

The Secret Treaties

With California's Indians

By Larisa K. Miller

In 1852, with the world rushing in to California and gold coursing out, senators in Washington, D.C., met in executive session to consider 18 treaties made with Indians across California. Treaties with Indians, like those with foreign governments, required ratification by the Senate, and ratified Indian treaties had the status of an agreement made with a sovereign nation. Unratified treaties had no force.

As roads not taken, unratified treaties could be easily forgotten. Senate rules requiring strict confidence in deliberations on treaty matters inadvertently contributed to forgetting. This appeared to be the fate of the California Indian treaties, which were rejected by the Senate. But the treaties acquired a second life when senators at

the dawn of the 20th century were forced to confront this action of their gold rush-era predecessors.

Newly tapped correspondence in the papers of Senator Thomas Bard of California reveals for the first time who resurrected the unratified treaties and why their value endured. The story is another facet in the unique history of the Indians of Northern California.

California had been densely populated by several hundred thousand natives before European contact. Under Spanish and Mexican rule, many thousands were lost to disease and forced labor. The gold rush of 1849 brought massive streams of outsiders who overran much more of the state.

Over the following decades, the Indians were murdered,



killed by disease, or driven from their lands and livelihoods by miners and settlers.

In much of the western United States, the federal government extinguished native title to Indian lands by treaty. Treaties typically required the Indians to reduce their land holdings or move to areas that were not desired by whites. This was the intent of the California Indian treaties, which were made between the United States and Indian groups in California between 1851 and 1852 under three U.S. commissioners.

The Indians ceded title to their land to the United States and agreed to accept reservations, while the government pledged to pay for the ceded land and permanently set aside the reservations for Indian use. The commissioners assumed the groups they treated with were tribes. Today we know that most were simply villages, but contemporaries did not care to question the qualifications of the Indian signatories.

When the treaties came up in executive session of the U.S. Senate, the senators found them problematic. It was unclear if Mexico—from which California was acquired—recognized native land titles. If Mexico did not, then Indians in California came under U.S. sovereignty without legal claims to the land. Furthermore, the commissioners' appointments were irregular, and in the wake of the gold rush, white Californians strongly objected to the treaties.

For these reasons, the Senate rejected the treaties and, following Senate rules, imposed an injunction of secrecy on them. The record copies of the treaties were returned to the Department of the Interior; only the copies printed for use by senators fell under the secrecy action.

Unratified Treaties Leave Land Issues Unresolved

The treaties were never truly secret. The work of the commissioners was public knowledge

Opposite: A group of California Indians, ca. 1920, on land near Millerton and Friant that had been purchased by Indian agent C. E. Kelsey. The Senate found problems with 18 treaties made with Indians across the state, and rejected them, leaving most Native Americans there impoverished and without land.

at the time, contemporary publications mentioned the unratified treaties, and the Indians had their own copies of the treaties. Several scholars examined the treaties in the 1880s and 1890s. Even so, they languished, largely lost and forgotten.

With the treaties rejected, Indian title to the land was left unresolved. A series of executive orders and a congressional act in 1891 led to the creation of small, scattered reservations of varying quality for Indians in Southern California.

Northern California had only two reservations in 1900, at Hoopa and Round Valley; a third was at Tule River in central California. The number of Indians living outside their borders was unknown. These uncounted, nonreservation Indians had virtually no legal rights, protections, or government support.

The Northern California Indian Association (NCIA) found the situation deplorable. This organization of white reformers bent on educating, civilizing, and uplifting the landless California Indians embarked on a campaign to provide them with relief in the early 1900s.

Formed by women in and around San Jose in 1894, the NCIA got its start supporting missionary work with Indians at Greenville and Hoopa in Northern California. It was easy to set up operations when the Indians lived on government land, but the NCIA had



Charles Edwin Kelsey, a lawyer, was one of several field workers for the Northern California Indian Association, which undertook an extensive and “careful survey” to chart the location and size of almost all Indian groups in Northern California.

a harder time providing domestic instruction, education, and religious services to Indian bands that lacked secure land tenure.

The NCIA could not afford to set up staff and facilities and then start over whenever the Indians might be evicted. The association bought land at Manchester in Mendocino County, but this expensive solution could not work for all the homeless Indians. The NCIA instead decided to press the government to provide relief to these Indians. But first it had to build a case to justify their cause. Because these Indians were not on reservations and had no government protection or support—characteristics that typically came with ratified treaties—they had been overlooked and forgotten.

