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# AMENDMENTS TO THE MENOMINEE TERMINATION ACT

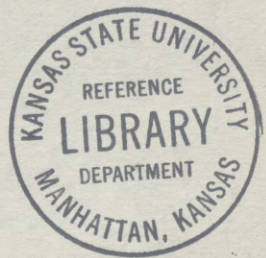
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HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON INDIAN AFFAIRS  
OF THE  
COMMITTEE ON  
INTERIOR AND INSULAR AFFAIRS  
UNITED STATES SENATE  
EIGHTY-SEVENTH CONGRESS  
FIRST SESSION  
ON  
S. 869 and S. 870  
BILLS PERTAINING TO AMENDMENTS TO THE MENOMINEE  
TERMINATION ACT

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APRIL 18, 19, AND 24, 1961

Printed for the use of the Committee on Interior and Insular Affairs



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WASHINGTON : 1961

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MEMORIALS TO THE  
COMMISSIONERS OF THE  
GENERAL LAND OFFICE

HEARINGS  
BEFORE THE

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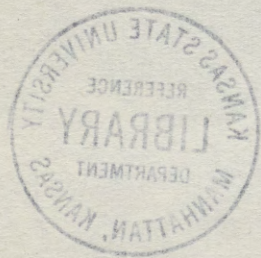
### SUBCOMMITTEE ON INDIAN AFFAIRS

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## AMENDMENTS TO THE MENOMINEE TERMINATION ACT

TUESDAY, APRIL 18, 1961

U.S. SENATE,  
SUBCOMMITTEE ON INDIAN AFFAIRS OF THE  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The subcommittee met, pursuant to call, at 11 a.m. in room 3110, Senator Office Building, Senator Frank Church (chairman of the subcommittee) presiding.

Present: Senators Frank Church (Idaho), Clinton P. Anderson (New Mexico), Quentin N. Burdick (North Dakota), Barry Goldwater (Arizona), and Gordon Allott (Colorado).

Also present: James H. Gamble, Consultant on Indian Affairs.

Senator CHURCH. The subcommittee will be in order.

The purpose of the hearing this morning is to consider two pieces of legislation, introduced by Senators Proxmire and Wiley, relating to the Menominee Indian Tribe of Wisconsin.

Last August this committee considered H.R. 11813, a bill to amend the Termination Act, and there resulted Public Law 86-733. Under that statute several amendments were made to the 1954 statute providing termination for the tribe. Essentially, we:

(1) extended the final termination date to April 30, 1961—which is only a few days from now;

(2) provided that if the tribe did not establish the Menominee Corporation, the property would be transferred to a management trustee;

(3) provided tax exemptions under certain conditions for the new corporation; and

(4) extended the time for vocational training of Indians in training.

As I understand it, the Menominee Corporation has been established and is prepared to undertake the management of tribal assets.

The two bills before us are (1) S. 869, which authorizes the Secretary to postpone termination to a date to be determined by him; and (2) S. 870, which amends the Menominee Act to provide necessary assistance to the tribe to enable it to make an orderly transition after supervision ends. It is proposed to extend the final termination date to April 30, 1969, and establish a \$2½ million loan fund to be administered by the Secretary of the Interior for the Menominees. S. 870 would also provide establishment of a federally chartered corporation on the reservation.

I think it is well known and understood that this committee, following the hearings of last August, took the position that there should be no further extensions of the termination date in connection with this

tribe, and that the termination should proceed as promptly as possible. I think it is disappointing that we are again confronted with legislation on this subject when the termination date is a matter of days away, but I think we all knew in our own minds last year that this would probably happen.

We have several witnesses who are here and wish to speak in connection with these bills. The Departments have submitted their reports and, without objection, the two bills and the reports dated April 14, and 17, 1961, will be included in the record at this point.

(The bills and reports follow:)

[S. 869, 87th Cong., 1st sess.]

A BILL To amend the Menominee Termination Act

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act of June 17, 1954 (68 Stat. 252), as amended (25 U.S.C. 891), is hereby amended by adding a new section 15 as follows:

"SEC. 15. If the Secretary of the Interior determines that more time is needed before the transfer of property to the tribal corporation or a trustee as provided in section 8 of this Act, and before a termination of Federal responsibility for furnishing supervision and services to the tribe as provided in section 7 of this Act, he is authorized to postpone such transfer of property and termination of Federal responsibility to a date he determines is reasonable."

[S. 870, 87th Cong., 1st sess.]

A BILL To amend the Menominee Termination Act to extend Federal supervision of the Menominee Indian Tribe, and provide necessary assistance, to enable such tribe to make an orderly transition to its status after such supervision ends

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) the seventh sentence of section 7 of the Act of June 17, 1954 (68 Stat. 250), as amended by the Act of September 8, 1960 (Public Law 86-733) is amended by striking out "April 30, 1961" and inserting in lieu thereof "April 30, 1969".

(b) The second sentence of section 9 of such Act, as amended by such Act of September 8, 1960, is amended by inserting immediately after "non-Indians" the following: "for taxable years ending after March 1, 1970".

(c) The second sentence of section 10 of such Act of June 17, 1954, is amended by striking out "Thereafter" and inserting in lieu thereof the following: "After April 30, 1969".

SEC. 2. Section 8 of such Act is amended by inserting "(a)" immediately following "Sec. 8." and by adding at the end thereof the following:

"(b) In order to provide assistance in the establishment by the tribe or its successor entity of a program of sound financing of its business operations for the expansion and modernization of existing tribal enterprises and for the development of tribal resources and in order to facilitate the complete accomplishment of the purpose of this Act, the Secretary is authorized to make loans to the tribe or its successor entity at such times, in such amounts, at such rates of interest not in excess of 4 per centum per annum, and subject to such terms and conditions, as he deems appropriate. The aggregate amount of all such loans shall not exceed \$2,500,000. There are hereby authorized to be appropriated, to remain available until expended, such sums, not to exceed \$2,500,000 in the aggregate, as may be necessary to carry out this subsection.

SEC. 3. Section 4 of the Act of March 28, 1908 (35 Stat. 51), as amended by the Act of June 15, 1934 (48 Stat. 964), is amended by striking out the next to last sentence and inserting in lieu thereof the following: "The Secretary of the Interior shall at the end of each fiscal year ascertain and fix the fair market stumpage value of the fully matured and ripened green timber cut on said reservation during the fiscal year, and shall set aside such amounts out of the proceeds from timber operations on said reservation during that year to be used to defray administrative and other governmental expenses, expenses of tribal programs, and to develop a reserve fund."

SEC. 4. (a) The Articles of Incorporation of Menominee Enterprises, Incorporated, as revised November 11, 1959, are hereby ratified and affirmed by the United States; except that the corporation formed by such articles shall be considered to be chartered under Federal laws.

(b) The provisions of the laws of Wisconsin relating to the government of the Menominee Tribe, as set forth in chapter 259, Wisconsin Statutes, effective July 30, 1959, are hereby adopted by the United States for the government of the tribe until the termination of Federal supervision of the tribe pursuant to the Act of June 17, 1954; except that the provisions of such laws relating to the establishment and operation of Menominee County and the functions of the government of such county shall not be effective until the termination of such Federal supervision.

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EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., April 17, 1961.

HON. CLINTON P. ANDERSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate,*  
*New 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 on S. 870, a bill to amend the Menominee Termination Act to extend Federal supervision of the Menominee Indian Tribe, and provide necessary assistance to enable such tribe to make an orderly transition to its status after such supervision ends.

Enactment of S. 870 would establish the termination date as of April 30, 1969; authorize Federal loans to the tribe of up to \$2,500,000; require that the Secretary of the Interior annually set aside from the proceeds of timber operations on the Menominee Reservation an amount equal to the fair market stumpage value of timber cut that year for governmental and other expenses; and recognize the tribal corporation as chartered under Federal law.

Almost 7 years have elapsed since the Menominee Termination Act was approved. The Federal Government and the State of Wisconsin have devoted much time and effort to the preparation of the tribe for its change in status. The tribe has developed a plan of operation and has completed the organizational steps necessary to put the plan in effect.

The Department of the Interior, in a report prepared for your committee, describes in detail the current situation of the Menominee Tribe and suggests that the Congress might consider the enactment of legislation which would authorize Federal credit for expansion and modernization of the tribal business enterprise on a standby basis. The Department also suggests that the Congress consider authorizing the Secretary to: (1) Transfer title for the tribal property to the tribal corporation at any time prior to April 30, 1965; and (2) enter into a contract with the corporation, prior to the transfer of title, which would give the corporation full control of the assets and subject to the right of the Secretary to resume control should he deem this to be necessary.

We agree with the report of the Department of the Interior on S. 870, and we suggest that the committee give favorable consideration to the Department's proposals.

Sincerely yours,

PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference.*

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DEPARTMENT OF THE INTERIOR,  
Washington, D.C., April 14, 1961.

HON. CLINTON P. ANDERSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR ANDERSON: Your committee has requested a report on S. 870, a bill to amend the Menominee Termination Act to extend Federal supervision of the Menominee Indian Tribe and provide necessary assistance to enable such tribe to make an orderly transition to its status after such supervision ends.

We recommend that the bill be enacted if amended as suggested below.

The bill amends the act of June 17, 1954 (68 Stat. 250), as amended by the act of July 14, 1956 (70 Stat. 544), as amended by the act of July 14, 1956 (70 Stat. 549), as amended by the act of July 2, 1958 (72 Stat. 290), as amended by the act of September 8, 1960 (74 Stat. 867). It extends the date for the termination of the special Federal trusteeship over Menominee tribal affairs from April 30, 1961, to April 30, 1969; authorizes Federal loans up to \$2,500,000 to the tribe or its successor entity for the development, expansion, and modernization of Menominee business operations; exempts the Menominee tribal assets from Federal and State income taxes and State property taxes for 8 years; and makes the already established and functioning Menominee Enterprises, Inc., organized under the laws of the State of Wisconsin, a Federal corporation.

The Menominee Tribe has had considerable advisory service available to it in the course of planning for its unrestricted status. It retained, largely at Federal expense, a prominent and respected firm of corporation lawyers in Wisconsin; many of the State agencies and various offices of this Department assisted them; the University of Wisconsin supplied technical experts and social scientists; and the State legislature enacted special legislation. The plan that the tribe developed and submitted to the Department was approved by this Department pursuant to the 1954 act. The tribe has already completed all of the organizational steps necessary to put the plan into effect. There remains a complex of ministerial chores to be performed by April 30, 1961, entailing performance on the part of this Department, the Menominee Tribe, and the State of Wisconsin. It is expected that these steps can be taken in a timely and orderly manner. It does not appear to us that an extension of time is necessary for this particular purpose.

The Menominee Tribe is concerned about its economic prospects. It is apprehensive about whether, in the light of its current financial condition and the current depressed lumber market, it can realize the necessary income for the county to be created and provide public services meeting Wisconsin standards; modernize and expand the lumber mill and other enterprises; and provide other sources of income for the members. The Menominee plan on p. 15 contains the following statement:

"By increasing the annual cut on the Menominee Forest, within agreed limits of sound sustained yield practice, it is estimated that Menominee Enterprises, Inc., will be able to realize net earnings of \$400,000 to \$450,000 per year after taxes and before payments to stockholders. This is approximately the amount of payments made to tribal members over the past several years as so-called stumpage payments. It is contemplated that most of this amount will be paid to holders of the income bonds to be issued by the corporation."

To accomplish its plan, the corporation will have to expand its production of lumber and related products while increasing its sales proportionately; and to realize maximum profits some modernization of plant will be required. The tribe has received a report from the engineering consulting firm which it hired to analyze its present mill operation and advise on means for modernizing and improving efficiency. The present concern of the tribe stems from the fact that it is not able to sell all of the present production of lumber at prices it considers fair. Some crucial comparisons are set out below on the Menominee mill operation from July 1 to February 28 periods for this fiscal year and last year.

	8 months	
	Fiscal year 1960	Fiscal year 1961
Board feet lumber produced .....	9,927,017	11,725,913
Board feet lumber sold .....	12,287,992	6,861,025
Receipts from sales .....	\$1,140,983.33	\$650,865.64
Book inventory in yard .....	945,110.18	1,522,339.23
Operating profit .....	59,721.17	9,727.42

From these figures it can be seen that the mill is producing lumber at an increased rate, but well below the limitation of 22 million board feet a year allowed by the law. Sales and receipts have fallen off almost 50 percent. At the same time, there appears to be some grounds for believing that management's operations may be appreciably more efficient this year.

That the lumber market is off is well known. We are informed that for the Lake States area the hardwood and hemlock indexes of sales are down only about 18 percent, whereas the slump at Menominee is considerably more than twice that. Some remedies have already been undertaken. Production volume has been shifted to a preponderance of hardwood, where the market is more favorable; and we have amended the mill budget recently to provide \$8,000 for fees for commission agents to supplement the mill's sales office.

It should be expected that at times there will be a drop in sales and receipts of the Menominee lumber business. There is every reason to believe that over a period of time the mill will be a profitable operation. We do not consider the present situation to be a basis to doubt the soundness of the Menominee's overall plan. But extreme difficulties face the tribe in the immediate future.

At the time of the enactment of the Menominee trust termination statute in 1954, the tribe had U.S. Treasury balances of \$10,403,302. The Termination Act directed the payment of \$1,500 per capita to each enrolled member, and \$4,932,538 was distributed pursuant to it.

In the following year, 1955, based upon a ruling of the Department Solicitor, payments for the years 1941 through 1954 were recomputed and it was determined that the tribal members had been underpaid by almost \$2¼ million for those years. The Commissioner of Indian Affairs urged the tribe to voluntarily take less than the full redistribution, but the tribe voted otherwise.

The Menominees had, in effect, been financing their tribal services costing an average of \$350,000 a year from the value of the stumpage put into the mill. As the members of the tribe were unwilling to accept a reduced amount or to cut back the services provided by the tribe such as welfare and relief, law and order, hospital and medical services, payments to parochial schools, legal services, utilities, construction and maintenance, garbage removal, fire protection, etc., an annual operating deficit of more than \$250,000 has had to be taken from the tribe's funds.

By the April 30, 1961, date now set for trust termination, the Menominees will have cash balances in the vicinity of \$1,300,000. They will have real property appraised at \$35 million, discounted by the State to \$16 million for tax purposes in consideration of the sustained yield requirement. They have a lumberyard, byproducts, and log inventory valued on the mill books at \$1,900,000.

The engineering firm retained by the tribe has made a report indicating approximately \$1 million can profitably be invested to improve the present lumber mill without changing the basic type of operation. There will doubtlessly be other opportunities to improve the Menominee's economy which will require capital investment.

In order to afford the Menominees every chance for success, important to them, the State, and the Federal Government, Congress might consider the enactment of enabling legislation for Federal credit on a standby basis. The tribe has not had an opportunity yet to develop fully its plans for providing an adequate economy. The restrictive covenant that is attached to their forest property, encumbering its ready negotiability, may make it difficult to get commercial credit for industrial expansion. Providing Federal credit can be accomplished by the following amendment:

Strike everything after the enacting clause and substitute the following:

"That notwithstanding the publication of the proclamation and the effect thereof as provided in section 10 of the Act of June 17, 1954 (68 Stat. 252), as amended, the Secretary of the Interior is authorized to make loans to Menominee Enterprises, Inc., during the four-year period following the date of this Act, for the purpose of financing an expansion or modernization of the corporation's business operations, under the following conditions:

"(1) The Secretary shall be satisfied that adequate funds for the purpose cannot be borrowed on the commercial money market on reasonable terms.

"(2) Each loan shall be amortized in not more than twenty years.

"(3) Each loan shall be secured by a mortgage or pledge of property satisfactory to the Secretary, and an agreement that the corporation will pay no dividends or make any other payment to the holders of its stock or income bonds as long as any payment on its loan is delinquent.

"(4) Each loan shall be based upon a loan agreement that contains such additional terms and conditions as the Secretary deems appropriate.

"SEC. 2. Notwithstanding any other provision of law, any loan made pursuant to this Act may be transferred for administration, collection, and foreclosure

of security if necessary to any Federal agency by agreement between the Secretary of the Interior and such agency.

"SEC. 3. There is authorized to be appropriated for the purpose of this Act not to exceed \$2,500,000."

It is most important to note that section 4 of the bill, providing for a Federal charter, is seriously deficient in draftsmanship in its attempt to accomplish the purposes of the sponsors. We do not offer any substitute language because we recommend that no attempt be made to superimpose a Federal charter on a corporation operating under State laws. Should your committee decide, however, to recommend favorably on this part of the bill, we suggest that our staff be given an opportunity to work with the committee in drafting suitable language. The importance of this can be perceived from a letter of the Menominee tribe's attorney, furnished to us by the tribe on March 3, 1961, which we understand has also been made available to the committee. Though necessarily lengthy, it says in pertinent part:

"Section 4 of S. 870 ratifies and affirms the articles of incorporation of Menominee Enterprises, Inc., 'as revised November 11, 1959.' The articles included in the termination plan are marked 'revised November 30, 1959' and we are not certain whether these are the same, but in any event the latter date is the one which should be used in S. 870. It then states that the corporation 'should be considered to be chartered under Federal law.' We do not know and we doubt if any lawyer can state just what would result with passage of this section. Does the State corporation continue to function under Wisconsin's modern and very detailed corporate laws, with a Federal charter besides, or is the State corporation to be dissolved? If it continues under the dual form of chartering, what Federal laws govern and to what extent do they supersede State laws? We do not know what this section or the idea of chartering the corporation under Federal laws contributes to the purpose which the tribal leaders have in mind and believe that this section only creates doubt and confusion and even possible litigation. It should be stated that the Wisconsin corporation, Menominee Enterprises, Inc. (as required by Public Law 399 to be done by March 1), is already established and functioning."

