

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON JUDICIARY

Ash Kalra, Chair

AJR 18 (Ramos) – As Introduced June 30, 2025

SUBJECT: RECOGNITION OF THE HISTORICAL WRONGDOING COMMITTED AGAINST CALIFORNIA NATIVE AMERICANS

KEY ISSUE: SHOULD THE LEGISLATURE, BY JOINT RESOLUTION, RECOGNIZE THE HISTORICAL WRONGS COMMITTED BY THE STATE OF CALIFORNIA AGAINST CALIFORNIA’S NATIVE AMERICANS?

SYNOPSIS

This resolution acknowledges the wrongs committed by the State of California against California’s indigenous peoples during the early years of California statehood, including the appropriation of Native lands, the denial of civil and political rights, state-sanctioned indentured servitude for Native American children and adults charged with “vagrancy,” and the funding of violent campaigns – carried out both by regular troops and organized citizen groups – against California’s indigenous peoples.

In light of this history, the resolution formally recognizes and condemns these wrongs; commends and honors the resilience of indigenous people in the face of such hostility; and calls upon the federal government to reaffirm and strengthen its collaboration with California tribes by recognizing tribal sovereignty, upholding treaty obligations, preserving cultural heritage, advancing economic opportunities, and ensuring equitable access to resources, healthcare, education, and environmental stewardship.

SUMMARY: Resolves to recognize the historical wrongdoing committed against California Native Americans. Specifically, **this resolution:**

- 1) Makes the following findings and declarations relating to early relations between the State of California and its indigenous population during the early years of California statehood:
 - a) From the incorporation of the California territory into the United States of America in 1848, the California State Legislature was complicit in the actions taken against the Native people of this land.
 - b) In 1849, delegates of the California Constitutional Convention agreed to provisions in the new Constitution to deny the Native people of California the right to vote. The delegates of the convention limited the vote to white male citizens of the United States and white Mexican men, who elected to be citizens of the United States under the Treaty of Guadalupe Hidalgo.
 - c) In 1850 the California Legislature passed “An Act for the Government and Protection of Indians,” which facilitated the removal of Indigenous groups from their lands through family separation and indentured servitude. This act also prohibited Indigenous people and other minorities from serving as credible witnesses against criminal acts committed by white citizens; criminalized the actions of Native Americans who they believed to be

“vagrants” and authorized local authorities to “hire out” such persons “within twenty-four hours to the best bidder . . . or the highest price that can be had, for any term not exceeding four months.”

- d) The California State Legislature authorized the Governor to call upon militias to execute the laws of the state, to suppress any insurrection and to repel any invasion, to pursue and punish Native Americans, and authorized citizens to organize into armed companies that waged war against Native Californians. Between 1851 and 1859 the Legislature appropriated approximately \$1.3 million to fund these campaigns.
 - e) In 1852, the California State Legislature voted to oppose the ratification of 18 treaties between the United States government and California Indian tribes.
 - f) In 1860, the California Legislature established a Joint Special Committee on the Mendocino Indian War, which provided recommendations by both the majority and minority in regards to crimes committed between white settlers and Native Americans. The Majority Report determined that the state needed to pass legislation that would provide “better protection of the Indians of California,” while the Minority Report dissented and requested that the federal government “cede to the State of California the entire jurisdiction over Indians and Indian affairs within [its] borders” and that “the state should, then, adopt a general system of peonage or apprenticeships, for the proper disposition and distributions of the Indians by families among responsible citizens.”
 - g) Despite all of these wrongdoings by the California State Legislature and all other institutions in the state, the California Native American has survived. This survival serves as a testament of their resilience, their spirit of resistance and defiance against those who wish them harm.
 - h) The California State Legislature has never formally examined or documented their relationship with California Native Americans for the express purpose of acknowledging or apologizing for its historical wrongdoing.
 - i) The California State Legislature seeks to continue working with California Native American Tribes to pursue closer relationships with its communities and governments in order to acknowledge the true history of this State.
- 2) In light of the above findings, the Assembly and Senate of the State of California resolves the following:
- a) The California State Legislature recognizes the historical wrongdoing committed against California Native Americans and that there is much work needed to be done for healing and reconciliation.
 - b) The Assembly and the Senate of the State of California condemns any actions it has taken against California Native Americans that has led to the destruction of important cultural and spiritual sites and recognizes the irreparable harms it has caused to its tribal communities.
 - c) The Assembly and the Senate of the State of California commends and honors the California Native Americans for their resilience and continued work to maintain their

cultural and linguistic traditions for which this House proudly considers part of the state's history and cultural identity.