The NCIA started its campaign methodically by doing research into the number, location, condition, and history of all the Northern California Indian bands. It sought government reports about the Indians from the commissioner of Indian affairs, who told the NCIA that there were none and made no mention of unratified treaties. Clearly the nonreservation Indians of Northern California were off the Indian Office's grid.

In the field, NCIA workers surveyed all the Northern California Indian bands. Charles Edwin Kelsey, a lawyer in San Jose, California, was one of those field workers and an NCIA director. Kelsey later explained in the *Indian's Friend*, the newsletter of the NCIA's parent organization, that the association

decided to make a careful survey of our field and endeavor to learn the location and situation of each band in our territory. We were constantly learning of new outrages and of new distresses and it seemed advisable to see the entire situation if possible. Our means were limited and we were not able to make a very thorough canvass, but still we were able to get the approximate location and size of practically all the Indians in California. We found a much larger number than the federal census of 1900 shows.

The association publicized the harsh living conditions it found, like the 46 Indians at Grand Island who were “confined to a little place of 4 acres, three acres being the old *grave yard* of their people,” their water supply a 10-foot-deep well among the graves, their children refused attendance at the public school, and their men paid less as laborers than white men doing the same work. It was during its fieldwork that the NCIA first learned about a “treaty made with the Korus on the Sacramento.” This was its first knowledge of any treaty made with these Indians, but the NCIA could not ascertain any details about it.

Appeals Made to Congress, President Roosevelt for Help

When President Theodore Roosevelt visited San Jose in May 1903, the NCIA launched its campaign by presenting him with a memorial. It asserted that the “title and ownership [of the Indians of Northern California] to this beautiful land have never been extinguished.” The northern tribes outside the Hupa and Yuki reservations, “numbering some ten or twelve thousand souls, are wholly landless.”

Because the government had sold much of the land taken from the Indians, the NCIA’s memorial suggested that the government buy back some land for the Indians. Rather than reservations, the NCIA wished that “each band shall have a home in the neighborhood where they now live, with such fixity of tenure that they may have the opportunity to develop into intelligent, self-respecting citizens.” To this end, the NCIA would petition Congress, which might in turn require presidential action.

Roosevelt sought a full report from William A. Jones, the commissioner of Indian affairs. Pointing to the 1900 U.S. census, Jones figured there were only 7,000 or 8,000 landless Indians. He opposed any federal intervention on their behalf because it would mean “the taking away of [the Indian’s] individual character and his independence and making him a ward.”

The commissioner confirmed “that no compensation has ever been made the California Indians for their lands, as the Government seems to have followed the policy of Mexico, from whom it got its title to California, in not recognizing the Indians’ right of occupancy.” Jones also reported that in the 1850s, “treaties were made with 80 or 90 bands, none of which were ever ratified.”

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denied all knowledge
of the treaties.”

The President sent the commissioner’s report to C. E. Kelsey for his response. Kelsey insisted that the NCIA’s population count was accurate, having been “compiled from actual enumerations made by our agents, part from their close estimates.” While the initial memorial did not mention the treaty with the Korus that the NCIA had heard about, Kelsey now argued that the “appalling series of broken promises evidenced by the eighty or ninety unratified treaties” fixed legal and moral responsibility for the Indians on the government.

The erroneous reference to 80 or 90 treaties, misconstrued from the commissioner’s statement about treaties made with that many bands, shows how little the NCIA knew about the treaties in 1903.

Privately, in a letter to Matthew Sniffen of the Indian Rights Association (IRA), Kelsey noted that the statement about treaties made with 80 or 90 bands appeared to be a direct

quote from the 1890 census volume on Indians published by the Census Bureau. He doubted that the Indian Office knew anything about the Northern California Indians “aside from that census article and what we have furnished it.”

NCIA Petitions Congress, But Treaties Prove Elusive

It was this exchange with the commissioner that Kelsey later stated “settled the fact that the Indians had never been paid for their rights in their lands.” The government had received the benefits of the treaties without legally acquiring the right of occupancy. Seeing the moral and legal power inherent in the treaties, the NCIA knew its petition to Congress would be strengthened if it could incorporate more information about them.