While we are of the opinion indicated above that the Menominee termination plan is a sound one and can be made to succeed, nevertheless, the plan may encounter serious difficulties, and hardships may result to the tribe, the State, and local units of government. We, therefore, suggest that:

1. Instead of transferring title to all of the tribal property to Menominee Enterprises, Inc., on April 30, 1961, as now required by law, the Secretary might be authorized, if the Congress so desires after hearing from the State and the Indians, to make the transfer at any time prior to April 30, 1965, that he determines is justified. If this were done, the Secretary could be authorized to enter into a contract with Menominee Enterprises, Inc., which gives the corporation full control of the tribal assets and full responsibility for conducting the business enterprises of the tribe, subject to the right of the Secretary to resume control if he determines that there is a need for doing so. Menominee Enterprises, Inc., could proceed immediately to run the mill, test whether the cut can be increased from 22 million to 29 million board feet annually, whether the increased cut can be marketed successfully, and how many Indians properly can be employed in a business-like operation.

If there is to be any continuation of Federal financial assistance beyond 1961 we believe that it should be based upon a continuation of the Federal trust during the period of assistance, and not be in the form of Federal subsidy after a termination of the trust.

2. In order that the proposed new county may be organized and commence to function, the contract between the Secretary and the Menominee Enterprises, Inc., could require the corporation to contract with the county for a payment in lieu of taxes for the period prior to the date of actual transfer of title to the corporation.

This procedure would allow the Federal Government to retain its basic authority for a transition period of not to exceed 3 years, and to lend a guiding hand if needed. The corporation and the county would be able to assume their responsibilities immediately, however, and start developing the full potentials of the reservation. This department would be in a position to give advice and assistance as needed. If experience shows that the plan is likely to prove unsuccessful, title to the reservation would still be in the Federal Government and no irrevocable decision would have been made.

If Congress wishes to proceed along such lines, the following additional language should be included in the bill:

"SEC. 4. (a) Section 7 of the Act of June 17, 1954 (68 Stat. 252), as amended, is amended by deleting 'shall cease on April 30, 1961, or on such earlier date as may be agreed upon by the tribe and the Secretary' and by inserting in lieu thereof 'shall cease when a transfer of title to tribal property has been completed in accordance with the provisions of Section 8 of this Act.'

"(b) The first sentence of Section 8 of said Act is amended by changing 'April 30, 1961', to 'April 30, 1965.'

"(c) Section 8 of said Act is further amended by designating the present language as subsection (a) and by adding the following new subsection (b): '(b) For the period preceding the transfer of title to the tribal corporation as provided in subsection (a) of this section, the Secretary is authorized to contract with the tribal corporation for the management and administration of all or any part of the tribal property in accordance with such terms and conditions as the Secretary may prescribe, notwithstanding any other provision of law. The contract may provide for management and administration as nearly as possible in accordance with the terms of the plan prepared pursuant to Section 7. The contract may require the tribal corporation to contract with the local county for a payment in lieu of taxes for the period prior to the date of transfer of title to the corporation.'"

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN A. CARVER, JR.,  
*Assistant Secretary of the Interior.*

Senator CHURCH. Our first witness we are pleased to have with us this morning, the distinguished Senator from Wisconsin, Senator Proxmire.

#### STATEMENT OF HON. WILLIAM PROXMIRE, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator PROXMIRE. Thank you, Mr. Chairman.

I am grateful to the distinguished chairman of this committee, Senator Anderson, and to the chairman of this subcommittee, Senator Church, for calling this hearing.

I know how troublesome and time consuming this problem has been to them and the committee. Your courtesty and patience is deeply appreciated. I do hope this hearing will provide an opportunity for full consideration of all the factors bearing on the scheduled termination of the Federal status of the Menominee Indian Tribe of Wisconsin.

I appreciate this opportunity to present testimony, not only because I introduced the two bills, S. 869 and S. 870, at the request of the tribe, which are the occasion for this hearing, but also because I am deeply concerned about the welfare of the more than 3,000 Indian citizens who are directly affected by the Menominee Termination Act.

In considering the proposed amendments to the Menominee Termination Act which are before this subcommittee today, I think it is well to remember that the termination process did not stem from the initiative of the people most directly concerned, the Indians.

Rather, it was thrust on them by Congress, to a significant extent at the instigation of this very subcommittee, which nearly 8 years ago helped promulgate House Concurrent Resolution 108 of the 83d Congress.

Senator GOLDWATER. Will the Senator yield at that point?

Senator PROXMIRE. I will be happy to yield.

Senator GOLDWATER. I could be wrong, but it is my recollection that the Indian themselves asked for this termination.

Senator PROXMIRE. We discussed this last year, as I recall. It is true the Indians voted in favor of termination, but they voted in favor of termination in my judgment under some misapprehension, and they voted with the feeling that if they did not, they were going to be in a very adverse position anyway. This was done in 1954.

Senator GOLDWATER. In 1953 there was a resolution, by the Menominee general council, that called for termination. That called for a 3-year period during which the tribe may arrange for such planning as it deemed desirable, and there were seven points to the resolution. It has been my recollection all along that this was instituted by the tribe.

Now, as to whether they were under pressure or not, that is something I do not know about. But it was not thrust on them by Congress, if I may comment. It was as a result of a resolution being presented to this committee and this committee acting on that resolution.

Senator PROXMIRE. Well, the factors that seemed to me to persuade them to vote in favor of termination were what would persuade many people to vote that way. They saw that they might get an immediate financial advantage in liquid cash, as I recall, if I am not mistaken, and that if they did not take advantage of this opportunity that they would suffer termination at any rate, and that there was nothing they could do about it.

I think that was the reason why they voted, although there is no question that they did vote, although it also seems to me that every action they have taken since then, or virtually every action, right up until the last few weeks, has been to oppose termination. But at any rate, I am not going to—

Senator GOLDWATER. Was Mr. Weso a member of the council, Monroe Weso, delegate of the General Council of the Menominee Tribe? He said in the testimony—

I merely bring to the committee one idea and that is my people are ready to accept this forward step if given extended privileges until we are organized to completely take over our tribal activities.

Senator PROXMIRE. Well, the resolution declared that as rapidly as possible, Indians should end their status as wards of the United States, should be subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, and should be granted all of the rights and prerogatives pertaining to American citizenship.

The Menominee Tribe of Wisconsin was named as one of those to be terminated "at the earliest possible time."

If there is one thing that has been learned in the years since that policy was enunciated, it is that termination is not a simple matter. It has meant many different things to different people, at different times and places. The summary report of the Fund for the Republic's Commission on the Rights, Liberties, and Responsibilities of the American Indian, entitled "A Program For Indian Citizens," has commented that the word "termination" spread "like a prairie fire or a pestilence through the Indian country."

The report, which was prepared by a distinguished five-man commission, including the chairman of the present Task Force on Indian Affairs in the Interior Department, Mr. W. W. Keeler, went on to say:

Though the full consequences of these measures cannot yet be estimated, it became evident that termination instead of being a simple process entails countless problems. The upheaval among Indians would be not unlike that caused by superimposing the laws of New York on New Mexico with its different needs, people, cultural, and legal heritage.

As this subcommittee well knows, individual termination acts have had to be amended and reamended, to meet additional contingencies and problems as they came into view. The Termination Act of the Klamath Indians of Oregon has undergone four changes in the basic law since it was passed. A final stage was just announced a few days ago, when the Secretary of Agriculture took title to the tribal forest in exchange for a payment of nearly \$69 million.

Senator ANDERSON. Don't you think that was a good transaction, or do you?

Senator PROXMIRE. Taking possession for the payment of \$69 million?

Senator ANDERSON. Yes. That forest, if sold at forced sale, I think we estimated might bring \$50 million or \$60 million. Of course, it would throw an enormous amount of timber on the market at one time. If it could have been slowly liquidated it might have brought as much as \$150 million. They got the equivalent of \$90 million for it all. I thought that was a very good deal.

Senator PROXMIRE. That may well be. That is why I would like to call the chairman's attention to the fact that an alternative possibility for the Menominees might be that the Government might pay them \$40 million or \$50 million for their forests. It has been appraised at something like that value.

This is something that might well be worth considering. You have a very exacting precedent with the Klamaths.

Senator ANDERSON. I am not hostile to that. In fact, this forest abuts a national forest. As the Senator from Wisconsin may know, I am a little bit enthusiastic about the Forest Service in the United States and have been suggesting the possibility that this may be one of the alternatives.

The Forest Service could handle it very well and would handle it very well. But I know that Senator Neuberger came to me when he first had the proposal for the sale of the Klamath Indian forest, and suggested we should try to find a figure. I do not say the figure of \$90 million was right, but it did happen to be my figure and I put it in on the basis of trying to evaluate the present value of an eventual \$150 million asset being sold at the present time, which you do frequently in many business transactions, and reached the figure which was almost 100 percent above—or at least 80 percent—above what might have been achieved had it been thrown into forced sale.

There is a great difference between disposing of an asset in the most advantageous fashion and disposing of it in a forced sale. I would not think that the Menominees, if they were to dispose of their forests, would want to do it on a forced-sale basis, nor could they expect to get every dollar that would come to it eventually from the slow working out on a sustained yield basis on that forestland. You have to reach some harmonious figure somewhere in between.

But I do believe that the Klamath transaction was a most fortunate transaction for the Klamath Indians. I do not think termination was nearly as bad as this statement that you have quoted. There was no great upheaval among the Klamath Tribe that I know anything about.

Senator PROXMIRE. As I said in my statement, I think it varies greatly. I think it is possible that the Klamath termination caused less human misery than this termination would cause. It depends on the circumstances and the situation. As I think I can indicate here, the impact on the Menominee Indians is very serious.

The doubts and hesitations of the policy proclaimed by House Concurrent Resolution 108 were renewed and emphasized in the minds of many Indians by the radio broadcast of the previous Secretary of the Interior, the Honorable Fred A. Seaton, delivered at Flagstaff, Ariz., in September 1958. In this widely publicized statement, Secretary Seaton announced that no tribe would be terminated without the consent of its members.

Now, in the present months, the hopes of many Indians accompany the task force named by the new Secretary of the Interior, Stewart Udall. This outstanding panel of experts on Indian matters has been taking testimony and examining Indian problems all over our country.

Less than 2 weeks ago, they were in Duluth where they heard statements on the Menominee situation from members of the tribe. It is widely felt among Indians that this task force heralds a "New Look" in the relationship of the Federal Government to our Indian citizens.

It is against this background that we must view the termination program of the Menominee Tribe. According to the existing schedule, the Federal status of the Indians will come to an end on April 30, in less than 2 weeks.

I think it will be widely agreed that the Menominee Tribe is apprehensive as it faces this imminent termination. Living as they do many hundreds of miles from Washington, D.C., with many of the tribe not well versed in the technicalities of the legal transfer which is scheduled to take place, it is not at all surprising that this community should feel some doubt and apprehension about what the immediate future holds for them.

It is apparently believed that no member of the tribe is qualified to hold the top managerial positions in the saw mill which is their chief source of revenue. Yet this same tribe is now scheduled to embark on an adventure in self-financed, self-government which would challenge the abilities of almost any group of similar size.

Each of us is familiar with one or more small communities in our respective States that are at present facing economic and social difficulties. One of the most common causes for such problems is a decline in the single industry which for generations may have supported the town and even been its chief reason for existence.

The consequent social dislocation and human suffering are part of the reason for the area redevelopment program that we are considering in Congress right now. Many of our rural areas have been especially hard hit by a combination of factors which in some cases wipes out a town's economic reason for being.

The results are measured in terms of the unemployed, of increased welfare and relief costs, of declining social services, and of an inability

to pay even the essential minimum costs of decent community life in 20th century America.

Many of these towns that I describe are declining in size and may even disappear in a few years. They are on the way to becoming ghost towns.

The economic situation in which the Menominees today find themselves resembles the plight of the declining rural town in many respects. But far from being on its way out, the Menominee community is now expected to set up a new local government of its own, with a brand new budget, social, health, and police services, and all the other components of a new county.

While it is true that the Menominee Tribe owns a magnificent stand of timber, and that its lands have a great potential for recreation use development, the hard facts of economic life facing the tribe right now are not encouraging. Due to a serious decline in the market for their timber, and to the obsolete technology of their sawmill, the tribe's revenues from lumbering at present are running far below the figures specified in their approved termination plan.

At the same time, self-government will impose a heavy financial burden on the tribe. For example, there are 47 tuberculosis patients whose care costs \$100,000 a year. There is an annual bill of \$50,000 to care for 218 children in foster homes. Hospital care and general relief cost an additional \$100,000. Education costs are estimated to be \$250,000.

The medical problem has become more serious, I understand, since the closing of the Menominee tribal hospital on January 1 of this year. Due to lack of funds and physicians' services, the nuns who had run the hospital could no longer continue.

An example of an additional cost to the tribe which has not, to my knowledge, been fully considered is the need to provide a sanitation system which will conform to the standards laid down by the State of Wisconsin. Even a minimum system will cost more than half a million dollars.

It is plain the termination, as such, will not eliminate these costs. The need for the services will continue and may well increase. Funds to pay for them must be provided to prevent needless human suffering. I understand that the present Federal contribution to the tribe amounts to about \$30,000 to \$40,000 per month. When the additional costs of local government are added to that, it is clear that at the current rate, the earnings of the tribal corporation will be insufficient.

Senator ANDERSON. Who brought about the additional costs in local government? Were they not in a county?

Senator PROXMIER. Well, most of the costs would have been, it seems to me, inevitable on termination, regardless of the policies that have been adopted.

Senator ANDERSON. I will go into it later on, but they actually had timberland that has an established basis of assessment, and the total costs of the natives who live in the county they were in would have run some \$20,000. By establishing a county government or establishing the desire to have the county government and set up all the things, they raised that cost by some 1,500 percent. That is not really the fault of the Federal Government. They wanted their own county and they got it, but it is like a lot of other things; it is expensive.

Senator PROXMIRE. I would certainly like to study the figures on that.

Senator ANDERSON. I only say when we get to other witnesses I think we will establish that. But there is a taxation policy on forestlands and that policy would permit an absolute figure to be arrived at as to what their taxes would have been on that land. You do not pay on an ad valorem basis.

I want to say to the Senator from Wisconsin that they had an established policy here in the District of Columbia for a long time that if a piece of ground had ever been a farm, as long as you held it together, even though the city built all around it and put apartment buildings around, it still was taxed at \$1 an acre.

Recently a piece of ground was assessed, I think, at something like \$1,500 and was sold for \$2 or \$3 million.

Senator PROXMIRE. I respectfully disagree with my good friend from New Mexico on the notion that the form of government they happened to adopt was nearly that expensive. It seems to me that the services have to be provided. You have to provide schools and sanitation, you have to provide relief and various other costs. They have to be provided.

Whether it is a county government that does it or whether they are part of another county, it seems to me the costs are not going to be anything like 1,500 percent different.

Senator ANDERSON. We will get to that. I hope my figure will hold up. I think it will. We will see when we get to it.

Senator PROXMIRE. All right.

Certainly there are possibilities for the future in the proper improvement and development of the tribe's lumbering enterprise. A well-qualified professional engineer who specializes in sawmill operations, Mr. Milton H. Mater, of Corvallis, Oreg., has done a careful survey of the tribe's present setup. He states that an extensive program of modernization, including acquisition of new machinery and other large capital outlays, is necessary to make the tribe's enterprise competitive in today's lumber markets.

In his report, Mr. Mater points out that a modern, properly automated sawmill need not lead to a reduction in employment. By the addition of high unit-profit subsidiary industries, such as a molding plant, the Menominee mill can diversify to better withstand the swings of the market, while providing increased employment and higher revenues.

Mr. Mater presented a brief statement at the House hearings on these bills. I suggest that it also be made part of the record of these hearings, if permissible.

The improvements which Mr. Mater recommends will require a large capital outlay, and are the main justification for the loan that is provided in my bill. I strongly urge that this loan be approved, so that the needed modernization can begin.

Senator GOLDWATER. Would you yield there? I have not studied the details of your bill, but who would make that loan—the Indian service or one of the lending agencies?

Senator PROXMIRE. The Interior Department.

Senator CHURCH. That would be the Indian Bureau, then.

Senator GOLDWATER. How much were you asking for?

Senator PROXMIRE. \$2,500,000.

Senator GOLDWATER. I am interested because I have a tribe that is trying to borrow money, too. I wanted to see how you go about it.

Senator PROXMIRE. We are asking that as the limit.

Senator CHURCH. Is this loan to be applied just for the purposes of modernizing the mill?

Senator PROXMIRE. Well, that is the principal purpose of the loan. If I may read from the bill:

In order to provide assistance in the establishment by the tribe or its successor entity of a program of sound financing of its business operations for the expansion and modernization of existing tribal enterprises and for the development of tribal resources and in order to facilitate the complete accomplishment of the purposes of this act.

So it would not be confined entirely.

Senator CHURCH. Would it include the sanitation system that you mentioned? Could it include the sanitation system?

Senator PROXMIRE. It could. It certainly would be legal to include the sanitation. It would seem to me that we have not envisioned that that would be included. We have envisioned that there would be additional funds for that purpose.

Senator CHURCH. But you have in the bill what would amount to a line of credit that could be actually employed for various purposes. It might include a sanitation system and it might go far afield from the sawmill itself.

Senator PROXMIRE. It is limited by the act, of course.

Senator CHURCH. But the language you read to me was pretty broad language. It refers to Indian resources.

Senator ANDERSON. Could it not have resulted, Senator Proxmire, in the same thing that happened in 1954 when we had the hearings? I will refer you to page 754. A witness was testifying with reference to this sawmill, a Mr. Dickey, and he said they had \$10 million that they were going to make use of, which they got. He said:

The proposal I have here has been developed by R. W. Dickinson, manager of the Menominee Mills, which contemplates the development of additional electrical power, for it is impossible for us to expand the mills in any manner until we do have additional power.

In addition to that, of course, we have proposed the installation of gangsaws that would cut down on the cost of producing the smaller logs, logs of poorer grade as well as the construction of a veneer plant.

They got the \$10 million. The bill went through. Did any of these things take place? Not one thing. That is why I commend the chairman for saying this \$2.5 million can be used for almost anything. They had this chance to modernize the mill.

Senator PROXMIRE. There is an answer to this. I am trying to recall. I think we discussed this last year, and after the discussion, perhaps at the end of those hearings, we pointed out that it was not simply a matter of the Menominees getting \$10 million and not devoting it to a proper purpose.