- d) The Assembly and the Senate of the State of California call upon the government of the United States to reaffirm and strengthen its commitment to collaborating with California Native American tribes and prioritize the protection of tribal sovereignty, the preservation of cultural heritage, and the advancement of economic opportunities.
- e) The Assembly and the Senate of the State of California urge the federal government to work alongside tribal leaders to address historic injustices, uphold treaty obligations, and ensure equitable access to resources, healthcare, education, and environmental stewardship.

EXISTING LAW: Not relevant.

FISCAL EFFECT: As currently in print this resolution is keyed non-fiscal.

COMMENTS: According to the author:

In 1851, California's first Governor and Legislature declared a war against the Native people of this land – a war aimed to exterminate what the state's leadership believed was a threat to their society. The first members of this Legislature were not only complicit, but actively engaged in the conflict. Lawmakers enacted laws aimed to marginalize Native Americans in the newly established 31st state and empower those conducting the war. This is the legacy of the California's State Legislature. With AJR 18, California's legislative bodies can officially recognize historical wrongdoings and condemn any and all actions committed by members of both houses during this horrific period in our state's history. California's First People cannot be expected to move forward by forgetting a past that instilled a trauma that continues to impact Native American communities to this day. That is why AJR 18 serves as an acknowledgement of our history and will serve as a commitment by the Assembly to continue working with California's First People.

Historical Background. Hubert Howe Bancroft (1832-1918), who contributed to and oversaw the creation of a multivolume *History of California* in the late 19th century, in 1886 wrote the following about the onset of the "American" (U.S.) period of California history:

The idea of conquest in the American mind has never been associated with tyranny. On the contrary, such is the national trust in its own superiority and beneficence, that either as a government or as individuals we have believed ourselves bestowing a precious boon upon whomsoever we could confer in a brotherly spirit our institutions. And down to the present time the other nations of the earth have not been able to prove us far in the wrong in indulging this patriotic self-esteem. (Bancroft, *History of California*, vol. 6, p. 256.)

One can only imagine that California's indigenous people did not see "conquest" in quite the same way as Bancroft did. They did not experience conquest as "beneficence," a "precious boon," or "brotherly spirit." They might have accused Bancroft not of indulging in a patriotic "self-esteem," but in self-serving denial and historical blindness. This resolution seeks to address that denial and blindness.

Over the past several decades, historians have uncovered a more complex and less triumphal story of California's early history than the one provided by Bancroft. Even before California became a state, people of all races swarmed to California's mother lode in search of gold. When they did, as the historian Shirley Moore wrote, they "encroached on traditional Indian communities, breached treaties, and exploited Indian labor, resources, and goodwill." (Shirley Ann Wilson Moore, "'We Feel the Want of Protection:' Politics of Law and Race in California, 1848-1878," in Burns and Orsi, eds., *Taming the Elephant: Politics, Government, and Law in Pioneer California* (2003), pp. 97, 104-105.)

The California Constitution and Early Legislation. Even before the U.S. Congress formally recognized California as a state – and while California remained under military occupation after the Mexican-American War (1846-1848) – residents of the military territory convened a constitutional convention, drafted and ratified the 1849 Constitution, and submitted it to the U.S. Congress for approval. They elected a Governor and elected members to the new state Assembly and Senate. In 1850, while still waiting for Congress to recognize California as a state, the Legislature convened and began drafting a comprehensive body of state laws. Not all Californians participated in this process, however. The constitutional delegates, and the members of the first state legislature, consisted of Anglo-American men, most of whom had arrived in California only recently, and a smaller number of "Californios," drawn from the Spanish-speaking elite of Mexican California. Consistent with the requirements of the 1849 Constitution, all laws were to be published in English and Spanish, a practice that continued until the current 1879 Constitution eliminated that requirement. (See several of the essays produced in Burns and Orsi, *supra*.)

However, not all Californians participated in the process. In addition to the absence of women, none of the many African Americans and Asian Americans who came to California during the Gold Rush were represented, as were California's Native Americans. The lack of representation was reflected both by the 1849 Constitution and in the statutes passed by the first Legislature. Although the delegates debated whether to give Native Californians the right to vote, the final document only granted the right to vote to, "Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States, under the treaty of peace [Treaty of Guadalupe Hidalgo]." (California Constitution of 1849, Article II, Section 1.)

While the delegates had debated granting Native Americans the right to vote, they did not do so. Instead, they added the following provision:

Provided, that nothing herein contained shall be construed to prevent the Legislature, by a two-thirds concurrent vote, from admitting to the right of suffrage, Indians or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper. (Article II, Section 1.)