With the assistance of the IRA in Philadelphia, the NCIA tried to locate the treaties, which were somewhere in Washington, 3,000 miles away. There was no central repository for federal records because the National Archives did not yet exist.

Kelsey wrongly believed the treaties were at the Department of State, and the NCIA’s canvass of the capital came up empty. As Kelsey said afterwards at the NCIA’s Zayante Indian Conference, “The Indian bureau, the War Department, which had charge of Indian matters in the fifties, and the State Department all denied all knowledge of the treaties.”

Through the summer of 1903, the NCIA continued doing fieldwork. In the fall, unable to locate the treaties and unwilling to delay any longer, it drafted a petition to Congress.

It described the history of the Indians’ dispossession from the land and asserted that “in every other State and Territory the Indian title to the soil has been recognized by the Government of the United States and has been extinguished only by payment therefor.” It also contained the NCIA’s first public mention of the unratified treaties, describing them much as Jones had in his report to Roosevelt.

The petition emphasized that the “results of the failure of these treaties have been disastrous to the Indians of northern California.” It recommended that “our landless Indians be given small tracts of land in severalty where they now reside; that their own lands be given them wherever possible, and that a sufficient sum be appropriated to purchase these tracts wherever there is no Government land available.”

Following the narrative was a remarkable report on the location and numbers of the various bands of nonreservation Indians in Northern California.

The report said 13,733 Indians lived in 418 settlements in 47 Northern California counties, excluding those on reservations. For all of California, the Office of Indian Affairs reported 15,325 Indians in 1903, with nearly 6,000 of them on reservations. The remaining 9,000 were spread all over California, yet were only about two-thirds of the number the NCIA reported in Northern California alone.

In December, Kelsey shared the petition with Sniffen. Kelsey proposed that the IRA use its lobbying experience to navigate the petition through Washington while the NCIA appealed to California’s congressional delegation and collected signatures on the petition. Sniffen agreed.

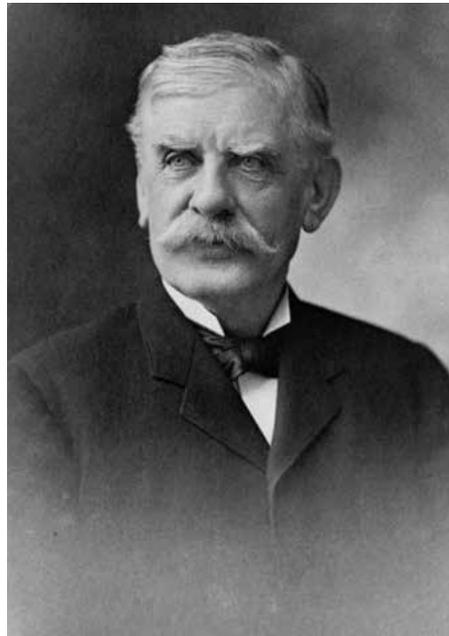
Kelsey suggested that Senator Bard introduce the petition in the Senate. Many Indians lived near Bard’s home in Southern California, and he was a member of both the Senate’s Indian committee and the Sequoia League, another Indian reform organization. Representative James Gillett of California, “who has more than half the landless Indians in his district,” would handle the petition in the House.

The First Legislative Campaign: Seeking an Investigation

Samuel Brosius, the IRA’s lobbyist in Washington, met with Bard in January 1904. Brosius gave the senator the NCIA’s petition with the census schedule and the correspondence with Roosevelt and Jones appended. Days

later, Bard introduced the petition in the Senate. Though he initially objected to its length, he ultimately secured the support of the Senate Committee on Indian Affairs for the petition’s proposition as well as its printing. Printing gave the petition greater standing.

Rather than provide money for land purchases, Bard sought an investigation of the situation. As he explained to the president of Stanford University:



Senator Thomas Bard of California, a member of the Senate Committee on Indian Affairs, introduced the petition of the Northern California Indian Association to the committee in 1904. The petition emphasized that failure to enact the treaties had been disastrous to the Indians of Northern California.

I have asked the Commissioner of Indian Affairs to consider the matter and to formulate an amendment to the Indian appropriation bill, providing only for an investigation to ascertain the condition of the Indians in Northern California, through the agencies of the Department, and to report upon the same at the next session of Congress. I am quite sure that this is all that can be accomplished at the present time.