There were other factors involved, I am sure. But I would like to say with regard to this particular situation, the loan would be to the corporation, and sanitation is a county responsibility. So there would be some question as to whether or not it could be used for sanitation.

Senator CHURCH. I read the language; the language is:

In order to provide assistance in the establishment by the tribe or its successor entity of a program for sound financing of its business operations, for the expansion and modernization of existing tribal enterprises and for the development of tribal resources, and in order to facilitate the complete accomplishment of the purposes of this act.

That, I think, you would have to concede is a very broad authority, within which the Department would exercise very broad discretion.

Senator PROXMIRE. It is necessary for the tribe to have the ability, if they choose to do so, to use the funds for whatever resource development can promise them the most sound and best financial basis. It may be that recreation development may be very sensible and yield more per dollar of investment than just developing the sawmill. So I think it is desirable.

This is a rich area for recreation development, with badly needed funds for its developments. So I think it would be a mistake to limit it too strictly under these circumstances.

Senator ANDERSON. I would only call your attention to the fact that Mr. Dickey testified at page 755:

I would like to point out that this expansion program is for the purpose of developing additional income and promoting efficiency. One basic principle is involved, and that is to derive a profit for the stockholders.

When you turn to page 761, you will see where they talk about the band mill and gang mill proposal.

To effect further economies in the sawmill operation, it is proposed to install a log gangsaw on the left-hand side of the mill.

On page 762, you have a page showing the costs and what they were going to be when that is installed. On 763, you have all about the veneer and plywood building. On page 764 you have schedule A, which is solely related to this again. They gave us the whole story on this sawmill in 1954, and find where they spent a penny of the \$10 million to do it. That is the problem.

Senator PROXMIRE. I will be very happy to go into detail on this. As I say, believe me, I think this was discussed a year ago. It is my understanding that this was mostly used for per capita payments.

Senator CHURCH. That is distribution.

Senator PROXMIRE. That is correct.

Senator CHURCH. And this was done against the best advice that the tribe had had at the time.

Senator PROXMIRE. And the Comptroller General of the Department of the Interior made a ruling on stumpage which required, in effect, or caused the distribution. After all, these people are human beings, and the others were in a legal position to get payments on stumpage, so they wanted it, too.

A situation was created where this \$10 million, it seems to me, just could not be invested under these circumstances for this purpose.

Senator ANDERSON. That was the testimony, however, we had before the committee when we were trying to work this out, that it would be used for these purposes. Did you say there was a ruling of the Comptroller General that they could not use it for these purposes?

Senator PROXMIRE. That is my understanding; yes, sir.

No, I should not say that they could not. I said there was a ruling that certain stumpage payments had to be made and because they had

to be made, this was the only way that the tribe could make them. They were apparently legally liable to make them. They were sued to make them and they had no alternative but to make these payments.

Senator ANDERSON. I do not think they used up the whole \$10 million.

Senator PROXMIRE. I do not say that. I say this is one of the reasons why the \$10 million was not used entirely for reconstruction.

Senator CHURCH. Is it not true that half of it and more was distributed on a per capita basis?

Senator PROXMIRE. Yes.

Senator CHURCH. \$4½ million.

Senator PROXMIRE. Yes.

Senator ANDERSON. Didn't their council say not to distribute it and didn't they go ahead and distribute it in spite of the Department of the Interior advice?

Let me ask Mr. Lee.

Was there a ruling by the Comptroller General of some kind that made them distribute this money?

Senator PROXMIRE. I did not say it made it. I said it made it possible.

Senator ANDERSON. You said it made it necessary to distribute it.

Was there a ruling, Mr. Lee?

Mr. H. REX LEE. There was a ruling by the Solicitor of the Department of the Interior that the stumpage payments that had been made in the past had not been full and complete, and that if the Menominees wanted these additional payments they were entitled to them.

The Menominees chose to take these additional payments and it did deplete their treasury, as I recall it.

Senator PROXMIRE. That is my position.

Senator ANDERSON. But it wasn't the Comptroller General?

Senator PROXMIRE. It was the ruling that made this money available for this purpose.

Senator ANDERSON. That is like saying to me that if I wanted to, I could go down to the bank and draw out the little bit of money I have down there and throw it in the streets. But you would not blame the bank if I throw it in the streets.

Senator PROXMIRE. What I am saying to the Senator from New Mexico is that these people acted individually. Put yourself in the position of being a Menominee Indian and seeing Joe Smith and John Brown getting their payments. What do you do? What do you do?

Senator ANDERSON. They all got their per capita payments.

Senator PROXMIRE. I am talking about the stumpage payments. What do you do?

Senator ANDERSON. There was no differentiation between John Jones and Bill Brown on stumpage payments. Each Menominee got what he was entitled to. He had rights to more of it if the tribe voted to distribute it. But there was no discrimination between individuals.

Senator PROXMIRE. What I am saying is that under these circumstances they simply chose to go ahead and take advantage of this position, which is perfectly understandable in view of the certainty that they faced termination, and in view of the fact that they expected termination to create a situation—

Senator ANDERSON. There was no certainty to face termination. They asked for termination.

Senator PROXMIRE. At this point, termination was inevitable. We discussed previously as to whether they asked for it or not. My position is that they legally voted for it.

Senator ANDERSON. Not only legally voted for it, but they asked for termination. No matter how many times you go round and round and round, it ends up exactly the same place; that they asked for termination. The resolution was here. We have it in the records.

Senator CHURCH. Senator Proxmire, this is the point, I think, that worries the committee. We have been through this several times and each time we come back again to the problem of further extension and further money. I think the committee wants to be fair to the Menominee Indians. We are not going to close our minds to problems that still face them, but a lot of money has been involved already. A lot has been distributed already.

The argument that these people acted humanly because they wanted the money and, therefore, the Federal Government is obliged somehow to extend further money to assist them in their problems does depart from the normal principle that when people exercise their judgment and take advantage of their rights they have to live with their decisions.

Senator ANDERSON. That is right.

Senator PROXMIRE. What I am saying to you is that this has been done. You can assess blame, you can say this was improvident, you can say it was stupidity, you can say that they should live with it, they should suffer because of it.

Senator CHURCH. Now, just a moment. That is not what I am saying. After all, this committee is dealing with the public money and there is a certain responsibility that goes with it. I am not saying that anyone should suffer.

I am saying that we want to be just, but in being just, we have to assess responsibility where we find it.

Senator PROXMIRE. I think that is perfectly correct. I am simply saying that if you insist that on the basis of what has happened in the past, this loan will not be granted in the future, they are going to suffer. You may say that nevertheless you are persuaded on the basis of past experience that you just have to deny the loan.

I am simply calling your attention to the fact that they will suffer. I think that statement I can establish to your satisfaction.

Senator CHURCH. My present disposition, and I want to listen to all the evidence, my present disposition is that we have come so far down the road to termination, which was originally initiated by the tribe, itself, so much money has been expended in the effort to get this done, that I would prefer to see us extend whatever necessary credit must be extended or even make grants to assist them in getting started.

But there has to be a cutoff when further responsibility by the Federal Government and by the Public Treasury in this matter needs to end.

Senator PROXMIRE. What my bill does is to provide that termination be carried into effect, but with certain benefits which I think are necessary to prevent suffering continue.

Senator CHURCH. My understanding is that your bill provides that the matter of termination be extended again, and that the judgment or the discretion then be left to the Secretary of the Interior.

Senator ANDERSON. It is an open-ended grant.

Senator PROXMIRE. If you let me proceed, I think I can explain that. However, I must at the same time question the wisdom of asking the tribe to manage its own affairs with no further link to the Federal Government before this modernization takes place. The Fund for the Republic Commission states:

American policy, if it is to succeed, must aim at helping Indians to prepare themselves in advance of termination for self-reliant living in whatever is their prevailing social and economic framework.

I think this expresses a wise policy, from which, again in the words of the Commission:

\* \* \* termination will follow and follow from the Indians' own desire. Termination so conceived will be an act of statesmanship in the best American tradition.

Now I come to your question.

The report of the Department of the Interior on the bills that this subcommittee is considering appears to me to provide an excellent solution to the problems connected with termination. It recommends that the tribe proceed to establish and operate the corporation, local government, and joint school district that has been so carefully worked out in cooperation with Wisconsin State authorities who, I may add, have labored long and hard to devise satisfactory institutional arrangements for the tribe's proposed new status. At the same time, the report recommends that the decision to finally transfer title to the tribal property be left up to the discretion of the Secretary of the Interior until April 30, 1965.

This would permit the tribe to manage its own affairs and to run its sawmill, on a trial basis, to insure that the entire program that has been devised for them will work successfully. Termination will thus have taken place, in effect, but the tribe can be reassured that in the event that serious shortcomings in the present plans become evident, they will not be left to founder into eventual bankruptcy.

It should be stressed that the departmental report states:

If there is to be any continuation of Federal financial assistance beyond 1961, we believe that it should be based upon a continuation of the Federal trust during the period of assistance, and not in the form of a Federal subsidy after a termination of the trust.

I think that is extremely important because of the obstacles that would lie in the way of providing any funds after the termination of the trust.

Senator ANDERSON. Therefore, termination would not take place for several years; is that right?

Senator PROXMIRE. Well, I think as far—

Senator ANDERSON. Isn't that what it says?

Senator PROXMIRE. Yes and no, and I think that is the only fair answer to it.

Senator ANDERSON. Yes, a little. No, not much.

Senator PROXMIRE. That is correct. I would get termination in these respects I have indicated here, and I think they are very, very important. I think this is a very sensible way to do it.

Senator ANDERSON. Termination is a single term. I hate to get into it, but lawyers have things they call words of art. I do not know whether termination is a word of art, but I am sure termination means termination and not continuance.

Senator CHURCH. An end is an end is an end.

Senator ANDERSON. Thank you. I knew a lawyer would help me out.

Senator PROXMIRE. I do not think it is that simple at all. I think it is possible to have a termination which is conditional and which has certain qualifications within it.

I believe that we all have an obligation to note these words very carefully. There is no doubt that the main need of the tribe is for assured financial aids in the immediate future. If termination takes place as presently scheduled, the tribe must be provided with funds to pay for the essential health and welfare services which have been described.

In view of this departmental view, to which the Bureau of the Budget has advised that it has no objection, I believe the tribe deserves strong assurances that funds definitely will be made available. We are all familiar with the difficulties of piloting a special appropriation through both Houses of Congress and across the desk of the President. These difficulties are always multiplied when the concerned department or the Budget Bureau has registered its opposition.

Whatever else is decided, we must not lose sight of the serious financial need. If funds are not going to be provided in the normal way, through the Department of the Interior, then there must be firm assurances that an authorization and appropriation will be enacted in the House and in the Senate and signed into law by the President.

I would like to repeat that, because I think that is important. If we are going to be defeated on this conditional termination, then it seems to me because of the serious financial plight, that there must be firm assurance that an authorization and an appropriation will be enacted in the House and Senate and signed into law by the President.

Senator ANDERSON. Who would give that assurance?

Senator PROXMIRE. What I am asking for is assurances on the part of the committee that they would be very sympathetic to this position, and that they would favor it, that they would feel that these appropriations are right and correct and, with the great force of this committee being the most expert, certainly, in the Senate on this, would be behind it.

In other words, I think it would be a very serious and difficult problem for us if we did not get the kind of conditional termination I am asking for, and if we—in losing that—if we did not get some assurances from the chairman of this committee and the chairman of the subcommittee that they did not support us on this. I am not asking for anything else.

I know that the chairman of the committee is not all powerful, although I think he is awfully close to it. But I would be particularly assured, and I am sure the Menominees, too, if you were behind us on this.

Senator ANDERSON. You talk about assurances from the House of Representatives. I served on the Appropriations Committee of the

House with Mr. Cannon. I just do not know anybody that can control Mr. Cannon.

Senator PROXMIRE. Well, I want to say to the Senator from New Mexico, this is exactly why I think my initial proposal for a conditional termination makes such good sense. Then you do not have to depend on the action of the Appropriations Committee, committees of the two Houses, with all their problems.

Incidentally, we have a very able Congressman from Wisconsin who is on that Appropriations Committee who is here today, Mr. Laird, who I know would be of great value to us in getting that appropriation.

Senator ANDERSON. I am sure he would. But I do not believe he will guarantee that he can control Mr. Cannon either. I did not have much luck with it.

Senator PROXMIRE. In conclusion, I would like to draw the attention of the subcommittee to an informative and perceptive series of four articles written by Quincy Dadisman which appeared last week in the Milwaukee Sentinel. These articles describe what faces the Menominees in the immediate future as they ponder termination. I suggest they also be made part of the record.

I thank the subcommittee very much for giving me this opportunity to testify. I say that Congressman Laird is here and because the time is limited before the subcommittee, he said that he is not requesting to appear, but he is a real expert on this matter and is available to answer questions, if you wish. He is the Congressman representing the tribe.

Senator CHURCH. Senator, I want to say that you certainly have taken a very keen personal interest in the problem of the Menominee Indians and you have been a very effective advocate in their behalf here in the Senate.

We appreciate your coming, and the responsive answers you have given to our queries. We thank you very much.

Senator PROXMIRE. Thank you very much, Mr. Chairman.

(The exhibits presented by Senator Proxmire are as follows:)

#### STATEMENT OF MILTON H. MATER, MANAGER, MATER ENGINEERING

My firm, Mater Engineering, is regularly engaged in the practice of consulting engineering to the forest products industry, particularly in sawmill engineering. We have been in this business since 1951 and number among our past and present clients such firms as U.S. Plywood in Oregon and eastern Canada; Union Carbide Corp. in West Virginia; T. R. Miller Mill Co. of Brewton, Ala.; Hammond Lumber Co. of Eureka, Calif. (now part of Georgia Pacific); and many others.

Since World War II sawmilling has changed rapidly. Mechanization and automation were introduced to an industry which traditionally relied on brute strength to handle heavy logs and lumber. A large part of our consulting business has been in modernizing sawmills. The problems of the Menominee Indian mills are similar to that of other sawmills in the United States. The older sawmill must be modernized in order to compete with newer sawmills or those which have already modernized and, therefore, can manufacture lumber at less cost.

Modernization involves not only mechanization and automation of the lumber manufacturing processes, but also greater utilization of the log. The portions of the log not manufactured into lumber or sawdust are turned into chips in a modern mill and sold to papermills. This is a source of income for a modern sawmill which the Menominees do not have at the present time.

Modern milling practice in the area around the Menominee Indian mills calls for the use of more dry kilns for drying the lumber rather than air drying the

greatest portion of it. This makes for better quality control and lower inventory. The present Menominee kilns are not only inadequate in size, but our survey showed that, due to settling of the ground and other causes, the present kilns are actually in a dangerous and almost unusable condition and should be replaced.

The engineering survey which we undertook for the Menominee Indian mills is a method of approach to the problem of modernization. Carrying out these recommendations should put the mills in an excellent competitive position. The survey also recommends that certain additional industries, based on the sawmill products, be further studied with a view to obtaining higher money return for the log.

There are certain sociological aspects of the proposed modernization program which are beyond the scope of our engineering work. Basically the purpose of an engineering study, such as the one we made for the Menominee Indian mills, is to determine how to make an operation more profitable. It is obvious to us that if no profits are made, the business will fail unless supported somehow by outside funds, from Government or other sources. Without mechanization and automation a sawmill cannot compete costwise on an equal basis with other sawmills and will eventually stop operating as its working capital is dissipated.

Automation and mechanization have been proven in other industries to actually increase employment. Many of our most highly automated industries have increased their employment tremendously in the past 30 years or more; for instance, the telephone companies and other electrical and chemical manufacturers.

A successful modern sawmill can add subsidiary industries such as a molding plant, a plant for making furniture components, and other prefabricated wood parts. These new plants are built out of profits and produce more employment than did the original sawmill. Several of the Menominee Indian mills' competitors enjoy such a diversification now and, although their modern sawmills employ less men than the Menominee, their overall employment is very much higher.

I believe that with proper management the fine forests which the Menominees now have can form the basis for a highly successful forest products industry. Their existing sawmills and subsidiary plants can be brought up to modern standards and expanded by a modernization program such as outlined in our report. This should enable the Menominee Indian mills to enjoy a profitable, successful forest products industry on which they can expand to provide much more than their present employment.

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[Series of articles from the Milwaukee Sentinel]

#### MENOMINEES—WHAT'S NEXT?

##### DOUBTS PLAGUE TRIBE FACING COUNTY STATUS—INDIAN BUILDS SMALL HOUSE SINCE HE CAN'T OWN LAND

What does the future hold for the Menominee Indians, a tribe older than the State itself, which within 2 weeks will be relieved of the yoke of Federal paternalism and reborn as Wisconsin's 72d county? A Sentinel reporter, in this first of a four-article series, presents the fears, the hopes, the abilities of the tribe in coping with its integration into modern American life

(By Quincy Dadisman, Sentinel staff writer)

KESHENA, Wis., April 9.—The Menominee Indians mills' stationery has a picture of an Indian brave, wrapped in blanket, standing at the foot of a tall pine tree.

In a sense, the United States plans to rip the blanket off the 3,270 Menominees at midnight April 30.

Not that the Indians are going to be pushed out into the chill Wisconsin spring without clothing—but they are going to lose the blanket of Interior Department protection that has clothed them since 1852.

## SOME MISGIVINGS

The Menominees, whose 234,000-acre reservation is scheduled to become Wisconsin's 72d county, haven't always welcomed the protection of the Indian Bureau's blanket, but now that they're about to lose it they have some misgivings.

The Menominees are the first major tribe in the United States to lose their "blanket," so the 70-odd other tribes in the country are going to be watching their successes and failures closely.

The Menominees have a lot of advantages over the other tribes—they're better educated than most; they get along well with their white neighbors; they have a tradition of democracy embedded deep in the tribal traditions; they have a wealth of natural resources.

## MAJOR HANDICAPS

But there are handicaps that must be overcome—the Menominees lack experience in many of the things the average American takes for granted; few have managerial or legal experience; a lot of intratribal differences split the Menominees; their lumber mill, principal source of employment, is facing a recession.

