservation belonging to the Navaho Tribe. The Hopi Indians claim that the 1882 reservation was set aside for their exclusive use and that the Navaho Indians are unlawful intruders with no right to be there. The Navaho Indians claim that they are "other Indians" whom the Secretary of the Interior has seen fit to settle on the 1882 reservation, within the meaning of the Executive order, and that they have valid interests in the reservation.

This conflict between the Navaho Indians and the Hopi Indians has existed since the 1882 reservation was first established, and be-

termine the reservation to which such lands shall be added as in its opinion shall be fair, just, and equitable.

(6) On page 3, line 15, after "conflicting" insert "tribal or individual".

(7) On page 3, line 17, change the period to a comma and add "or to affect the liability of the United States, if any, under litigation now pending before the Indian Claims Commission."

EXPLANATION OF THE BILL

The purpose of S. 692 as amended is twofold:

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. 692 provides for the conversion of the present interests of the Indians under the Executive order of December 16, 1882, 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

cause of increasing population pressures the conflict has become progressively worse. There is no practical way in which the conflict can be resolved administratively. This Department has made repeated efforts to resolve it, and has adopted from time to time regulations governing the use of the area. Because of the nature of the conflicting claims of use and occupancy interests, however, the Department cannot make a final determination that will be accepted. We believe that it is impracticable for the merits of the controversy to be determined by legislation, which would mean trying the merits of the case before Congress, and that the only practical solution to the problem is the enactment of enabling legislation that will permit the controversy, which is primarily legal in nature, to be litigated in the courts.

The recognized governing bodies of both the Navaho and the Hopi Tribes have asked for such enabling legislation, and the pending bill was drafted by the attorneys representing the two tribes, in consultation with representatives of this Department.

Section 1 of the bill provides that the Navaho and Hopi Tribes may act in the litigation on their own behalf and also on behalf of any individual Navaho or Hopi Indians who may claim an interest in the land. It would be completely impracticable to allow such individuals to appear and be represented separately. The bill also provides that the tribes will represent all villages and clans thereof, which will prevent any question from arising about the right of the recognized governing body of the tribe to represent all component parts of the tribe.

The litigation to determine the conflicting interests of the Indians under the Executive order may be started by either tribe, or, if the tribes do not take the initiative, by the Attorney General. We understand that both of the tribes are willing to commence the action.

Section 2 of the bill provides that (1) any lands in which the court finds that the Navaho Tribe or individual Navahos have the exclusive interest shall thereafter be a part of the Navaho Reservation, (2) 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 Tribe, and (3) any lands in which the Navaho and Hopi Indians have a joint or undivided interest shall become a part of either the Navaho or the Hopi Reservation according to the court's determination of fairness and equity. This provision will assure that one or the other of the tribes will have administrative jurisdiction over the land in the future, without prejudice, however, to the undivided interests. It also makes it clear that the tribe will have jurisdiction notwithstanding the fact that its rights may be predicated upon the interests of individual members of the tribe. Furthermore, by providing that, after interests have been determined under the Executive order, the lands that are adjudicated to be Hopi lands will thereafter be a reservation for the Hopi Tribe, the bill converts the lands from an Executive order reservation into a statutory reservation.

Section 2 of the bill also authorizes either the Navaho or the Hopi Tribe to buy, sell, or exchange land within its reservation, with the approval of the Secretary of the Interior. This provision will permit sales or exchanges between the two tribes in order to take care of the needs of any Indians who may be displaced as a result of the litigation, or in order to adjust the title to land in one reservation that may be occupied by members of the other reservation. The authority is restricted to lands that are within the two reservations.

Section 3 of the bill provides that none of its provisions shall be construed to be a congressional determination prior to adjudication of the rights and interests in the lands set aside by the Executive order. Those rights and interests are to be adjudicated on the basis of the existing law without any advantage or disadvantage accruing from the enactment of the bill. After the adjudication has been completed, however, the provisions of section 2 for incorporating the lands in one or the other reservation will be effective.

In order to prevent any inference that Indians have compensable legal rights or title to lands in an Executive order reservation (as distinguished from a statutory reservation), section 1 of the bill first converts the present interests of the Indians under the Executive order into a trust title, and then authorizes an adjudication of the conflicting claims of the Indians who assert those interests. By this procedure the litigation will involve trust titles that are created by the new legislation, rather than noncompensable interests that are held by the Indians only at the sufferance of the Government. Inasmuch as it is most improbable that the Government would ever want to deprive the Indians of these lands, the conversion of their use rights into a trust title should present no practical problem.