Brosius thought that postponing action to the next session was smart, as Congress

could not be expected to appropriate funds without having information provided by government officials.

Writing to Sniffen, Kelsey expressed mixed feelings about Bard’s approach. On the one hand, he thought that “we certainly cannot object to a full report by the proper officers of the Government as to the number of Indians in need of assistance. We have never expected the Government to accept our figures.” On the other hand, with time critical, “If the matter [*sic*] goes over till next session what are we to do with the three bands that are being evicted now?”

Through the winter the NCIA built support for its petition, reporting in the *Indian’s Friend*, “Prominent clergymen have taken the matter up and presented it at men’s clubs, the California Federation of Women’s Clubs (28,000 strong) has espoused it, editors have championed it, professors at Stanford and Berkeley Universities are aiding it, and the state is getting generally aroused.” The *San Francisco Chronicle* came out in its favor.

While the NCIA did not know how many petitions were sent to Congress—it had asked signers of individual petitions to send them directly to their congressmen—Senator George Perkins reported that he “was receiving a multitude of letters.” In a symbolic indicator of support, the governor’s wife accepted her election as vice president of the NCIA.

Despite this groundswell, the provision failed in conference committee in the spring of 1904. According to the *San Francisco Chronicle*, the conferees agreed that it “opened the way to a big appropriation later on for a reservation for these Indians.” Kelsey saw things differently. He wrote to Sniffen, “We think our request is very moderate, perhaps too much so to attract attention. But one thing seems certain, that our proposition involves the least expense of anything that will come before the government.” The NCIA decided to continue its fight. Strategizing over how to get its proposal through Congress and onto the President’s desk, the association turned again to the unratified treaties.

The Congress of the United States.

The undersigned, the Northern California Indian Association, respectfully petitions and prays your honorable body for the landless Indians of Northern California.

The petitioner is a body corporate under the laws of the State of California, having its principal place of business in the city of San Francisco, and is organized for "benevolent, charitable and other purposes for the benefit of the Indians of California," among the purposes are the following,

To aid the government and people of the United States in preventing the dispossession of Indians and securing to each and every Indian the same protection and privileges under the laws, whether national or State, as are secured to all citizens and inhabitants of the United States without regard to race or color.

To engage in, and aid in educational, missionary and other work for the benefit of the Indians of California, for their benefit and advancement, in the same manner, as far as may be, as that pursued by the National Indian Association of the United States.

Left: The Memorial to Congress from the Northern California Indian Association, 1904 (page two). It notes that, unlike in other states, the California treaties were never ratified and the Indians were never paid for land taken from them.

Bottom: One of the many petitions sent to Congress as requested by the Northern California Indian Association.

The Second Legislative Campaign: What Happened to the Treaties?

In June 1904 Kelsey wrote to Bard, "I hope we may be able to have a short talk with you and explain some features of the Indian situation that have not yet been made prominent." The treaties must have been one such feature, because in July Bard wrote from California to his private secretary, R. Woodland Gates, in Washington and asked him to look for the treaties. He explained that "Kelsey, of San Jose . . . says that they have been unable to find these treaties anywhere in the Interior Department and no one there could tell him where they could be found." Kelsey followed up by sending Gates the information he had about the treaties, which consisted of the statement in the previous summer's letter from Jones to Roosevelt.

Gates took this information to the Indian Office, which could not locate the treaties. He also interviewed the clerk of the Senate Committee on Indian Affairs, who was revising his compilation of Indian treaties, but the clerk had no knowledge of them. His next step was to interview the clerk in the Indian Office who prepared the commissioner's letter to Roosevelt, but the clerk was out of town. Receiving this news, Kelsey warned Gates that the treaties probably never made it to the Indian Office: "I think it likely the treaties are to be found either among the archives of the Senate or of the State Department. The matter has been lost sight of for so long that there is probably no one in Washington who knows anything about it."

Sure enough, when Gates interviewed the Indian Office clerk in August, he had little information. Not giving up, Gates wrote, "I shall now search the files of the Secretary of

(If not room for all signatures, add a sheet and send to your Senator or Representative in Congress.)