As a visitor drives onto the reservation some 150 miles north of Milwaukee, two things capture his attention—the magnificent trees and the tiny homes, both big factors in the future of the tribe.

At the edge of Keshena, where the tiny houses are clustered around the intersection of Highways 47 and 55, the buildings of St. Joseph's Indian Mission School stand out above the surroundings.

## GOING HOME

The children are going home after classes, so the motorist stopped to ask directions of a boy, about 12, leaning on crutches against a fence.

The boy pointed out the tribal business office, using good English. At the office, the visitor was told that many of the younger people are as lost as a white man in the Menominee tongue.

There are a lot of statistics to be learned there, too. George W. Kenote, the tribal coordinator, has them at his fingertips, spread out over a big desk where he's trying to plow out of a pile of paperwork.

## GOOD EDUCATION

Average educational level of the Menominees? "About 8.3 (grade), slightly higher than the surrounding counties."

Average family income? "The mill pays about \$53 a week, not a very high wage."

Why do so many Menominees live in such small homes? "They can't get title to the land, so they can't borrow to build."

Following up on that theme, Kenote explained that the entire reservation, except for the 21 acres occupied by St. Joseph's Mission, is owned jointly by members of the tribe.

## LAND ASSIGNED

The little homes—two- and three-room structures mainly—are built on "land assignments" from the tribe.

An Indian who wants to build a home applies for an assignment. When he receives it, he has the right to build the home, but he cannot sell it without permission of the tribe. He does not own the land under his home.

Since he does not have title, lending institutions won't consider the Menominee for a home improvement loan, no matter how good his record in paying for automobiles, television sets, or furniture on time payments.

## NO VA, FHA

Though many of the Menominees served in the Armed Forces in World War II and the Korean war, the Veterans' Administration cannot guarantee a loan. Nor can the Federal Housing Administration.

To meet the problem, the tribe set up a \$500,000 revolving home loan fund many years ago. Kenote said most of the money has been out on loan most of the time, repayments have been good, but it "hasn't been enough."

That's one of the things most of the Menominees hope will be corrected by termination—federalese for snatching the Menominees' blanket away.

#### CLAIM HOMESTEAD

Plans are underway for each Indian to claim a spot on the reservation for a homestead when the Menominees are free to handle their property themselves.

Housing now is so short on the reservation that white men employed by the tribe must find homes in Shawano and Antigo and drive long distances to work. The Menominees would prefer their employees to live near their jobs.

However, the Menominees would like a little more time to get ready for all the problems they expect termination to bring.

The Senate Indian Affairs Committee opens hearings Thursday in Washington, D.C., on a bill to delay termination beyond April 30.

Tribal leaders and Wisconsin's representatives in Congress see little hope of further delay—the idea has been bouncing around since 1953.

But they are hopeful that Congress can be persuaded to give the Menominees a little more financial help through the difficulties they will face in the first 4 to 8 years of Menominee County's existence.

#### TRIBE, LIKE NEW HOME OWNER, FACES BILLS—TRIBE TO OFFER 4 ACRES OF LAND FOR HOMESTEAD

This is the second in a series of reports outlining the assets and liabilities of the Menominee Indian Tribe, on the threshold of Federal termination

(By Quincy Dadisman, Sentinel staff writer)

NEOPIT, Wis., April 10.—If Menominee County begins to function on schedule at 12:01 a.m. May 1, the Menominee Indians are going to be in the position of a man who has just built a new house.

It's pleasant to be moving into your own new home, but there are sure a lot of bills to be paid and tax statements have a way of finding the property owner.

The Menominees' 234,000-acre reservation has been, geographically, a part of Shawano and Oconto Counties but it hasn't really been a part of Wisconsin.

Untangling the jumbled laws that govern the reservation is difficult for even the best lawyers.

Old Indian treaties, Federal law, some State laws (since 1953) and the ordinances and resolutions of the Menominee Indian Council and the Menominee Advisory Council are in effect on the reservation.

As tribal property, most of the reservation has been immune from taxation. All of it is held jointly by the tribe, whose members live not only on the reservation but are scattered over the United States. Only 21 acres, deeded to the Franciscan Fathers for St. Joseph's Indian Mission School, aren't tribe owned.

The Menominees' biggest assets are the tall trees of their forest—one of the finest tracts of prime woodland in the world—and their mill at Neopit, where logs from the forest are sawed into timber.

The visitor to Neopit is immediately aware of the mill. He's met the forest already driving from Keshena through the tall pines.

The whole termination plan depends on the forest and mill. They must provide the jobs for most of the Menominees and carry most of the tax burden of financing newly hatched Menominee County.

When termination comes—whether April 30 as now scheduled, or later if Congress again decides on delay—each of the 3,270 Menominees will own shares of stock in Menominee Enterprises, Inc., a joint-stock firm incorporated under Wisconsin law.

He'll own income trust certificates, too, but both stock and trust certificates will be hedged in legal clauses aimed at keeping the Menominees from dissipating their birthright.

There's where the tribal leaders, Indian Bureau officials, attorneys working on termination plans, and the State officials helping the Menominees have had their biggest problems.

"What do I know about running a corporation?" one millworker asked. "The only papers like that I ever owned were some war bonds I bought when I was in the Army. I cashed them to buy a car when I came home after the war."

The car has long since been wornout and the millworker now wonders how long it's going to be before he'll be laid off.

The mill here has a full-force employment of about 320. More than a third of the workmen were laid off 3 weeks ago when the mill managers looked at the big stockpile of lumber and the meager stack of orders.

#### HIT BY CUTBACK

Like other lumber mills, the Menominee mill has been hit hard by the cutback in home building that has spread across the Nation in the last 6 months.

After termination, Menominee Enterprises, Inc., will hold 220,000 of the reservation's 234,000 acres as a permanent forest. The firm will operate the mill, market the lumber, and dicker with outsiders on other uses of Indian land.

#### 80 LAKES IN AREA

Of the other 14,000 acres, there are 80 lakes and other water surfaces having a total area of about 4,000 acres. Another 1,300 acres are presently used for homesteads, gardens, and other permanent private purposes.

The remaining 8,700 acres will probably be leased for development, possibly by resort operators, but the Menominees have made no commitments as yet.

George W. Kenote, the tribal coordinator, has the Indian's love for the land. He smiles happily as he points out the possible uses of various areas of the reservation.

#### ALL PRIME TIMBER

"This is all prime timber," he waves at the western half of what will be Menominee County. "This is good timber and wonderful scenery; there's a lot of marshland over here and the timber isn't so good."

He reminisces about the big native brook trout he's caught in the tributaries of the Wolf River and compares them to the "house-fed, lazy fish" he caught in "put and take" streams out West, where he spent most of his life as a law enforcement officer for the Bureau of Indian Affairs.

If termination dawns May 1, the tribe will offer each Menominee a plot of about 4 acres for a homestead. The Indian will own the land, but the title will be qualified by a clause giving Menominee Enterprises, Inc., "first refusal" in the event the owner wants to sell.

#### NEED \$576,000

The tribe doesn't expect to keep all the land for the Menominees only, but it does want to prevent land speculation.

Menominee County is going to need \$570,000 to operate within the next year. Under the special State law which set up the new county, total taxes that can be levied are only \$340,000, plus school taxes. Skipping over the bookkeeping, this means that Menominee County is about \$170,000 short.

#### ROCK FINANCIAL CANOE

Rocking the tribe's financial canoe are these factors which no one had anticipated:

A sudden upsurge of tuberculosis among the Indians. Only 4 Indians harbored active TB bacilli in 1959; there are now 21 Menominees with active TB. Cost to the county—an additional \$75,000.

Laid-off mill employees' medical and hospital insurance was suspended, boosting medical welfare costs. The expected bill—more than \$35,000.

Menominees on relief will be eligible to draw surplus farm commodities. Cost of distribution—\$12,000 or more.

Menominee youngsters get into trouble. The division of children and youth of the State welfare department has a bill for \$50,000 ready.

#### HOPE UNITED STATES PAYS

This is the major help the Menominees still need to get their county launched on an even keel. They hope the State and Federal Government will agree to

the county paying administrative costs, the State furnishing the staff and the U.S. Department of Health, Education, and Welfare the funds for the services.

Under the Indians' plan, the State and Federal share would be 100 percent of the staff and service costs the first year; 75 percent the second; 50 percent the third; 25 percent the fourth and nothing the fifth, when Menominee County would finally be on its own.

Complicating the whole problem is the earnings record of the mill.

#### MILL EARNINGS DROP

Between 1953 and 1958, the mill and forest earned an average of \$559,000 annually. In 1959, the total dropped to \$373,000. It rose to \$529,000 in 1960 but is unlikely to top \$240,000 this year.

The mill is old and lags behind techniques used in modern plants. A recent survey showed that modernization would cost \$922,190. The survey indicated this could result in a \$458,924 increase in annual earnings.

#### MODERNIZATION NEED

The conclusion is obvious even to the Indian whose war bonds bought a car: "Modernization of the mill would be more than worth while."

However, if the mill must carry the full burden of the extra welfare taxload that is imminent, its modernization cannot be financed.

This is the Menominees' argument in asking for State and Federal help over the next 5 years.

#### INDIAN COUNTY TO GET SHAWANO'S HELP

This is the third in a series of articles dealing with the effects of the termination of Federal supervision over the Menominee Indian.

(By Quincy Dadisman, Sentinel staff writer)

KESHENA, Wis.—Menominee Indian children, with their flashing black eyes, are not strangers on the streets of Shawano.

Menominee youngsters attend Shawano High School and their parents often find jobs in Shawano County.

Termination of Federal controls over the reservation won't change that.

Shawano County, nearest to the Indian towns of Keshena and Neopit, is ready to help the toddling Menominee County as it learns to walk alone.

Under the termination law, Shawano County courts will handle Menominee County's judicial problems the first few years. Shawano County will administer Menominee County's welfare aids. Shawano Joint School District No. 8 will operate Menominee County's schools.

Shawano County Clerk Neil P. Druckrey believes his county will benefit from the arrangement. He noted that Shawano County now does clerical work for the Menominees and that 50 percent of the relief cases handled at Shawano involve Menominees.

Shawano County is repaid by the State for these expenses. After April 30, if Congress does not again delay termination, costs will be prorated between Shawano and Menominee Counties.

Under the new setup, Shawano County Welfare Director Leo Jelinske will administer the categorical aids—to the blind, aged, totally and permanently disabled, and dependent children—for the Indians. Menominee County will administer general relief.

"This could become an outstanding example of intercounty cooperation," Druckrey said. He thinks Menominee County will have to pattern its operations after those of Florence County, another big area with a small population.

Druckrey likes the Menominees with whom he has worked. He respects their abilities, knows their shortcomings and believes they sincerely want to become an integral part of Wisconsin.

Other Shawano residents aren't quite so optimistic. One told of an Indian child saying, "Daddy's working so much overtime at the mill mama says she can't spend all that money."

That was several months ago. "Now," the resident commented, "that family's on relief."

The Menominees have a reputation in Shawano of spending their money as fast as they get it. But nearly everyone who cites such an example adds, "They've never had to watch out for the future."

Anthropologists say the Indians depended on the tribe to care for indigent members.

When the white man forced them onto the reservations, the Indians were so impoverished it was a case of cooperate or starve.

As the years passed, the Federal Government threw its blanket of grants, gifts, and welfare aids over the Indians. Termination is designed to pull that blanket away without making the Indian a burden on the local authorities.

A big problem is developing in providing hospital services for the Menominees. St. Joseph's Indian Hospital at Keshena was closed December 31 when the subsidy that helped the Franciscan Order of the Immaculate Conception operate the hospital was cut off by an Interior Department order.

The Menominee Tribal Council moved to take over financing, but ran into a State board of health ruling that the hospital would not be certified for operation after termination unless it were renovated.

The Menominee, used to going to the subsidized hospital for relatively minor ailments, have since been crowding the hospitals at Shawano and Antigo.

It should also be noted that home nursing of a sick member of the family would be very difficult in the tiny houses in which most of the Menominees live.

Oconto County Clerk Harold W. Bartz, who grew up on a farm bordering the reservation, is one of those who believes that setting up a separate county for the Indians was a mistake.

Bartz feels the Indians and their neighbors would have been better served by dividing the reservation between Shawano and Oconto Counties and selling the mill to a big lumber firm.

He would have placed the money from the sale in trust for payment through an annuity system, "so they would be encouraged to work."

Oconto County, now responsible for elections on the reservation, some road and welfare administration, and educating a few Menominee children, will have no responsibilities for the new Menominee County.

George W. Kenote, the tribal coordinator, sees a good future for the Menominees—if intratribal feuds are kept in check.

His principal worry is development of opportunity for the Indians. "We're open to all offers of investment capital," he announced, telling of negotiations already underway.

"Wisconsin has been pretty good to us," Kenote remarked, "so we want to be good to the State." He said the Menominees hope to open a large tract of timberland to the State under a developmental lease for a State park.

The Menominees see growth of recreational use of their land as a means of bringing tourist dollars not only to the Menominees but to aid the growth of tourism throughout northeastern Wisconsin.

The Menominees are well aware, Kenote said, that "the more industry we bring in here, the more employment and tax base we'll have."

An overall zoning plan, with provision for the forest recreational use, and limited industrial areas, is ready for consideration by the new county board.

Kenote; Jerome Grignon, chairman of the Menominee Advisory Council; Al M. Dodge, the tribal delegate; former Chairman James G. Frechette, Sr., and the other leaders of the tribe have the support of most of the Indians.

In general, they favor termination but want outside help while the Menominees work out the details of governing themselves.

However, there is a dissident group that opposes termination loudly.

Led by Mrs. Constance Deer, white wife of a Menominee millworker, they argue that termination is abrogation by the United States of its treaty responsibilities and, thus, not possible.

The Menominees' principal friends in Congress—Representative Laird, Republican, of Marshfield; Senator Wiley, Republican, of Chippewa Falls; and Senator Proxmire, Democrat, of Madison—see little chance for any more delay.

The Indians are watching the new Kennedy administration closely. The new Interior Secretary, Stewart Udall, is a native of Arizona, home of more Indians than any other State.

Udall said his aim is to "work with the Indians on their problems."

He said he wants to "give them the feeling that we want to help them help themselves; that we are not trying to thrust anything on them."

The Menominees like that idea. They just hope they get a chance to benefit from it during the 8 years that Menominee County is proving itself.

There's a joker in the deck the legislature dealt Menominee County—the lawmakers are to take a second look in 1969 to see whether the reservation should be split up between Shawano and Oconto Counties.

#### INDIANS SURVIVED WHITES' LAND GRABS

This is the last of four articles discussing the Menominee Indian Tribe's forthcoming freedom from Federal control.

(By Quincy Dadisman, Sentinel staff writer)

**KESHENA, WIS.**—When the Menominees were forced into the wilderness along the Wolf and Oconto Rivers in 1852, the white settlers in the Fox River Valley were mighty glad to see them go.

Not that the Menominees had been collecting scalps—they had a long record of relatively peaceful relations with the white man—but they were the cause of a lot of soul-searching by thoughtful white men.

When the "people of the wild rice"—the name the neighboring Chippewas give the Menominees—met French explorer Jean Nicolet on Green Bay in 1834, they controlled an empire bigger than many European countries.

The Menominees' "Weese-coh-seh"—we spell it Wisconsin—stretched from Bay de Noc in Michigan's Upper Peninsula to beyond Eau Claire, and from Stevens Point to the wild rice swamps at the mouth of the Menominee River where Milwaukee now stands.

The Menominees who met Nicolet had maintained their honor as a nation for a century without a war with their Indian neighbors by, in the words of an old chronicle, "keeping their bows strung and their councils ready to debate."

The Menominees saw the inevitability of defeat in an all-out war to defend their holdings against the advance of the white man, so they resorted to bargaining to maintain some land of their own.

At first, they seemed to succeed. They sold 1 million acres at bargain basement prices of 4½ and 5½ cents an acre in the early 1800's and retreated to the area along the Fox River.

Then, in 1836, the new Territory of Wisconsin, backed by the rifles of the Army, forced the Menominees to sell their best land along the Fox River for 17½ cents an acre.

By 1850, the Menominees were gathered in the lowlands west of Neenah-Menasha, seething over a Government order for them to move to the Crow Wing River country of far-off Minnesota.

The young braves were demanding war, but Chief Oshkosh counseled patience and sneaked away to Washington to plead his people's case.

Once there, he contacted Gen. Winfield Scott, commander of the U.S. Army, hero of the just-ended Mexican War and friend of Oshkosh from the Black Hawk War 15 years before.

Scott, a 6-footer, towered over Oshkosh, who barely topped 5 feet.

Looking up, the Menominee leader said:

"You are like the tall pine tree and I am like a scrub oak. I stand under your boughs to protect myself from harm."

Impressed, Scott took Oshkosh to the White House.

President Millard Fillmore listened to the Indian's story, stared at the maps and issued an order: "The Menominees are not to be removed to Minnesota."

But Lake Winnebago was a long way from Washington in 1852.

The Indian agents, who had been pocketing a good but illicit profit from the sale of Indian lands to the settlers, decided they had to punish the Menominees for going over their heads.

They ordered the tribe into the wilderness.

So, on November 2, 1852, one of the saddest episodes in Wisconsin history began. Some 2,000 Menominees, accompanied by a single white man, Father Florimond Bonduel, paddled a line of canoes up the Wolf River.

They stopped in a blizzard at Keshena Falls and built huts. Many of them died in the cold and sickness that descended on the tribe that winter.

The old stories give Father Bonduel a major share of the credit for any of the tribe surviving the winter. Today, partly as a result of his efforts, more than half the Menominees are Catholics.

The Indian agents arrived at the falls in the spring of 1853. They tried to convert the hunting and fishing Menominees into farmers. That didn't work, but the Menominees, watching the timber rafts leaving for St. Louis and Chicago, turned to lumbering.

In 1854, the 10 townships making up the reservation were ceded "forever" to the tribe and, on the advice of a wise old Indian, the Menominees entered an area of selective cutting.

Today, there's more standing timber on the reservation than there was in 1908, when the first overall survey was made and the cut was limited by Federal law to 20 million board feet annually.