The following technical and perfecting amendments are recommended:

1. On page 1, lines 5 and 6, delete "Indians who are entitled to be thereon" and insert in lieu thereof "Hopi Indians and such other Indians as heretofore have been settled thereon by the Secretary of the Interior."

2. On page 2, line 12, after "claims" insert "pursuant to such Executive order".

3. On page 2, line 20, delete "Any lands" and insert in lieu thereof "Lands, if any,".

4. On page 2, line 23, delete "Any lands" and insert in lieu thereof "Lands, if any,".

5. On page 3, lines 2 to 8, delete the sentence reading "If the court determines that the said Navaho Tribe, Hopi Tribe, including any Hopi village or clan thereof, or individual Indians have a joint or undivided interest in any part of the lands subject to section 1 of this Act, the court shall determine the reservation to which such lands shall be added as in its opinion shall be fair, just, and equitable." This is an action which the two tribes feel should not be legislated in advance of the judicial determination of their rights, and we agree with them.

6. On page 3, line 15, after "conflicting" insert "tribal or individual".

7. On page 3, line 17, change the period to a comma and add "or to affect the liability of the United States, if any, under litigation now pending before the Indian Claims Commission." This change is intended to make sure that this act will neither increase nor decrease the Government's liability in pending claims litigation.

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

Sincerely yours,

HATFIELD CHILSON,
Assistant Secretary of the Interior.

CV-6417-201

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., March 1, 1957.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Senate Office Building,
Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget with respect to S. 692, a bill 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.

The subject legislation is designed to settle a long-standing controversy between the Navaho and Hopi Indians over the use of certain lands set aside by the Executive order cited in the title of the bill. Several attempts to resolve this problem by administrative action have been unsuccessful chiefly because of the inability to obtain support of the respective tribal governments. The approach embodied in this bill has been approved by the recognized governing bodies of both tribes, and it is our understanding that these groups have agreed to recognize any decisions which may result from the procedures which would be established should the bill be enacted.

While legislation along the lines of S. 692 would therefore appear to provide a successful method of resolving the conflict, certain aspects of the bill raise serious problems of a legal nature which in the opinion of this Bureau deserve careful congressional consideration. To this end, the views of both the Department of the Interior, which assisted in the development of the legislation, and the Department of Justice, which is opposed to enactment of the legislation, have been cleared without objection for presentation to the House Committee on Interior and Insular Affairs in connection with its consideration of H. R. 3789, the companion to S. 692.

Insofar as this Bureau is concerned, you are advised that it would interpose no objection to such course of action as the Congress may deem appropriate after reviewing the various facts and views presented in connection with these two bills.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant Director.



85TH CONGRESS } SENATE } REPORT
1st Session } } No. 266

AUTHORIZING THE CITY OF ROCK HILL, S. C., TO ACQUIRE TRIBAL LANDS ON THE CATAWBA INDIAN RESERVATION, S. C.

MAY 1, 1957.—Ordered to be printed

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

REPORT

[To accompany H. R. 676]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 676) to authorize the city of Rock Hill, S. C., to acquire certain tribal lands on the Catawba Indian Reservation, S. C., having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

EXPLANATION OF THE BILL

The purpose of H. R. 676 is to authorize the city of Rock Hill, S. C., to acquire by negotiation, approximately 49 acres of tribal lands on the Catawba Indian Reservation, S. C.

The land under consideration is needed by the city as a site for the construction of a new sewage-disposal plant that will serve adequately the needs of present industries and other industries that propose to locate in the area. The land is located near the present right-of-way for the sewer system. The bill provides that if the city of Rock Hill and the representatives of the Indian tribe cannot effect a negotiated purchase prior to July 1, 1958, the land can be acquired through condemnation proceedings. The bill authorizes the Secretary of the Interior to grant to the city of Rock Hill an immediate right of entry to the land under consideration pending the completion of the sale or condemnation action, providing the consent of the Indians has been obtained.

H. R. 676 provides that the payment or distribution of funds realized from sale or condemnation proceedings shall not be subject to any lien, except for debts owed to the United States or to Indian or-

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