TO THE HONORABLE,
THE CONGRESS OF THE UNITED STATES:--

We, the undersigned, hereby respectfully petition and request that lands in severalty be granted to the landless Indians of Northern California, substantially as suggested by the Northern California Indian Association, and that such further relief be given as may be appropriate.

| Names | Occupation | Names | Occupation |
|--------------------|--------------------|------------------------|------------------|
| Moses Perm Page | Farmer | B. W. Stevens | Minister |
| B. C. Stephens | Minister | Mrs. Henrietta Stevens | House Wife |
| M. W. Brown | Carpenter | M. Hawaiian | Mechanic |
| Mrs. M. W. Brown | Household duties | Mrs. Dorella Hawaiian | House Wife |
| W. V. Batty | Minister | Miss E. W. Moore | House Keeper |
| J. F. Ward | Farmer | Mrs. P. H. Dixey | Garfield Park |
| H. A. W. Blackburn | Sandwich | Mrs. L. C. Waggoner | Retired |
| Mrs. K. Blackburn | Housewife | R. N. Davis | Minister |
| A. C. Norris | Showman | Mrs. H. L. Davis | House Keeper |
| Mrs. S. J. Barry | House Keeper | H. D. Agency | Educational Work |
| D. J. Barr | Carriage maker | Sarah F. Long | Retired |
| L. C. Jennings | Housekeeper | A. M. Hedgkoth | mill man |
| Mrs. M. Anderson | Penwoman | J. B. Hedgkoth | Logging House |
| D. J. Page | Real Estate | Mrs. J. L. Bever | House Keeper |
| M. A. Rice | Retired | W. H. Hanson | Merchant |
| A. C. Whitaker | Wholesale Merchant | Robert Brannigan | Merchant |
| M. E. K... | It | Mr. H. ... | R. ... |

the Senate, and also the Departments, in the hope of getting copies of the treaties. I have no doubt but that the treaties were sent to the Senate . . . although just where to get at them after such a lapse of time I do not know.”

Gates hit pay dirt in the archives of the Senate in September and reported to Kelsey:

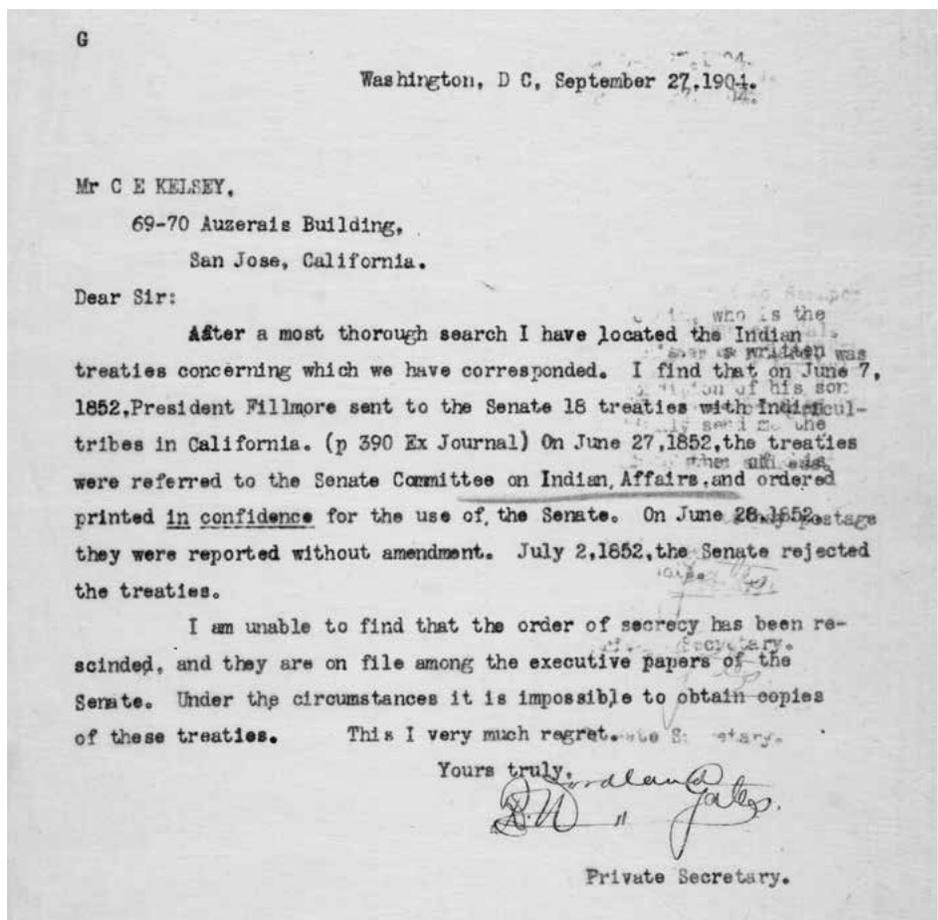
On June 27, 1852, the treaties were referred to the Senate Committee on Indian Affairs, and ordered printed *in confidence* for the use of the Senate. On June 28, 1852, they were reported without amendment. July 2, 1852, the Senate rejected the treaties.