The timber quality has improved and the stand is so much better that foresters now say the cut can safely be increased to 30 million feet a year.

Father Bonduel would recognize most of the Wolf River if he were to return today. It still thunders through narrow gorges, tumbles over picturesque waterfalls, and spreads wide over lowlands.

Big trout still hatch without man's help in its tributaries and the casual visitor can still imagine an Indian paddling out from behind one of the numerous islands in a birch bark canoe.

He might, but the canoe will be store-bought now.

It's pretty, all right, the Menominees say, but you can't feed many children on scenery and Menominee families are often large.

Others of the Menominees believe Indian children can be fed on scenery—if it's rented to the people of the big cities and proceeds flow into Menominee pockets to buy groceries.

There's a big difference of opinion about the value of opening up the reservation as a tourist mecca. A few Menominees would like to sell cottage sites outright. Others want to keep the ancestral hunting and fishing rights for themselves.

The woods and streams are a sportsman's paradise. Indian boys grow up with a .22 rifle in their hands, but the Menominees haven't been greedy about their hunting and fishing.

Most likely, parts of the forest will be opened up on a lease basis. Some cottage development is likely and some parts of the reservation will always be a wilderness.

The only other major resource that could be tapped on the reservation—barring an unlikely mineral strike—is the hydroelectric power of the rivers.

A small plant now generates electricity at Keshena and there's a dam for the mill at Neopit, but any further damming seems likely to run into a lot of opposition.

Beyond that, the Menominees have their own abilities.

They've proven adept timberjacks and millworkers. Other woodworking industries are sure to develop and any industry that could ship raw materials cheaply or could use byproducts of the mill would be welcomed.

An old Menominee watching some teenage boys playing basketball and two little Indian girls jumping rope at Neopit was asked what he expected to happen to the Menominees.

"Every day," he replied, "we're less and less a separate people. More and more of our young people marry outside the tribe. In a century, the Menominee people will be gone, but we'll still be here as Americans."

Senator CHURCH. I understand that Senator Wiley is preparing a statement for presentation to this committee. It will be placed in the record at this place when it is made available.

(The statement referred to is as follows:)

STATEMENT OF HON. ALEXANDER WILEY, A U.S. SENATOR FROM THE  
STATE OF WISCONSIN

U.S. SENATE,  
April 18, 1961.

HON. CLINTON P. ANDERSON,  
Chairman, Senate Interior and Insular Affairs Committee,  
Senate Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: I respectfully urge early and favorable consideration of the bills, S. 869 and S. 870.

The Congress, in my judgment, has a fundamental responsibility for adopting such legislation as is required for an orderly, successful termination of Federal control over the Menominee Indians.

As things stand now, this cannot be done.

As you know, termination is now scheduled for April 30, 1961. If allowed to occur, this would leave the tribe literally stranded "high and dry." Why? Because they do not have adequate resources, particularly financial, to meet their needs, either present or future.

As you are well aware, the objectives of the bills include recommendations (1) for helping to resolve the critical financial problems which now confront the tribe; and (2) to enable Uncle Sam to maintain a kind of guardianship over the tribe, while it works out the complex problems inherent in termination of Federal control.

During preliminary preparations for such termination, the tribe has faithfully attempted to set up machinery for handling its own affairs and integrating into the social-economic-political system of Wisconsin and the country.

However, it has become increasingly evident that tribal assets are not adequate to meet the needs of the Indians for education, health, and sanitation, as well as for economic progress.

The Congress, I believe, cannot in good conscience "kick them out into the world" without adequate preparation in handling their own affairs and assuring, insofar as possible, an opportunity for security and progress economically.

In reporting upon the bills, the Department of Interior, in my judgment, made some constructive recommendations.

Among the major ones are included:

1. Authorizing the Secretary of Interior, as deemed justified, to make the transfer of property at any time prior to April 30, 1965, instead of April 30, 1961, as provided in the present law.

2. Providing Federal credit on a standby basis to the tribe to meet its extremely serious economic problems.

3. As well, the exemption of tribal assets from certain Federal and State taxes would, in my judgment, be central to better enabling the tribe to meet its obligations.

I am respectfully urging, therefore, that the committee sympathetically consider not only the objectives of S. 869 and S. 870, but as well, the recommendations by the Department of Interior.

As you well appreciate, there is need for expeditious action, since termination is scheduled for April 30, 1961, only a short time away.

With appreciation for the consideration I know you will give this matter, I remain,

Sincerely,

ALEXANDER WILEY.

Senator CHURCH. Our next witness is the Assistant Secretary of Interior, Mr. John A. Carver.

We are pleased to have you with us, Mr. Carver.

Mr. CARVER. Thank you, Senator.

Senator CHURCH. I think perhaps it might be useful, if the committee has no objections, to call upon the other departmental witnesses to come forward and sit with the Secretary. We can then address our questions to the appropriate person, if the occasion should require.

**STATEMENT OF JOHN A. CARVER, JR., ASSISTANT SECRETARY OF THE INTERIOR, ACCOMPANIED BY H. REX LEE, DEPUTY COMMISSIONER, BUREAU OF INDIAN AFFAIRS; LEWIS A. SIGLER, ASSISTANT LEGISLATIVE COUNSEL; AND MARTIN MANGAN, PROGRAM OFFICER, BUREAU OF INDIAN AFFAIRS**

Mr. CARVER. Mr. Chairman, it is a great pleasure to be here before your subcommittee. I know you will recognize that I have picked

out really one of the stickiest problems which faces this committee and the Bureau, to make my initial appearance personally. First let me review the situation which I, in my research, have found has led to the pending request for modification of the Termination Act of 1954. In 1954, when the Congress passed the act, the Menominee Tribe had recovered a large money judgment and there was pending from the other body a bill to provide for \$1,500 per capita payments out of this \$10 million judgment. In the meantime, the Congress was in the process of examining ways and means for terminating the trust responsibilities, which the Federal Government has with reference to specific Indian tribes. Additionally, there had been various criticisms from the tribe, itself, on the way the Bureau was managing the tribe's assets and operating the lumber mill. So, taken all in all, given the state of the lumber market at the time and the economy generally, it can be seen that conditions seemed ideal for the Government pulling out of the "Indian business deals," in this part of Wisconsin.

Notwithstanding these favorable factors, however, there were some understandable reservations. I am told, for example, that the State of Wisconsin, although willing to cooperate—

Senator ANDERSON. Do you have a copy of your statement?

Mr. CARVER. I just have notes, Mr. Chairman.

Senator ANDERSON. I keep calling attention to the Reorganization Act, under which this committee and the Congress operates. It requires the submission of your manuscript 24 hours in advance, and so forth, but certainly simultaneously with the delivery.

Mr. CARVER. I have a copy of the notes I am reading from.

Senator ANDERSON. Just for the sake of the future, I keep making this suggestion with periodic regularity.

Thus follows my general program of complaining about this, and is not directed to someone that we have had on the Hill and that we all like.

Mr. CARVER. Thank you, Senator.

I might say that the decision for me to appear on this matter was somewhat delayed. I am told that the State of Wisconsin, although willing to cooperate, expressed itself by unanimous legislative resolutions in opposition to the principle. The Indians themselves—

Senator ANDERSON. Which principle are you talking about?

Mr. CARVER. The principle of termination. That is hearsay on my part, but I am told that a resolution of the Wisconsin Legislature expressed itself as against the termination.

Senator ANDERSON. Could you supply that for the record?

Mr. CARVER. I will be glad to try. I mention it as hearsay matter.

Senator ANDERSON. Does anybody know?

Senator PROXMIRE. The attorney general of Wisconsin is present, Mr. John Reynolds.

Senator ANDERSON. Is that so, Mr. Reynolds?

Mr. JOHN REYNOLDS (attorney general of Wisconsin). After the State legislature passed the legislation providing or accommodating the tribe in case of termination, then they passed a resolution memorializing Congress to the effect that they were against the termination. They felt that this was a Federal responsibility.

Senator ALLOTT. Would you repeat the first part of that?

Mr. REYNOLDS. After the State, while considering the legislation which they did pass creating a separate county, creating special tax provisions, et cetera, for the tribe, then they put through a resolution saying that they were against the termination.

Senator ALLOTT. Why do you suppose they passed the original legislation?

Mr. REYNOLDS. Because we always operated on the assumption that termination was to be a fact, and we had to accommodate ourselves for termination.

Senator ANDERSON. Who requested that the county organization be set up?

Mr. REYNOLDS. The tribe requested it.

Senator ANDERSON. And you agreed with the tribe to set it up—the legislature agreed with the tribe to set up the county organization?

Mr. REYNOLDS. That is correct.

Senator ANDERSON. And then they passed a resolution seeking to gut it.

Mr. REYNOLDS. Not to gut it.

Senator ANDERSON. It is bound to, if you opposed the termination.

Mr. REYNOLDS. Under Public Law 399, the tribe was told to come up with a plan, and they came up with a plan. This plan meant that the State had to adjust its laws to accommodate the plan, and then we held many, many meetings in the Menominee study committee. I happened to be chairman of that committee. Then the legislature did pass the enabling legislation. But in the process they also passed a resolution, which is not a law in Wisconsin, stating it was their view that we should have no termination at all.

Senator ANDERSON. Could that have been based on the fact that they didn't like the county setup themselves?

Mr. REYNOLDS. I think it was based on the fact that they didn't like the idea—this is conjecture on my part—of termination and they felt that this meant that the responsibility for taking care of the Indians would fall upon the State government in the long run.

Senator ALLOTT. Would the Senator yield for a question?

Senator ANDERSON. Yes.

Senator ALLOTT. Wasn't the resolution 4 or 5 years after the original law authorizing the setting up of this county and so forth?

Mr. REYNOLDS. I don't know if I understand the question.

Mr. CARVER. It was after.

Mr. REYNOLDS. The law authorizing the county was passed in 1959 session of the legislature and so was the resolution.

Senator ANDERSON. When was the law passed on the county, 4 or 5 years before that?

Mr. REYNOLDS. In the 1959 session of the legislature.

Senator ANDERSON. Both of them?

Mr. REYNOLDS. Yes, sir.

Senator ALLOTT. But the termination was in 1954.

Mr. REYNOLDS. The act of Congress was passed in 1954.

Senator ANDERSON. Have you a copy of the resolution that you can submit?

Mr. REYNOLDS. I don't have one with me, but we will furnish the committee with a copy.

(The following resolutions were subsequently submitted:)

STATE OF WISCONSIN [Jt. Res. No. 62] 1959

A JOINT RESOLUTION Memorializing congress relating to the termination of federal control over the Menominee Indian Tribes in Wisconsin

Whereas P. L. 399, 83d Congress, as amended, provides for the termination of federal control over the Menominee Indian Tribe and requires the Tribe to submit a plan covering economic development and governmental organization; and

Whereas the Menominee Tribe has fulfilled the requirement by its submission of a termination plan; and

Whereas the withdrawal of federal control at termination will mean the withdrawal of federal financial support for several important services; and

Whereas the federal government has certain responsibilities toward the Menominee people to ease the burdens of the transition from federal control; and

Whereas the Menominee Indian study committee, which has diligently worked with the Menominee Tribe for nearly 4 years in developing the termination plan, and the Wisconsin legislative council, which reviewed the work of the committee and passed upon its recommendations, have both unanimously endorsed these propositions. Now, therefore, be it

*Resolved by the senate (the assembly concurring)*, That the Bureau of Indian Affairs of the Department of Interior, and the Congress of the United States should provide:

(1) A minimum of \$690,000 to assure improvement of highways within the Menominee Reservation to a level which will reasonably accord with Wisconsin state standards for similar highways in that area; and

(2) A minimum of \$375,000 for the cost of education for members of the Menominee Tribe during a transitional period of 18 months following termination of federal control; and

(3) A minimum of \$50,000 to the Menominee Hospital to cover the costs of health and hospital services during the termination period; and

(4) Avenues through which Menominee Enterprises, Inc., created in the tribal termination plan, can obtain funds from federal lending agencies on favorable terms so that the economy of the Reservation area will prosper; and, be it further

*Resolved*, That copies of this resolution be sent to all members of the Wisconsin delegation in Congress and to the appropriate Congressional committees and federal agencies.

STATE OF WISCONSIN [Jt. Res. No. 79] 1959

A JOINT RESOLUTION Memorializing the Congress of the United States to repeal the law providing for termination of federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin

Whereas heretofore the United States of America has been and now is legally responsible to the Menominee Indian Tribe for control and supervision of tribal property and service functions, including, but not limited to, services in the fields of health, education, welfare, credit, roads and law and order; and

Whereas Public Law 83-399 (H.R. 2828) as last amended by Public Law 85-488 (H.R. 6322), an act to provide for a per capita distribution of Menominee tribal funds and authorize the withdrawal of the Menominee Indian Tribe from federal jurisdiction, provides, as the title implies: for terminating federal supervision and control over, and federal responsibility for, the property and members of the Menominee Indian Tribe; for distributing to members of the tribe a share of the funds deposited to the credit of the tribe in the United States Treasury; for giving the members of the tribe complete independence; for making the tribe dependent on its own resources; for making the tribe responsible for its own services in all fields, including the fields of health, education, welfare, credit, roads and law and order, subject to their rights, obligation and privileges as free citizens; and for terminating the sovereignty of the Menominee Indian Tribe; and

Whereas it clearly appears from evidence and statements of competent persons in joint hearings before the Subcommittees of the Committees on Interior and Insular Affairs during the second session of the 83d Congress on section 2813,

H.R. 2828 and H.R. 7135, that the delegates of the tribe committed themselves to a program for withdrawal of federal supervision on which they were not in accord because they were told by the chairman of the senate subcommittee that if they did not so commit themselves there would be no action on their pending per capita bill providing for a per capita payment of \$1,500 to each member of the tribe, to which they were already legally entitled and for which there was approximately \$10 million of tribe money on deposit in the U.S. Treasury; hence, such commitment from tribe delegates was obtained by duress, was not voluntary and was against the wishes of both the tribe and its delegates (see p. 594 of printed transcript); and

Whereas this was done contrary to the expressed wishes of the Menominee Indian Tribe that the per capita payment be dropped if it required such withdrawal; and

Whereas the tribe itself and the members of the Wisconsin Legislature are of the opinion that the proposed termination of Federal supervision is premature and requires more time in order that the general educational level and experience of the tribe can be further developed so that the tribe can be ready to assume such responsibilities; and

Whereas past experiences of independent and unprotected American Indians losing their goods, lands and resources by the device or artifice of the unscrupulous are legend and furnish a shameful pattern for what can be expected and what might happen to the possessions of the Menominee Indians if Federal supervision and control over their persons and property is unconditionally relinquished on or before December 31, 1960, as provided by said act of the Congress; now, therefore, be it

*Resolved by the senate (the assembly concurring), That the legislature of the State of Wisconsin requests the Congress of the United States to repeal or amend Public Law 399 of the 83d Congress, (Chapter 303-2d Session; H.R. 2828), as amended, so as to retain and continue indefinitely Federal supervision over the Menominee Indian Tribe, continue tribe sovereignty pursuant to the treaty with the tribe which places on the Federal Government a legal responsibility which should not be lightly disregarded and revoke the provisions of said law authorizing the withdrawal of the Menominee Indian Tribe from Federal jurisdiction and terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin until such time as the Menominee Indian Tribe has achieved a status comparable and equal to the average citizen of the environs in which they live and until the tribe has initiated a request for the termination of the tribal status and such request has been approved by an official vote of the enrolled members of the tribe; and, be it further*

*Resolved, That if the Federal Government declines to honor the above request for the repeal of existing termination legislation, the legislature requests that the final date for agreement between the Secretary of the Interior and the tribe be extended from August 1, 1959, to December 31, 1959, in order that the termination plan may be given more careful consideration to provide maximum protection of the interests of the Menominee Indians; and, be it further*

*Resolved, That properly attested copies of this resolution be sent to the presiding officer of each house of the Congress, to each Wisconsin member of the Congress, to the Honorable Dwight D. Eisenhower, President of the United States, and to the Honorable Fred A. Seaton, Secretary of the Interior.*

Senator CHURCH. Are there any other questions?

Senator ANDERSON. No.

Senator CHURCH. Go ahead.

Mr. CARVER. The Indians themselves, although dissatisfied with some aspects of the Bureau on administration and individually anxious for the per capita payments, never really faced up to the full implications of the severance of the umbilical cord of Federal services. They have, ever since the initial step in this thing, generally resisted the progress toward the dates fixed in the act and in the various extensions. The legislative history since the original act has been equivocal in that extension has followed extension. The basic premise of termination, as I analyze it, has come to be a question of whether the lumber industry, as presently constituted on the

reservation, is big enough to support the necessary governmental services for the Indians. Taking this resource in and of itself, it is a very attractive operation. But there is, as I believe Senator Proxmire has pointed out, a basic difficulty in translating a single industry operation into all the ramifications and complexities of community and governmental activities. Furthermore, we don't really have any way to make a direct conversion of one sawmill operation, which is customarily carried on as a private proposition, into full support of an American community. We just don't have any background for that. Nevertheless, everyone seems now agreed that given the present state of the lumber business, and given the present developments or lack of developments of the mill, itself, the proceeds of the mill won't reach all of the needs which will follow on full termination. For one thing, at least until very recently, the market has been down.

Senator CHURCH. Isn't the lumber price beginning to firm now?

Mr. CARVER. The lumber price is going up. Furthermore, as this report referred to by Senator Proxmire says, the mill isn't modern, and there is some question as to whether they have the skills locally for full diversification of this mill, the building of the furniture plants, and various other propositions like that. In any event, they are all projections. Therefore, almost everyone interested in the welfare of the Menominees suggests congressional modification of the act in some form or another. The problem which this committee faces is whether there should be any congressional modification, and, if so, what should it be.

I think the principal alternatives are these: To go ahead with scheduled termination but couple it with additional Government contributions to the needs of the Menominees by way of phased subsidy payments. In other words, to have the Federal Government pick up a decreasing proportion of the amount of the Federal contributions now in a series of succeeding years.

Senator ANDERSON. When you say scheduled termination, you mean April 30, 1961?

Mr. CARVER. Yes; I do, Senator.