The Legislature never passed such legislation. Although the 15th Amendment to the U.S. Constitution prohibited denying the right to vote on the basis of race, Native Americans in California did not become citizens and earn the right to vote until the federal Citizenship Act of 1924.

One of the most succinct studies of California's early laws relating to indigenous Californians was produced by the California Research Bureau of the California State Library in 2002. Prepared by Kimberly Johnston-Dodds at the request of Senator John Burton, who was then the

President pro Tempore, the report focused on “four examples of early State of California laws and policies that significantly impacted the California Indians’ way of life”: (1) the 1850 Act for the Government and Protection of Indians; (2) California militia policies and expeditions waged against Native Americans from 1851-1859; (3) the State of California’s official response to federal treaties negotiated with California tribes during 1851 and 1852; and (4) early state fish protection laws that exempt California Indians from certain prohibitions. (Kimberly Johnston-Dobbs, *Early California Laws Related to California Indians*, California Research Bureau Report 02-014 (2002), p. 1.) This fascinating report includes not only a concise narrative overview of early state policies, but also includes as appendices many important primary sources, including statutes, court documents, copies of articles of indenture, and related material.

According to Johnston-Dobbs, the 1850 *Act for the Government and Protection of Indians* facilitated the removal of Indians from native lands, separated children from their families by apprenticing and indenturing them to white families, and punished Native Americans arrested for “vagrancy” by hiring them out to the highest bidder if they could not provide sufficient bail. As Johnston-Dodds notes, an earlier version of the Act was perhaps more accurately titled “An Act for the protection, punishment, and government of Indians,” though there seemed to be much more punishment and government than protection. Many of these provisions, including the vagrancy provisions, were quite similar to Black Codes passed in Southern states after the Civil War to regulate the lives of Freedmen, including prohibitions on Native American testimony against whites in criminal trials. Johnston-Dodds also documents many cases in which the provisions of the Act providing for the “apprenticeship” of Native American children, removed from the custody of their parents sometimes amounted to little more than the “kidnapping and selling of Indians.” (*Id.*, at pp. 5-14.)

Article VII of the 1849 Constitution gave the Governor the power to call out the militia to “suppress insurrections, and repel invasions.” However, even when there were no insurrections (and certainly “invasions”) by Native Californians, the Governor used conflicts between whites and Native Americans as a pretext for ordering the militia “to resist and punish the attacks of the Indians upon the frontier.” According to the records of California State Comptroller, the state spent over \$843,000 on these militia campaigns. In addition, the Legislature reimbursed local armed citizen organizations that waged war on Native Californians. In all, the expenditures against Native Californians amounted to nearly \$1.3 million. (*Id.*, at pp.16-18, citing Comptroller of the State of California, *Expenditures for Military Expeditions for Military Expeditions against Indians*, located at California State Archives.)

In 1860, during the so-called “Mendocino Wars,” the Legislature created a Joint Special Committee to investigate incidents of alleged Indian stealing of settlers’ livestock, as well as alleged atrocities committed by whites against Native Americans. The Committee’s majority report noted that Native Americans had committed “depredations on the stock of the settlers,” but it also concluded that the response to these “depredations” were disproportionate and “marked by the most horrid atrocity. . . . No provocation has been shown, if any could be, to justify such acts.” The report noted:

Accounts are daily coming from the counties of the Coast Range, of sickening atrocities and wholesale slaughters of great numbers of defenseless Indians in that region of the country. Within the last four months, more Indians have been killed by our people than during the century of Spanish and Mexican domination. Either our government, or our citizens, or both, are to blame. (The report is reproduced in Johnston-Dodds, pp. 20-22.)

Indeed, someone is to blame. The documents analyzed in California Research Bureau Report, as well as the many secondary sources cited in the report's footnotes, suggest that the California State Legislature, by its own admission, shares much of the blame. While many of the atrocities were committed by private citizens, those actions were either authorized, funded, or tolerated by the Legislature.

This resolution seeks, belatedly, to acknowledge the Legislature's culpability in these wrongdoings, which the majority report quoted above admitted as early as 1860. However, this resolution does not merely catalog the wrongdoings. It also commends and honors the resilience of indigenous Californians in resisting and surviving in the face of such hostility. (For an account of resistance and survival, see, for example, Albert Hurtado, *Indian Survival on the California Frontier* (1988).) Finally, the resolution calls upon the federal government to reaffirm and strengthen its collaboration with California tribes by recognizing tribal sovereignty, upholding treaty obligations, preserving cultural heritage, advancing economic opportunities, and ensuring equitable access to resources, healthcare, education, and environmental stewardship.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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