I am unable to find that the order of secrecy has been rescinded, and they are on file among the executive papers of the Senate. Under the circumstances it is impossible to obtain copies of these treaties.

Working separately, Brosius located the record copies of the treaties in the Indian Office at about the same time. However, he was unable to “prove affirmatively” that they were not ratified because, he wrote Sniffen, that “would involve searching the old records of the Senate Committee rooms of half a century ago, perhaps, and then possibly not be successful.” Coupled with the extensive search by Gates, it appears that the Senate’s injunction of secrecy was essentially that in 1905—secret.

A Crack in the Wall Of Secrecy in the Senate

Indeed, several pre-1905 publications that mention the treaties uniformly indicate that they were unratified but do not mention the injunction of secrecy. Thus it may be that the real discovery in 1905 was not of the treaties themselves, but rather the Senate’s secrecy, which was sure to have emotional appeal for the public and be a moral spur for senators. As one NCIA director wrote to Sniffen, “I am not surprised that as far as possible the whole matter has been kept secret. Even Congressmen seem to have had some shame.”



R. Woodland Gates wrote to Kelsey on September 27, 1904, that he had finally found the secret treaties in the executive papers of the Senate. Location of the treaties made possible efforts to lift the injunction of secrecy, and their publication.

Meanwhile, the NCIA launched its second public campaign. News reports in the *Indian's Friend* and California newspapers charted its progress. By October, Kelsey had received petitions signed by about 2,000 individuals and organizations representing about 12,000 members. The NCIA “issued thousands of documents in two or three different forms . . . appealed to the National Indian Association and all the Indian associations we could reach, to women’s clubs, pastors’ associations, and to about all clergymen in California and Indian friends everywhere.”

The magazine of the Women’s Clubs of California devoted an entire issue to Indians, especially those in Northern California. It also published “The True Story of Fernando,” written by an NCIA officer, which described the many defects in Indian land titles. Endorsements grew. The Lake Mohonk Conference of

Friends of the Indian and Other Dependent Peoples, “the most important and influential body deliberating on the Indian question in the United States,” according to the *San Jose Mercury News*, adopted a resolution of support. Kelsey reported to Sniffen that they had “secured both of the California Senators and a majority of the congressman have responded favorably.”

In December, Kelsey notified Bard that the NCIA still had not received copies of the treaties because of the injunction of secrecy. He asked Bard to get them from the “executive archives” and have copies made for the NCIA. However, Brosius wrote to Bard on January 3:

I was talking to your Mr. Gates regarding the removal of secrecy [*sic*] from the matter of the 18 treaties made with those Indians, so that we could secure copies of those that were desired. I find

A Treaty of Peace and Friendship made and entered into at Camp Persifer A Smith at the Texas Pap in the State of California on the tenth day of June Eighteen hundred and fifty one, between George W. Barbour One of the Commissioners appointed by the President of the United States to make Treaties with the various Indian Tribes in the State of California and having

| | | | | |
|-------------|---|-----------|-------------|----------------|
| So-ci-a | } | Felipe | his mark | (Chief) (Seal) |
| | | Pedro | his mark | (Seal) |
| | | Urbano | his mark | (Seal) |
| A-l-m-i-n-h | } | Francisco | his mark | (Chief) (Seal) |
| | | Thomas | his mark | (Seal) |

Signed and sealed in Duplicate after having been read and fully explained in the presence of
 H. W. Barbour
 Interpreter
 W. C. Barbour Secy

The treaty signed at Camp Persifer, Fort Smith, on June 10, 1851, was one of the unratified treaties. Signers included George W. Barbour and the chiefs, captains, and headmen of several tribes.