Senator ANDERSON. Thank you.

Mr. CARVER. A second alternative is to go ahead with this scheduled termination, but pump additional capital into the mill by way of loans for modernization.

Senator ANDERSON. That is the sort of thing we would do if it was the old RFC making a loan to an industry, to make it at a very low rate of interest to give them a chance to live.

Mr. CARVER. This suggestion of loans provides that it be by the Indian Bureau. As I will point out in a moment when I come to the objections, this gets to the heart of the problem. But this is one suggestion.

A third alternative is to go ahead with termination but retain some kind of standby authority to step in if the situation gets as bad as some predict it will.

A fourth is the one which is referred to in the departmental report as sort of phased extension of termination.

A fifth, and I have put this in brackets on my copy, is repeal of the Termination Act, itself, which would seem to be an alternative suggested by some.

Let's analyze these alternatives. Our report opposes the subsidy principal, and that opposition, it seems to me, is based upon the rather sound basis that if the Government is to be in the Indian business, it ought to be in the Indian business based upon some trust relationship to the property of the Indians. To me, it seems offensive that we should have assistance programs for Indians based on no sounder ground than that they are Indians, because that is the kind of reverse sort of discrimination which I don't think the Government ought to be in.

Senator ANDERSON. Well, now, wait a minute. Are you going to eliminate from the laws of this country if you could all those things we do for Indians just on the basis that they are Indians?

Mr. CARVER. No.

Senator ANDERSON. For instance, when you have an Indian irrigation project, is that handled the same way as it is for the whites? Or do we allow the whole amount of charge against that, no matter what it might be, \$100 million, to just float in thin air until the Indian makes some sale of it. Is that the way we handle it for the whites?

Mr. CARVER. No.

Senator ANDERSON. Are you recommending that we eliminate all of these?

Mr. CARVER. No; I don't. Let me restate my position. In the Indian irrigation systems and in general where we have Indian programs, they are based upon a trust relationship to properties. This gives us a standard, so to speak, for being in the Indian business, and because we have the properties of the Indians, then we have a legal basis for rendering services or doing things for them, and that they don't balance is an irrelevance. For example, our program to the impacted areas for schools is based upon the Federal impact, but we don't measure always how much that impact is. It seems to me that we ought to have something to tie to besides dealing with human beings based on their ethnic origin.

Senator CHURCH. If I understand what you mean, Mr. Secretary, it is this, that the special Indian programs relate to the trusteeship of the United States respecting their property, and that if we were to terminate that trust relationship, then, after termination, the relationship between the Federal Government and the Indians, who are American citizens, is the same as the relationship between the Federal Government and any other group of American citizens.

Mr. CARVER. Exactly, Senator.

Senator CHURCH. That is, once termination has taken place.

Mr. CARVER. Exactly. That is why this report states that if this committee and the Congress wants us to stay in the Indian business, then it seems to me the way to do it is to leave us some trust relationship to property because fundamentally it doesn't seem to me that we should be directed by Congress, anymore than we have to be, to give services to one group of Americans as opposed to another based only on the color of their skin or their ethnic origin.

Senator ALLOTT. By the words, "Staying in the Indian business," you mean staying in the Indian business with respect to the Menominee tribe, don't you?

Mr. CARVER. Or any tribe, but I do mean in respect——

Senator ALLOTT. Particularly to this one?

Mr. CARVER. If, as the chairman says, an end is an end, if we are out, the Federal Government is through, then any further activity with reference to this situation should be just the same as for any other group of American citizens, in a depressed area or needing assistance, and it should be on the basis of a general program, and not a program which looks to the color of a man's skin or his racial origin.

Senator ANDERSON. You recognize, then, Mr. Secretary, that if you go ahead with a program of staying in, then you nullify all this elaborate corporation that has been set up, because a corporation cannot issue bonds on property it does not own. So if you stay in and hold a trust relationship over it, then you kick out the window all this elaborate trust on which people have worked for a long time.

Mr. CARVER. I recognize that there are difficulties. I believe the power of Congress is plenary in this matter and they can put whatever limits or extensions on this trust relationship that they choose, and they can phase it out.

Senator CHURCH. I am interested in the thesis you present. Sometimes these hypotheses have such appeal that you can become entrapped in them.

Mr. CARVER. I seek not to entrap you, Senator.

Senator ANDERSON. We know that.

Mr. CARVER. I am sure I couldn't.

Senator CHURCH. But it seems to me, though, as a general proposition I would agree with you, that once to terminate then the Indians affected become like any other citizen of the United States in their relationship to the Federal Government, I concur in that, but it seems to me that as a part of the act of termination the Congress can take into consideration special problems that these Indians affected may be faced with, and could wrap into the package either grants or loans meant to solve those problems.

Mr. CARVER. That is quite right, Senator.

Senator CHURCH. And that these grants and loans would not necessarily be in conflict with the act of final termination, if it was all wrapped into one package.

Mr. CARVER. This is really inconsistent with what the chairman said a moment ago about an end being an end being an end, because if the act of termination is to be phased or is to be coupled with some other Federal participation, then the Federal accord, the Federal connection with this continues, and to the extent that the Federal Government is still in it, we deserve to have some basis for still being in it. You are quite right, we could do it that way. But I leave to the committee to set forth the basis on which it wants the Bureau to carry on any program that it wants us to carry on.

Senator CHURCH. Following termination?

Mr. CARVER. Yes.

I feel that the subsidy principal and the standby authority principal, if they are adopted by this committee, should be identified as an exception, if you will, or to explain the basis upon which it is done, because I personally oppose, or recommend to the extent that I am asked, against any precedent which will give governmental services to Indians because they are Indians, rather than being tied to some trust or other responsibility. This does not mean that there is going

to be any exact balance, but if we have the trust responsibility, as we do with the Agua Calientes, then we can justify something, I suppose, at least on paper, which bears no practical sense whatever. But if you terminate the trust responsibility, then that ought to be the end of the Federal service.

The loan authority has the same basic objection if it follows full termination. That is why I said to Senator Anderson a moment ago that if there is to be a loan authority, at least some inquiry ought to be made as to whether it should not be given to a regular lending agency rather than to the Indian Bureau as a lending agency.

Senator ANDERSON. I think the Treasury might agree with you on that. Their report has not yet been cleared so we can not put it into the record.

Mr. CARVER. This leaves only the so-called phased extension. I must say that the Department's report on that, equivocal as it may seem, represents what we consider the most logical alternative if the Congress should determine that there is still a Federal responsibility for services or assistance to the Menominees. I could not promise, and I do not think any reasonable man could promise, that whatever date you fix the situation will be materially better or, indeed, any better at all, because I don't think the history of this thing determines that extension in and of itself make the situation get better. We will be the prisoners of the lumber market, we will be the prisoners of continued opposition to the concepts of termination, itself. It is fruitless to argue about whose fault this is. In 1954 they had \$10 million in the bank, they had \$35 million worth of timber, and they had \$4 million worth of mill, and they had no obligations. This is as good a situation as you can find. Today it is almost as good. They have \$35 million worth of timber, they have almost \$2 million worth of inventory, they have \$4 million worth of mill. I think their book value is down to maybe \$1 million something. But at any rate they have a going mill. Their obligations under the new plan consist only of the bond, the \$10 million, and the stock obligations. There is no encumbrance upon the inventory. There is no encumbrance upon the stumpage, and yet they can make a very valid case for somebody helping out with a loan program because the plan which has been set up makes it virtually impossible for them to get credit through normal commercial channels. This is, indeed, a great dilemma. The Department will have to stand on its presentation of this matter, that if this committee and the Congress wants to leave us with some responsibility for these Menominees, then we recommend that we be left with a trust relationship.

Senator ANDERSON. How much Federal money has been spent on termination thus far?

Mr. CARVER. About \$21½ million, I believe, Senator.

Senator ANDERSON. What were the costs of operating the reservation to the Federal Government before termination got underway, annually?

Mr. CARVER. I will have to ask Mr. Lee or Mr. Mangan for that. I know what it is now.

Mr. LEE. In the year just previous to termination, 1954, it was \$128,255.

Mr. CARVER. It is more now, by about three times.

Senator ANDERSON. So we would have been better off to have left it alone, wouldn't we, from the standpoint of the Federal Treasury?

Mr. CARVER. So far as the psychology of the thing, Senator, I think you could say that it would be, because as we get nearer the date, there is the natural human tendency to build up, so to speak, the cost basis to demonstrate your position that you have some troubles ahead.

Senator ANDERSON. In other words, they built up the costs in order to show termination wasn't a good thing?

Mr. CARVER. I don't know that there was any cause and effect.

Senator ANDERSON. Didn't they rush in with a lot of things that they thought they needed then?

Mr. CARVER. If we should have some subsidy basis, some subsidy program, it will have to be based upon some cost figure of what is going on. I am not accusing the tribe of anything. I think that they realize that this situation is coming upon them, and that they have to prepare for it. I think they are going to have some serious difficulties.

Senator ANDERSON. What was the 1955 opinion of the solicitor about stumpage payments?

Mr. CARVER. I have not read it, Senator, but in a general way—

Senator ANDERSON. Do you have it here?

Mr. CARVER. It provided that the basis upon which these people were entitled should include the appreciated valuation of the stumpage. Would you like me to put it into the record?

Senator ANDERSON. I think we might put it into the record, if that is an extra copy.

(The memorandum is as follows:)

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SOLICITOR,  
*Washington, D.C., February 9, 1955.*

Memorandum to: Commissioner, Bureau of Indian Affairs.

From: Acting Solicitor.

Subject: Determination of per capita payments to Menominee Indians under the act of March 28, 1908 (35 Stat. 51) as amended by the act of June 15, 1934 (48 Stat. 964).

In your memorandum of December 30, 1954, you requested the opinion of this office as to whether per capita payments made to Menominee Indians pursuant to the acts quoted above as a matter of law have been properly calculated and, if not, as to the proper method of their calculation. Attached to your memorandum was a memorandum dated September 7, 1954, to you from the Branch of Forestry discussing these issues.

Briefly, the 1908 act (*supra*) provided for the establishment of a timber operation on the Menominee Reservation. It authorized the cutting annually of specified amounts of timber, directed that a sawmill and other buildings and equipment necessary to the manufacture of lumber products be erected on the reservation, authorized the sale of logs, lumber and lumber products, and directed that the net proceeds from such sales be deposited in the Treasury and bear interest at the rate of 4 percent per annum, the interest to be used for the benefit of the Indians in such manner as the Secretary of the Interior might prescribe. Section 4 of that act authorized the Secretary to pay out of the funds of the Menominee Indians all the necessary expenses for the conduct of such operations including the preservation of the forest. It appears that every year or two thereafter, at the request of the Menominee Indians, the Congress enacted legislation providing for specific per capita payments to the Menominee (78 Congressional Record 8230, 8231). To avoid further recurring requests for such legislation and to provide in lieu thereof legislation of a permanent type authorizing per capita payments to be made to the Menominee Indians upon the basis of a statutory formula, in 1934 the Congress amended section 4 of the 1908 act to read as follows:

"The Secretary of the Interior shall at the end of each fiscal year ascertain and fix the fair market stumpage value of the fully matured and ripened green timber cut on said reservation during the fiscal year and shall during the succeeding fiscal year pay said amount in equal shares to each member of the Menominee Tribe of Indians, living and on the tribal rolls, on the last day of said fiscal year: *Provided*, That said amount so distributed during any fiscal year shall not exceed the amount actually earned from timber operations on said reservation during the previous fiscal year. The expenditures proposed for the purposes specified herein shall be submitted to the tribal council, or its authorized business committee, for its advance review and approval." (48 Stat. 964.)

From the information contained in the memorandum of the Branch of Forestry, *supra*, it appears that at first per capita payments made under the 1934 amendment were based on estimated volumes of stumpage used. Later, the Second Deficiency Appropriation Act, 1940 (54 Stat. 628, 642), provided for a lump sum per capita payment to be made to the Indians in lieu of the amounts which would have been due under the 1934 act for the fair market stumpage value of timber cut during the fiscal years 1940 and 1941.

Commencing in 1941 and continuing to date, however, per capita payments have been made annually which were intended to comply with the provisions of the 1934 amendment to the 1908 act. It is my understanding that such payments have been computed on an annual basis as follows:

From the total dollar income of the complete timber operation there has been deducted the dollar cost of carrying on such operation.<sup>1</sup> From the net cash income thus determined, there has been subtracted as an item of cost of sale and as a bookkeeping transaction the fair market stumpage value of the fully matured and ripened green timber cut on the reservation during the fiscal year involved and the resulting figure was reflected in the books of account as "operating profit." For each fiscal year there was then paid out as per capita payments either such stumpage value reflected as "stumpage income" in the bookkeeping accounts or the "operating profit," whichever was less.

In my opinion, such a procedure for the calculation of the amounts available for per capita payments to the Menominee Indians does not conform to the requirements of the 1934 amendment. It will be observed that the amendment requires primarily that the stumpage value is to be paid to the Indians, subject only to the limitation of the proviso. The proviso, in turn, requires that the amount distributed during any fiscal year "shall not exceed the amount actually earned from timber operations on said reservation during the previous fiscal year." The amount actually earned from timber operations on said reservation is the woods operation income (called "stumpage income") plus the mill and manufacturing income (called "operating profit"). To require that the value of stumpage be deducted as an item of cost before determining whether the total operation sustained a profit or a loss is to ignore the fact that the woods operation is an integral part of the total timber operation of the tribe.

The question is whether Congress intended that the stumpage value should be a capital item which the accountant should enter as a depletion figure when the timber is cut, or whether it should be considered as income from the entire timber operation. In other words, should it be paid out as part of the gross operating profit or retained in the depletion account for distribution on liquidation? The logging operation on the Menominee Reservation has been conducted on a sustained yield basis which results in no depletion of their timber capital asset.

It is my opinion that Congress intended that the fair market stumpage value should be distributed annually in equal shares to each member of the tribe, but in the event that their mill operations result in any year in a gross operating profit which is less than the stumpage value of the timber cut, the distribution should be limited to such gross operating profit. When the operations result in a gross operating profit greater than the stumpage value, the stumpage value should be distributed and the difference should be credited to the capital account.<sup>2</sup> Therefore, the method used for distribution of the profits since 1941 has not been correctly reflecting the congressional intent of the act.

J. RUEEL ARMSTRONG,  
*Acting Solicitor.*

<sup>1</sup> Throughout this memorandum it is assumed, for purposes of illustration, that the books of the timber operation are kept on a cash basis. Such assumption is not intended to reflect any legal opinion as to the propriety of keeping such books on an accrual basis.

<sup>2</sup> The amount to be actually distributed, of course, will then turn upon the tribe's action taken in accordance with the last sentence of sec. 4 as quoted above.

Senator ANDERSON. All it said was if they had rights, they had rights, but it didn't say it had to be paid out.

Mr. CARVER. No, indeed. The only thing that had to be paid out, and I suppose nothing did, but I suppose the Termination Act, itself, insofar as it provided for a \$1,500 per capita payment sort of made that payment, at least, inevitable, as a human proposition.

Senator ALLOTT. Mr. Chairman, some round figures have been used here. I think it might be wise to insert from page 3 of the Department's letter that in 1954 the tribe had a treasury balance of \$10,403,302, and of this not \$4.5 million, but \$4,932,438 was distributed, which is almost \$5 million. Then, if I may, I would like to take two more figures. There were some remarks from this same report. This is on the same page. It says the Menominees had, in effect, been financing their tribal services costing approximately \$350,000 a year, with the value of the stumpage. Then it says:

As the members of the tribe were unwilling to accept a reduced amount or to cut back the services provided for by the tribe, such as welfare and relief, law and order, hospital and medical services, payment to parochial schools, legal services, utilities, construction and maintenance, garbage removal, fire protection, et cetera, and annual operating deficit of more than \$250,000 had to be taken from the tribe's funds.

This makes the total of these two, counting what was taken from the stumpage and what was taken from the tribal funds, to about \$600,000 a year.

Mr. CARVER. Yes, that is correct, Senator.

Senator ANDERSON. If the termination date is extended, would it be necessary to provide another stumpage payment?

Mr. CARVER. No, sir. If that is the purport of the law now, we ought to change it. It seems to me we have to protect this tribal asset so that it doesn't get further dissipated.

Senator ANDERSON. Mr. Armstrong's last paragraph reads this way:

It is my opinion that the Congress intended that the fair market stumpage value should be distributed annually in equal shares to each member of the tribe, but in the event that their mill operations result in any year in a gross operating profit which is less than the stumpage value of the timber cut, the distribution should be limited to such gross operating profit. When the operations result in a gross operating profit greater than the stumpage value, the stumpage value should be distributed and the difference credited to a capital account. Therefore, the methods used for distribution of the profits since 1941 has not been correctly reflecting the congressional intents of the act.

How do you get around that? If we extend termination under this interpretation, you are going to have to start turning out the stumpage value of all the timber cut, aren't you?

Mr. CARVER. Senator, let me say at the outset that I don't want to criticize any lawyers past opinion. I know that that kind of opinion coming to the Secretary now would go up there with recommendation on my part that we take another look, because if that is the law, then we ought to change it.

Senator ANDERSON. This stands until it is overruled by affirmative action of the new Solicitor, whoever he may be. Isn't it Mr. Barry?

Mr. CARVER. I shall certainly seek to get such a new one. If that is the law, we ought to change it.

Senator ANDERSON. Do you mean that laws can vary depending on whoever happens to sit in the chair?

Mr. CARVER. I think interpretations frequently do.

Senator ANDERSON. That is discouraging to those of us who are non-lawyers.

Mr. SIGLER. Senator Anderson, may I suggest that the Department's report points out that if the termination date is extended and if the new law permits the Department to contract with the Menominee Corp. for the management of the assets the law that you pass now should contain language which we have in our report which would make these stumpage payments no longer payable.

Senator ANDERSON. Do the Menominees like that?

Mr. SIGLER. Yes. They have proposed that. That is in Senator Proxmire's bill as well.

Senator ANDERSON. I know. Senator Proxmire is still here. I can read this again. He says:

I think it well to remember that the termination process did not stem from the initiative of the people most directly concerned, the Indians, rather, it was thrust on them by Congress.