**The Treaties Live On—
Despite Legislative Opposition**

It is possible that Bard's motions merely represented an expeditious way to furnish copies to Kelsey, but it seems more likely that they were steps in a shrewd calculation. Bard must have seen the actions as laying a powerful platform on which to propose compensatory legislation, and may have waited until the treaties were printed and distributed to senators before introducing his legislation.

Bard was aware that his colleagues believed responsibility for California Indians lay with the state and therefore their "legal status . . . should be presented in a very forcible way in connection with any appeal that may be made to Congress in their behalf." While short of declaring their legal status as wards of the U.S. government, removing the injunction of secrecy elevated the moral status of California's Indians. According to historian Khal Schneider, this "shamed" the government into taking responsibility.

On January 30, Bard submitted an amendment to the Indian appropriation bill calling for the appointment of a commission "to investigate existing conditions and to report some plan to place the California Indians on small tracts of land of their own, to be purchased for them by the United States." Developed by the new commissioner of Indian affairs, Francis Leupp, the amendment was designed to get congressional authority up front so that Congress would be willing to authorize subsequent action. As Leupp explained to Bard, "Congress would listen more readily to a recommendation from a body it had itself especially created."

At a Senate subcommittee hearing in February, Bard stated his opposition "to spending any large amount of money in furnishing lands to Indians who can get along without," but insisted that the California Indians were "wards of the Government, and have been

since my conversation [sic] with Mr. Gates, that all the treaties are recorded in the Indian Office and I have access to them. So will not need the order of secrecy [sic] removed."

Despite this, Bard had the injunction of secrecy removed from the Senate's copies of the treaties on January 18, and on another motion by Bard the next day, their printing was ordered.

After Kelsey received copies, he wrote to Bard:

We are glad to observe that they substantiate our statements and considerably more. These treaties cover more of the State than we were aware, being signed by 134 bands instead of the 90 we reported. The reservations proposed in the treaties are much more extensive than we knew and also the prices agreed to be paid by the Government. We have been able already to identify a surprising number of the bands and consider that the information gained from the treaties will be of great value.

To learn more about

- How an Indian chief adjusted to being a ward of the federal government, go to www.archives.gov/publications/prologue/2008/fall/gall.html.
- Genealogy articles in *Prologue* on American Indians, go to www.archives.gov/publications/prologue/genealogy-notes.html#amind.
- How the Dawes Commission dealt with the Five Civilized Tribes, go to www.archives.gov/publications/prologue/1997/spring/dawes-commission-1.html.

recognized as such.” Pushed by a colleague who protested any mention of buying land, Bard agreed to remove that reference from the amendment.

When the amendment was opposed by conferees from the House, the commission and an appropriation of \$1,000 for its expenses were eliminated. The final language stated, “That the Secretary of the Interior is hereby authorized to investigate through an inspector or otherwise existing conditions of the California Indians and to report to Congress at the next session some plan to improve the same.”

The bill went to the President and was signed in March 1905. Kelsey was appointed to perform the survey of conditions. His report, delivered in the spring of 1906, led to an appropriation of \$100,000 to purchase the first of what are now known as California’s Indian rancherias; another \$50,000 followed in 1908. According to a letter from the Indian Office to Representative John Raker, the appropriations were meant “to provide homes for the tribes in Northern California who were without lands as the result of the treaties . . . being unratified.”

The treaties became a regular topic of hearings as more legislation involving the California Indians came before Congress in the next two decades. They were at the core of the case heard by the Indian Claims Commission in which the Indians of California, descended from those who had signed the treaties, sought compensation from the government for lands that were taken from them without payment. The case was decided in favor of the Indians.

The secret appellation and its implication of guilt remain in the popular consciousness. “Every school child in California should know now that the U.S. forced the California tribes to sign onto treaties, then concealed the very existence of these treaties without ratifying them in the 1850s,” one witness testified before Congress in 1991.

According to a classic article on their legal

status, the “California Indians cannot be understood save in the light of . . . the ‘lost treaties.’”