I just go back to Congressman Laird's testimony in 1954, where he said:

It is with genuine pleasure that I represent in my district what I believe to be the only Indian tribe in the United States possessing substantial resources and agreeable to the principal of withdrawal. This is the Menominee Indian Tribe. As will be noted from the June 20, 1953, and January 7, 1954, resolutions of that tribe, the tribe agreed wholeheartedly to the principal of withdrawal.

Now 6 years later, we are told that Congress shoved it down their throat.

Mr. CARVER. I don't think the Department takes that view, Senator.

Senator ANDERSON. I am glad to have a little support, even if it comes from outside the Senate.

The State is requesting some assistance in welfare and so forth during this transition period. Do you have any knowledge of how much is needed? Have you some sort of a budget that says how much it is?

Mr. CARVER. Well, we know what is being spent now.

Senator ANDERSON. I didn't say that. I said how much is needed.

Mr. CARVER. I don't think, unless Mr. Mangan and Mr. Lee have made a study—I think the only figures we have would be what we are spending.

Senator ANDERSON. I have a friend who has two or three airplanes, and he finds that what it takes him to live is quite a bit different from what I find it takes me to live. How much is needed? That is the question. Could you submit to us a budget of what the Department thinks is needed? Have you talked to HEW about what HEW thinks?

Mr. CARVER. That is what I was going to say. One of the major aspects of this is the health problem. We could certainly submit our part and would be glad to get theirs. It puts us rather in an equivocal position, I guess, because I don't think we can take the position that anything we are spending now is not needed, so far as our program is concerned. I suppose they could get by with less. In many cases, for example in the health fields, we find State health officers who claim that the Indians' health program is more than the comparable program in adjacent non-Indian communities. But I would hesitate to speak for them. So far as our school program is concerned, we have had the same criticism, that we may be running better schools. But I would

hate to say that if we are going to be in the school business we should cut back education at any point, although the State might have to cut it back, or the county, if they didn't have the money. I think Wisconsin has a very fine equalization statute, however, and would not.

Senator ANDERSON. Has the tribe proceeded to a point where the Secretary can transfer this property to a management trustee as Congress suggested in the 1960 amendment, or have they taken steps which you can not turn back?

Mr. CARVER. I think Congress power is complete here.

Senator ANDERSON. I am not talking about that.

Mr. CARVER. I don't think we could do it under the present law.

Senator ANDERSON. You could not turn back?

Mr. SIGLER. Yes, that is right. Under the present law, the tribe has proceeded to the point of establishing the corporation which is now functioning, and when that fact occurred, our authority to transfer to a management corporation expired. So under the law as it exists today, on April 30, they would be compelled to transfer the title to the Menominee Corp.

Senator ANDERSON. If there was a simple amendment to the law, could you then transfer it to a trustee, a management trustee?

Mr. CARVER. I don't know how simple the amendment would be, but certainly the Congress could so provide.

Senator ANDERSON. If that was done, would Menominee County come into existence?

Mr. CARVER. That is a legal question which I believe Mr. Sigler will have to speak on.

Mr. SIGLER. Senator Anderson, as I understand it, the State law which provides for the establishment of Menominee County, will become effective when the Secretary publishes the tribal termination plan. That plan is final and it is approved. It has not yet been published. The contemplation of everybody who worked on the program was that the publication of the plan would be simultaneous with the transfer of title to the property. That is, it is supposed to happen on April 30. If the Secretary does not publish that plan, the Menominee County will not come into existence. If he does publish the plan, it is my judgment that the county will come into existence.

Senator ANDERSON. Have you in the Department any estimate as to the cost of running the county?

Mr. MANGAN. The original estimates given by the tribe and by the Menominee Indian Committee, I believe, to the Wisconsin State Legislature, the figures upon which the county was enabled, are in the neighborhood of \$375,000, which ought to be well within their capacity to pay. The latest budget has gone to close to \$600,000.

Senator ANDERSON. I have a figure here of \$700,000, but some comes back from State aid. So you have a county budget of \$600,000. Now, if you turned over the property to the management trustee, that \$600,000 would not be necessary. There would be some payments to the existing county, would there not?

Mr. MANGAN. Yes.

Senator ANDERSON. What do you estimate those to be? \$48,000 or something like that? \$40,000?

Mr. MANGAN. It would vary, Senator Anderson, I believe, through the device that the management trustee elected to select under the Wisconsin State laws.

Senator ANDERSON. You have forest crops land law, do you not, in Wisconsin?

Mr. MANGAN. Yes, sir.

Senator ANDERSON. And you pay an acreage share computed at the rate of \$0.10 an acre, do you not?

Mr. MANGAN. I believe that is true.

Senator ANDERSON. And there are two-hundred-and-some thousand acres?

Mr. MANGAN. 215,000 acres of forest land.

Senator ANDERSON. I am not trying to say that is all the payments.

Mr. MANGAN. And then the stumpage when you cut it.

Senator ANDERSON. An undetermined amount of severance tax on that stumpage. And the State could deal as liberally with the Menominees as it has asked the Federal Government to do, couldn't they?

Mr. MANGAN. What would happen under that circumstance, with the reservation being in two existing counties, and that trustee paying a very small tax for the counties, under the forest crop laws, I would assume that those counties would have to go to the State for State aid to make up the difference in cost so that the obligations would fall on the State rather than on the Menominees.

Senator ANDERSON. But if the Indians had an extra \$600,000 in income, why would they need all this welfare and aid?

Mr. MANGAN. That is true, that these things work in reverse. As their fortunes improve, their obligations go down.

Senator ANDERSON. Severance tax should be 10 percent of the value of the wood products based on the stumpage value; is that right?

Mr. MANGAN. Yes.

Senator ANDERSON. When they took that severance tax, the Wisconsin law provides that they retain an amount equal to the contribution and return the balance back to the town or whatever might be there. So some money would eventually come back from the stumpage, I suppose. So that is a difference, and I don't know what it would be, of \$40,000 up to \$600,000.

Don't you think it would be worth while to try to save this \$600,000 that the county management is going to cost, if we could?

Mr. CARVER. I certainly think so, if we could.

Senator CHURCH. What accounts for the increase of \$225,000 from the anticipated costs of the county?

Mr. MANGAN. There have been some substantial layoffs at the mill up there which have raised the welfare roll costs and also the unemployment compensation figure paid in, plus some, we hope temporary, difficulties with a recent discovery of tuberculosis infection, which means institutional charge backs from the State to the county of residents. So the county would have to bear the costs of the indigent patients under this program. Also there is the fact that up until now juvenile delinquents and others institutionalized around the State are not charged back to the Menominee community but rather are paid by the State because the State has no jurisdiction to charge these costs back against the territory over which it has no jurisdiction, which is the case now. But Menominee County would succeed to those obligations. There are also some fixed costs in that budget which would not be recurring, setting up the county, equipping and staffing it. But I think that the large part—

Senator CHURCH. Are you telling us that if termination does take place, and if in place of the corporation that has now been established and now constitutes the termination plan this property were, by act of Congress, transferred to a trustee, that in such circumstances, under the laws of the State of Wisconsin, the county would automatically be set up?

Mr. CARVER. No, sir. I am saying the reverse, as Mr. Sigler did. If we were to substitute a simple management trust indenture—

Senator CHURCH. I am talking about termination. I thought Mr. Sigler said that the Wisconsin law says that once termination has been announced—

Mr. SIGLER. No, sir; once the plan has been published.

Senator CHURCH. If the Congress says that the plan, by decision of the Congress, shall be the transfer of the tribal properties to a trustee—

Mr. SIGLER. Then the present plan would presumably not be published.

Senator CHURCH. That is right, but the other plan would be published?

Mr. SIGLER. But the other plan would not bring it into existence.

Senator CHURCH. That would not bring the new county into effect?

Mr. SIGLER. That is right.

Senator ANDERSON. All I am trying to do is to try to save this \$600,000 a year, which is a millstone that is going to hang around these people's necks. They can get along without it. There isn't any importance of setting up a job where somebody is a county assessor and has 10 deputies. You have a forest there which you handle on a wholly different basis. There may not be a necessity for a county sheriff, they are being well taken care of, apparently, by the two counties. There has been no public outcry. This county was not set up by wish of the general Legislature of Wisconsin, but because the Indians asked for it. The legislature tried to accommodate them. They then thought they would have so much money coming from the sawmill they could afford the luxury of a county government. Why not undo what was done unwisely, not because of the lack of wisdom of the Legislature of Wisconsin—they only tried to carry out the wish of a great group of people who said, "Give us a county," and they gave it to them.

Senator CHURCH. I understand exactly what your purpose is. I think you state a good case, Senator. But I wanted to get into the record clearly just what the operative effect of a congressional decision would have on the present Wisconsin law with respect to this county. That is what I wanted to get clear.

Senator ALLOTT. Let's follow on this, if I may. I would like to go in another direction.

Mr. Sigler, this is addressed to you.

The Department has recommended a bill which, as I interpret it, says to make the transfer at any time prior to April 30, 1965. Then under this, if the Congress were to see fit to pass the recommendation of the Department, then there would be no county coming into existence, or at least not until after 1965?

Mr. SIGLER. That is correct. May I explain that in just one sentence? The Department has refrained from publishing the present plan. We have deliberately refrained, because the publication of that plan would bring the county into existence. The desire was to avoid that until the transfer of property had been effected so that the county could function.

Senator ALLOTT. And that transfer will take place on April 30, unless Congress acts?

Mr. SIGLER. That is correct. My answer to your question is if you change the termination dates so that the transfer of property is made at some later time, my assumption is we would withhold publication of the plan until that later time.

Senator ALLOTT. While we have you and the attorney general of Wisconsin here—and I hope he will listen to this, too—suppose this Congress were to refuse to act upon changing the termination, but we were to put in, as a condition of the termination, that, contrary to what the Secretary has said here, we would provide for certain loans to tide them over, loans to the corporation—and I am not saying that I am for this, but assume that we would do it this way—then on April 30 would the county come into effect?

Mr. SIGLER. If I understand your question, we would publish the plan and transfer the title on April 30. That would bring the county into existence.

Senator ALLOTT. And we would have the power, if we wished, to write in certain financial advances as you would make under a trusteeship, or in the same general area, but this would still cause the county to come into effect.

Is that your opinion, Mr. Attorney General?

Mr. REYNOLDS. If I understand the question, being that if you transfer the property to the Menominee Enterprises, Inc., the corporation the tribe has set up, then I think the county would come into effect. If you transfer the property to a management trustee, in other words an entirely different plan, then I think you have some serious legal questions.

Senator ALLOTT. As I recall our law of last year, this is no longer a question, because if I recall the wording of that law the provision was that unless they set up a corporation to take it over—rather, when they set up a corporation to take it over, the management trustee business is dissolved. Am I wrong in that?

Mr. SIGLER. No, you are correct.

Senator ALLOTT. I am right?

Mr. SIGLER. Yes.

Senator ALLOTT. So the corporation has been set up. The question of the management trustee is something in the past, unless Congress takes affirmative action?

Mr. SIGLER. That is right.

Senator ALLOTT. All right.

Senator CHURCH. Let me ask this question: It seems to me that Senator Anderson has been directing his remarks to the very thing that you mentioned in your initial statement, Mr. Secretary, when you said it is something of a novel concept to establish a local government that is tied to a business base, that is to say a lumber mill that is to maintain it. Isn't this the chief weakness of our situation, that

we are attempting to establish a novelty, a freak, and then we are trying to figure out how we are going to make it work? If that is the case, before we get to that point why don't we set the freak aside and proceed according to political structures that bear the testimony of 175 years of successful national experience.

Senator ANDERSON. I am only trying to point that out. I have only had a little business experience, trying to run businesses, but I have never yet successfully run a business that operated at a loss. I have always been taught that you should operate them at a profit. When you see a \$600,000 charge coming into the business that the business cannot stand, what little experience I have had running a business for 40 or more years tells me that I should try to get rid of the \$600,000 charge. There is only one way to do it.

You see, the trouble is, Mr. Secretary, that you put a nonlawyer in with these lawyers and we have a devil of a time. The able Member from Colorado, who is a very good lawyer, turned and addressed a legal question to the attorney general of Wisconsin, and the attorney general said, "If you want to do it that way, it presents a serious legal question." I want to know "Yes" or "No." Either we can or cannot do it. If we have to study it for a few years, then the devil with it. We are going to have some testimony, and I don't want to anticipate it, that we will need about a million dollars a year to handle this situation, and sanitation and education costs and so forth. It is like the motto of my State, "It Grows As It Goes."

We start with \$100,000. We get to \$600,000, before the gates open. It is up to \$1 million plus \$950,000 to modernize the mill and so forth. If there is a simple way to do it that does not involve us in a million dollars a year we can do something that we couldn't otherwise.

The Senator from Wisconsin quite properly says he would like to have some assurance that we are going to get the money. If it is a million dollars a year, I don't know who is going to give that assurance. I certainly wouldn't attempt to. But if we can trim out the \$600,000 that setting up this county involves, and just by not publishing the plan—that is the best publishing venture I ever heard of, that you publish the plan and, presto, it costs you \$600,000 a year to publish it. I am the director of a book publishing firm in New York that has been doing pretty well recently. Its stock has been going up very rapidly. But I don't believe that we have any publishing ventures that cost us \$600,000 a year as soon as we get into them.

Mr. CARVER. My only position in this, Senator, to restate it, is that if this committee and the Congress wants to leave us in the business of spending this money, getting it and spending it, then I think the safest way to do it is to leave us in the trust business. Then we have some control over it.

Senator ANDERSON. We are all determined to try to terminate. We have been taking that pledge round after round, and each time we take it, we say we mean it more firmly than the time before.

Senator ALLOTT. This pledge is very similar to my pledges to quit smoking.

Senator ANDERSON. I remarked to this committee one day that I had a newspaper friend when I was working in the newspaper business, who was a horrible drunkard. He met a very lovely girl and wanted

to marry her. She wouldn't marry him until he quit drinking and he couldn't quit drinking until she would marry him. So there you are. Here we are, we cannot quit drinking here for this problem. I would love to find a basis on which we could quit drinking. I thought the setting up of this corporate entity, permitting that corporate entity to go out and borrow and establishing certain standards might relieve us from some of this responsibility. I think it might, still, if we get rid of this \$600,000 millstone that is going to be thrust around their necks by the county.

We are going to have a big argument about that. I can see somebody from the back to take me on.

#### STATEMENT OF HON. MELVIN R. LAIRD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Representative LAIRD. I am Congressman Laird, representing this district. I think it is a shame to get off on this cost as being \$600,000 for this separate county.

Senator ANDERSON. Why do you think it is a shame to get off on it?

Representative LAIRD. The costs of having a separate county are only \$60,000. These costs, whether the Menominee's Reservation become a part of Oconto County, a part of Shawano County or a part of Langlade County, would still be with us. So the cost of a separate county, as determined by a study made by the University of Wisconsin, is not in excess of \$60,000, Senator.

Senator ANDERSON. Do you have that with you?

Representative LAIRD. Yes. Mr. Sammond is going to testify a little later on and he will lay out the costs. It seems to me that we are getting off on a tangent of \$600,000 as a cost of the county. That is the total cost. Those costs would be carried by some unit of Government, whether you set a separate county up or not.

Senator ANDERSON. But it does not all get saddled into this one place, and, therefore, you don't have to take it out of the proceeds of the timbering operations.

Representative LAIRD. The tax would be higher, so far as the Indians are concerned, if you put it in with either of the surrounding counties, the taxload and the tax on the Menominee properties to be at a higher rate than it would be in keeping it as a separate county, I believe, over the long pull.

Senator ANDERSON. You don't recognize the existence of the forest crop law, then? Doesn't the forest crop law specifically provide how much it shall be per acre?

Representative LAIRD. It does under Wisconsin, if they chose to go under it in Wisconsin.

Senator ANDERSON. Why wouldn't they choose to go under it to save several hundred thousand dollars a year?

Representative LAIRD. Their land does not qualify in the same manner in which other lands would. The forest crop law in Wisconsin was set up to take care of timber as it was growing. This particular timber happens to be pretty much mature timber, so the legislature took a little different position in regard to it.

Senator ANDERSON. But if you have a sustained yield basis, isn't there always growing timber?

Representative LAIRD. There is always growing timber; yes.

Senator ANDERSON. And you couldn't be under the law if it was growing?

Representative LAIRD. You could be under the law, but the problem that confronts the Menominees is a little bit different than the problem that confronts the other counties. And on the yield, if you put all that timber under the forest crop law, there wouldn't be any possibility of running a county government.

Senator ANDERSON. I am not anxious to try to get a possibility of running a county government. That is the last thing I want. That is expensive.

Representative LAIRD. Then the load would all go on the other counties and they would, in turn, have to go to the State or somewhere to make up this difference.

Senator ANDERSON. That leaves me very cold that they have to go to the State and make up the difference.

Well, thank you very much.

We will get to this whole question. I would like to see some figures. We keep getting these other figures. I saw an annual operating cost running to six hundred and some thousand for the county.

Senator CHURCH. Does that conclude your statement, John?

Mr. CARVER. That concludes my statement.

Senator CHURCH. Thank you very much.

(At the request of Senator Allott, the Department of the Interior supplied the following information:)

The United States has reimbursed the Menominees for termination expenses for the period June 1954 to June 30, 1960, a total of \$219,982. Of that amount and for that period, the expenses of attorneys represent a payment by the United States of \$95,063.

Of that amount, \$95,063, the Wilkinson firm has been paid \$53,775.

Of that amount, \$95,063, the Sammond firm has been paid \$41,287 by the United States.

The tribe has paid an additional \$13,745 out of their own funds on the 50-percent reimbursement formula. This means that the attorneys have been paid a total of \$108,808.

No claim for reimbursement has been submitted for the period July 1, 1960, through April 30, 1961. We would estimate that for this period tribal attorney expenses will not exceed \$25,000.

#### FURTHER STATEMENT OF HON. WILLIAM PROXMIRE, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator PROXMIRE. Could I make a brief reply to the Senator from New Mexico, since he raised this point after I moved back? It is in response to the Senator's statement that I had mistakenly said that the Congress thrust the termination plan on the Indians.