It was C. E. Kelsey who initially recognized this and triggered their resurrection. Thanks in no small part to the lubrication the treaties provided in the Senate, the NCIAs legislative campaign succeeded. Without

Kelsey and the NCIAs, the nonreservation Indians of California probably would not have received any land in the early 1900s. By unearthing the treaties, they made enduring changes to both the cognitive and physical landscape of California Indian country. **P**

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NOTE ON SOURCES

Because this is an inherently legislative story, the starting sources are those of the Congress, particularly the Senate. The first petition of the Northern California Indian Association (NCIA) to Congress, which was referred to the Senate Committee of Indian Affairs on January 21, 1904, incorporates several key documents, including its memorial to President Roosevelt, responses from the commissioner of Indian affairs and Kelsey, and population schedule. It is the *Memorial of the Northern California Indian Association*, 58th Cong., 2nd sess., 1904, S. Doc. 131. Actions and comments on legislative activities can be followed through the daily accounts published in the *Congressional Record* and *Senate Executive Journal*. Additional comments on the legislation are available in congressional hearings, most notably the statement of Senator Thomas R. Bard to the Senate Committee on Indian Affairs in *Indian Appropriation Bill, 1905, Hearing before a Subcommittee of the Committee on Indian Affairs*, 58th Cong., 3rd sess., January 28–February 10, 1905. These are among the Publications of the U.S. Government, Record Group 287, National Archives, Washington, D.C. Because they are published, they can also be found at many U.S. government depository libraries across the United States.

The unratified California Indian treaties of 1851–1852 are among the series of unratified treaties in the Records of the Bureau of Indian Affairs, Record Group 75, National Archives at College Park, Maryland.

Archivists at the National Archives Center for Legislative Archives, who also consulted with the Senate History Office, did not find any published or unpublished records that shed light on the single-sentence entry in the *Senate Executive Journal* recording the removal of the injunction of secrecy from the treaties on January 18, 1905. The Thomas R. Bard papers at the Huntington Library, San Marino, California, fill much of this gap.

The papers of C. E. Kelsey and the records of the Northern California Indian Association did not survive, so several sources were combined to trace their legislative campaigns. The collaboration with the Indian Rights Association (IRA) is documented in the letters Kelsey sent to IRA leaders. They are among the Indian Rights Association papers at the Historical Society of Pennsylvania. Much of this collection has been published and distributed in microform as the *Indian Rights Association Papers, 1868–1968* (Glen Rock, N.J.: Microfilming Corp. of America, 1974). The newsletter of the NCIAs parent organization, the National Indian Association, is called *The Indi-*

an’s Friend (Philadelphia and New Haven, Conn., National Indian Association). It has also been published in microfiche form as part of *American Indian Periodicals in the Princeton University Library* (New York: Clearwater Pub. Co., 1981–). Additional NCIA publications used include Cornelia Taber, *California and Her Indian Children* (San Jose: Northern California Indian Association, 1911) and *Zayante Indian Conference of Friends of Indians 1906* [proceedings] (Mount Hermon, Santa Cruz County, Calif.: July 30–31, 1906).

Only a few secondary sources come into play. They include Khal Schneider’s dissertation, “Citizen Lives: California Indian Country, 1855–1940” (Ph.D. diss., University of California, Berkeley, 2006) and Chauncey Shafter Goodrich’s classic article on “The Legal Status of the California Indian,” *California Law Review* 14, 1926. Several quotes were also taken from the testimony of Allogan Slagle of the Association of American Indian Affairs in hearings before the House Committee on Interior and Insular Affairs in 1991 and 1992.

Several good secondary sources discussing the treaties are George E. Anderson, W. H. Ellison, and Robert F. Heizer, *Treaty Making and Treaty Rejection by the Federal Government in California, 1850–1852* (Socorro, N.M.: Ballena Press, 1978), Robert F. Heizer, *The Eighteen Unratified Treaties of 1851–1852 between the California Indians and the United State Government* (Berkeley: Archaeological Research Facility, Department of Anthropology, University of California, 1972), Harry Kelsey, “The California Indian Treaty Myth,” *Southern California Quarterly* 55, no. 3 (Fall 1973). A brief overview of the NCIA and C. E. Kelsey is available in Larisa K. Miller, “Primary Sources on C. E. Kelsey and the Northern California Indian Association,” *Journal of Western Archives*, Vol. 4: Iss. 1, Article 8, available at: <http://digitalcommons.usu.edu/westernarchives/vol4/iss1/8>.



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