Senator ANDERSON. I didn't say you mistakenly said it. I just quoted from your statement. I read it: "Rather, it was thrust on them by Congress." Then I read what Congressman Laird had said. I didn't attempt to choose between you.

Senator PROXMIRE. Let me simply respond very briefly to the Senator from New Mexico by saying that there are two members of the tribe who are here in this room, who were also present when the chairman of this subcommittee in 1953, about June of 1953, went out

and told the tribe that if they did not vote for termination they would get it anyway, that they had no choice, and that their only chance of getting a \$1,500 payment was to vote for it.

Senator ANDERSON. You are referring to Senator Watkins?

Senator PROXMIRE. That is correct.

Senator ANDERSON. We can get him up as a witness also. I think I have the highest respect for Senator Watkins. When he was proposed as a member of the Indian Claims Commission, I went way out of my way to testify to my great respect for his integrity. I think he is one of the most honorable men I have ever known, and I still think so. I, of course, welcomed the verdict of the voters in Utah who sent a Democrat down here. I will never get to where I don't subscribe to sending Democrats to the Senate, with great regularity. But I would have to say that so far as I know Senator Watkins was a man of the highest integrity. If he said that, I would like to see some proof that he threatened them.

Senator PROXMIRE. May I say to the Senator from New Mexico, that I have the greatest regard for Senator Watkins' integrity, too. I think he was a magnificent Senator in many respects, but the fact is, as I say, that we have two members of the tribe here. Many others have told me exactly the same thing. They are willing to testify to this effect. Their names are Jerry Grignon and Al Dodge. They are perfectly willing to put this into the record. I attest to their veracity and integrity.

Senator ALLOTT. I am much of the opinion of the Senator from New Mexico. Certainly, I have nothing but the highest degree of respect for my good friend Senator Watkins. It was one of my great disappointments that he is not here, contrary to the Senator from New Mexico. But I think if there were some such statements made by him, they should be a matter of record. I would like to see the record.

Senator ANDERSON. This is not a new subject. We have had this up with Senator Watkins. He talked to them. There is no question about that. But regardless of what he told them, here is a man who is present who testified at page 595. I am now looking at him and I am sure he is a man of extreme integrity, as Senator Watkins was. He says—

It is with genuine pleasure that I represent in my district what I believe to be the only Indian tribe in the United States possessing substantial resources and agreeable to the principal of withdrawal. This is the Menominee Indian Tribe. As will be noted from the June 20, 1953, and January 7, 1954, resolutions of that tribe, the tribe agreed wholeheartedly to the principal of withdrawal.

Now we have a statement that there was coercion that got them to agree wholeheartedly. I believe no one would resist that more vigorously than Senator Watkins.

Senator ALLOTT. Before Senator Church leaves the room temporarily, I would like to inquire what his intentions are with respect to the hearings on this. We all know that the minimum wage bill is on the floor. I have not interposed an objection to this committee sitting in session while this was going on, but I feel that I must be on the floor. At the same time, I want to devote all the attention I can to the resolution of this most difficult problem.

Senator CHURCH. So far as I am concerned, I will be available to continue the hearings, either this afternoon or Thursday or Friday of this week. Tomorrow, I am not available. But I would have no objections, if it suits the convenience of the committee, to have the hearings continued then in my absence.

Senator ANDERSON. I would like to be on the floor a little bit myself.

Shall we come back at 2:30?

Senator ALLOTT. The difficulty is if we come back at 2:30 we cannot be on the floor. I feel that as far as I am concerned it is necessary to be on the floor, that my attendance is necessary on the floor.

Senator CHURCH. We can reconvene at 9:30 tomorrow morning. However, I will not be able to be present.

Senator ANDERSON. This is to accommodate the witnesses from outside the State.

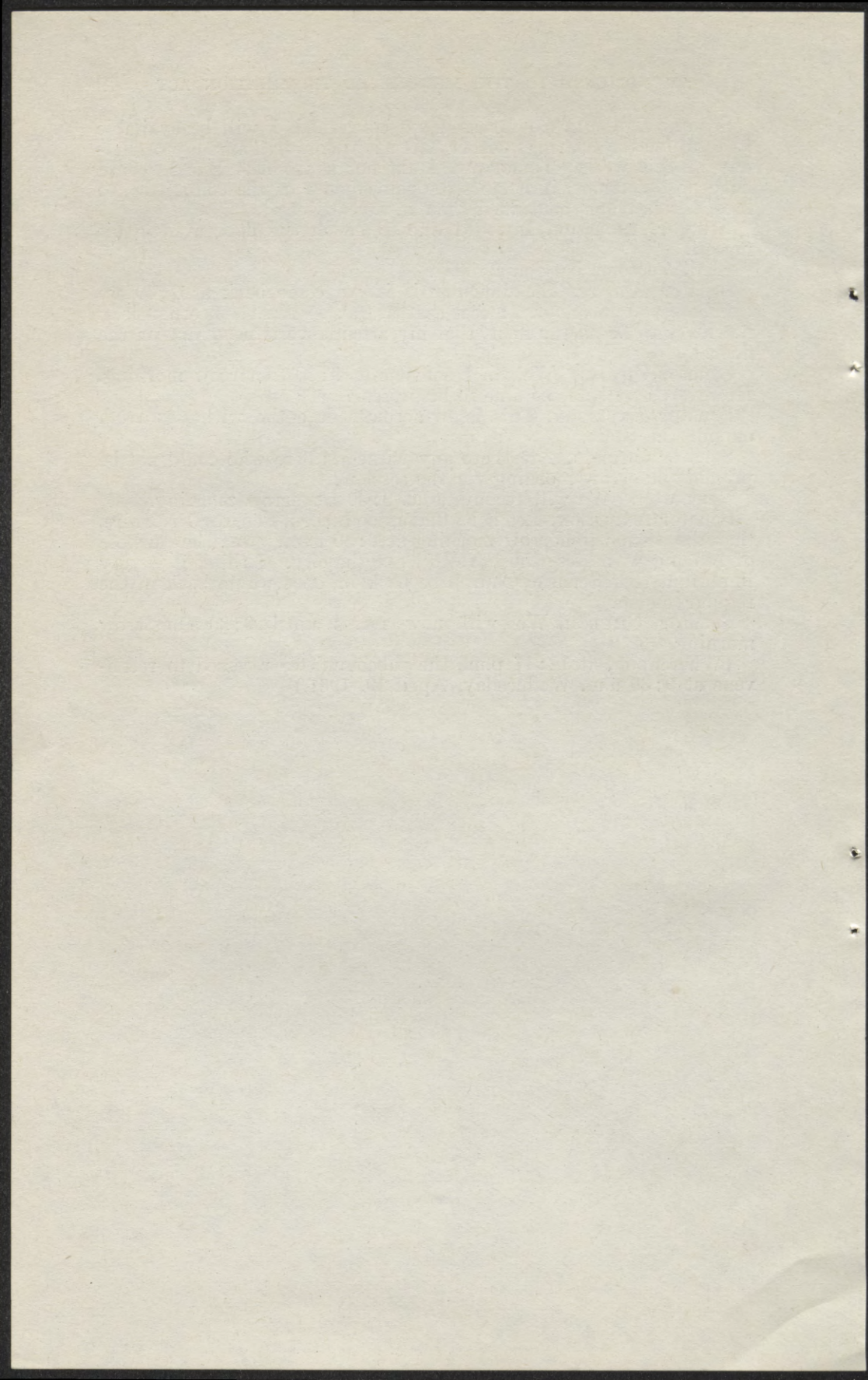
Senator CHURCH. Are there any witnesses here who could not be present tomorrow morning for the session?

Very well. We will reconvene at 9:30 tomorrow morning.

Senator ANDERSON. Let it be understood, then, Senator Proxmire, that the session tomorrow morning at 9:30 is only for the purpose of hearing witnesses who have to leave the city. I think it is very important that Senator Church be back in, once we go back in the regular session.

Senator CHURCH. We will now recess until 9:30 tomorrow morning.

(Whereupon, at 12:47 p.m., the subcommittee recessed to reconvene at 9:30 a.m. Wednesday, April 19, 1961.)



# AMENDMENTS TO THE MENOMINEE TERMINATION ACT

WEDNESDAY, APRIL 19, 1961

U.S. SENATE,  
SUBCOMMITTEE ON INDIAN AFFAIRS OF THE  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The subcommittee met, pursuant to recess, at 9:30 a.m. in room 3110, Senate Office Building, Senator Clinton P. Anderson presiding. Present: Senators Clinton P. Anderson, Quentin N. Burdick, and Gordon Allott.

Also present: Stewart French, chief counsel.

Senator ANDERSON. The subcommittee will be in order.

As I indicated yesterday, the primary purpose of the hearing this morning is to accommodate those witnesses from the State of Wisconsin who would not find it convenient to be here subsequently this week. Therefore, we will consider only the testimony of these two or three witnesses in order that when the hearing is resumed it may be resumed with Mr. Church as chairman and cover the questions that he may wish to propound.

We will start with Mr. Frederic Sammond, of the law firm of Foley, Sammond & Lardner, Milwaukee, Wis.

## STATEMENT OF FREDERIC SAMMOND, MILWAUKEE, WIS.

Mr. SAMMOND. I do not have a prepared statement, Mr. Chairman.

Senator ANDERSON. Wouldn't you just tell us how you happened to draw up this plan of operation and what is involved in it, and so forth, so that we may have that guidance?

Mr. SAMMOND. Yes, sir. That is what I plan to do.

In April 1958 I was visited by the chairman of the Coordinating and Negotiating Committee of the Menominee Indian Tribe, Mr. Kenote, asking me if I would undertake, with my firm—this is not a solo job—the task of helping the Menominee Indians comply with the Termination Act.

Senator ANDERSON. Who was the gentleman who came to see you?

Mr. SAMMOND. Mr. Kenote, George Kenote.

Senator ANDERSON. What was his position?

Mr. SAMMOND. Chairman of the coordinating and negotiating committee of the tribe, and he still is.

His committee later came with him. I said, after a little investigation, that I would undertake the engagement. The whole committee came in and we discussed the matter. The contract was drawn, which was approved by the tribe and the Secretary of the Interior,

and we went to work to comply, to help the tribe comply, with the Termination Act, as it then stood.

Technically, I believe it was amended in July 1958, but by the time we were ready to undertake the merits of the matter, it was amended. We had nothing to do with that amendment. It has since been amended chiefly, as of last year, to extend the time 4 months. We had nothing to do with that amendment.

I am here to discuss the matter of financial assistance, which we believe the tribe needs.

Senator ANDERSON. You are not going to skip the whole trust agreement with that first statement, are you?

Mr. SAMMOND. The whole termination plan?

Senator ANDERSON. Yes.

Mr. SAMMOND. If you want me to explain the termination plan, sir—

Senator ANDERSON. I suggest that you describe how we got into this and what is involved. I would be glad to ask you a lot of questions about it, but if you are now turning to the question of financial assistance to the tribe in case of termination, you have gone over a lot of ground.

Mr. SAMMOND. I had an understanding that the Senate committee wished to hear me on the subject of financial assistance. I will be very glad to go right into the other.

Senator ANDERSON. We do.

What was the estimate of profits that there would be from the sawmill under the original plan? Was it something in the neighborhood of \$400,000?

Mr. SAMMOND. May I come to that a little later in my statement? I was going to review that, sir. If I start piecemealing it, it will not be in order. I will do as you wish. I will come to that, sir.

Senator ANDERSON. Is the First Wisconsin Trust Co. going to vote the stock of all the Indians or all the minor Indians in this transaction?

Mr. SAMMOND. All the minor Indians and—

Senator ANDERSON. And all the incompetent Indians?

Mr. SAMMOND. And the incompetents. The incompetents are about 100.

Senator ANDERSON. What is the total number of people involved?

Mr. SAMMOND. About 1,100 to 1,200.

Senator ANDERSON. How many are minors?

Mr. SAMMOND. All but 100 of that 1,100 or 1,200. When I said 1,100 or 1,200, I meant those are the people under the trust. There are 3,280 members, or 3,270.

Senator ANDERSON. So that you have eleven thirty-seconds to start off with, of control of the tribe.

Mr. SAMMOND. That is correct. However, it must be remembered, Senator, that the stock is only voted for the election and reelection of voting trustees.

Senator ANDERSON. But the people who represent them become virtually the controllers of all of that property, do they not?

Mr. SAMMOND. No, sir.

Senator ANDERSON. Why not?

Mr. SAMMOND. Because there are seven voting trustees elected by the tribe, and the only thing the stock vote is for, held by the trust company, is the reelection of a trustee for 7-year terms, every year.

Senator ANDERSON. So it might take you 4 years to get control?

Mr. SAMMOND. Seven years.

Senator ANDERSON. Four-sevenths control.

Mr. SAMMOND. Yes, sir. But they would both have to control, which they do not. That is a diminishing fraction, by the way.

Senator ANDERSON. Have you any idea what the control is of the American Telephone & Telegraph? How much of the stock of that corporation do they own?

Mr. SAMMOND. I do not know. A minority may have practical control.

Senator ANDERSON. Yes.

Mr. SAMMOND. Here the control is perfectly correct; theoretically, it could happen to the trust company, by electing different voting trustees over the course of 4 years.

Senator ANDERSON. What will the trust company charge the minors for handling their affairs?

Mr. SAMMOND. That I do not remember, except to know this: that it would involve a saving of \$50,000 to \$60,000 as compared to handling the minors through the standard guardianship procedure. We eliminated perhaps 1,000 guardianships.

Senator ANDERSON. Do minor Indian children normally get handled through guardianship procedures?

Mr. SAMMOND. Yes.

Senator ANDERSON. The Navajos get handled through the guardianship procedure?

Mr. SAMMOND. I do not know anything about the southwest Indians.

Senator ANDERSON. I said do they normally handle Indian minors the same way as they handle the minor of a white?

Mr. SAMMOND. In Wisconsin, yes, sir, they do. For instance, when minors have anything, they have guardians appointed by the local county court, and that includes the \$1,500 bonds that are being held in the treasury. Every little while some of those are released because of need and then the county court appointed a guardian.

There are about 300 guardians now serving, guardianships of several people, serving these minors now.

Senator ANDERSON. Do I understand when we made the per capita distribution of timber sales, that that money was handled by guardians in part, in Wisconsin?

Mr. SAMMOND. In part. A large amount will be released on April 30, along with the minors' interest in the affairs.

Senator ANDERSON. Then they start being guardians of that money?

Mr. SAMMOND. They do.

Senator ANDERSON. And guardians' bonds will be required?

Mr. SAMMOND. Do you mean fidelity bonds?

Senator ANDERSON. Yes.

Mr. SAMMOND. No, that is not required under the laws of Wisconsin for trust companies who have an adequate capital. There are no fidelity bonds for trust companies registered as such.

Senator ANDERSON. What are their charges for handling this?

Mr. SAMMOND. I do not know.

Senator ANDERSON. You do not know what the charges will be against the Indians, then?

Mr. SAMMOND. I cannot give you that figure.

Senator ANDERSON. Did you handle this with the trust company? Do you represent the trust company in any way?

Mr. SAMMOND. Our firm does.

Senator ANDERSON. Are you counsel for them?

Mr. SAMMOND. Our firm does at times. We are not employed by them. We are one of six or eight firms that are employed by them. In this matter, we did not negotiate with the trust company, our firm did not.

The C. & N. Committee that I spoke of about the negotiating, they had a choice of three trust companies in Wisconsin and they chose this one for reasons of their own, which I happen to know about. But it was a personnel matter and I had nothing to do with it. I did not have a voice in it, nor did my firm.

The reason I do not know what they are charging is because we worked it out at the time and we know it is less than guardianships by a great deal. That was thoroughly discussed by the legislature.

Senator ANDERSON. Mr. Lee, doesn't the Department enter into this in any way? Don't they know what they are going to charge?

Mr. H. Rex LEE. Yes, the Department knows what the charges are. It is a schedule that is attached to the trust indenture. We will be glad to supply that for you.

Senator ANDERSON. You drew up all the corporation plans and they never let you see this? Was it a secret document?

Mr. SAMMOND. I have seen it. But I just do not remember that detail. The termination is about 6 inches thick and I am not going to guess at what I saw.

Senator ANDERSON. Do you regard the guardianship matter for all these children as a minor detail?

Mr. SAMMOND. No, sir.

Senator ANDERSON. You said you called them a detail.

Mr. SAMMOND. I call the amount of the fee in the schedule, which appears in the back of the document, somewhat of a detail. At least I do not remember what it contains. I can guess at it, but I do not think I should.

Senator ANDERSON. What is the value of the property that is being transferred—\$40 million or \$50 million?

Mr. SAMMOND. The whole Menominee property? That depends on how you can value it. I can give you the basis of my evaluation. I have heard it said that the whole property would be \$40 million or \$50 million if it were sold free and clear of the sustained yield requirement.

Senator ANDERSON. Eleven thirty-seconds of that is a pretty sizable chunk of money, is it not?

Mr. SAMMOND. Yes, sir.

Senator ANDERSON. Do you think it is unusual that people would like to know how that is being handled?

Mr. SAMMOND. Not at all. It has been thoroughly explored again and again. If I knew of your interest in it, I would have been prepared on the fees of the trust company, with which I had nothing to do except to put them in the documents which I handled.

Senator ANDERSON. Will this income which results to the Indians be tribal income or individual income?

Mr. SAMMOND. Do you mean the proceeds of the stock and bonds?

Senator ANDERSON. Yes.

Mr. SAMMOND. It will be individual income. There will be no tribe after April 30, if the law is not changed.

Senator ANDERSON. They will pay individual taxes on it?

Mr. SAMMOND. Income taxes?

Senator ANDERSON. Yes.

Mr. SAMMOND. They will. Very few will be in any brackets where they have to pay income taxes.

Senator ANDERSON. How many are there?

Mr. SAMMOND. 3,280; 3,270.

Senator ANDERSON. How many families are there?

Mr. SAMMOND. Around, I think, 800. I have not counted them as families.

Senator ANDERSON. 800 into \$400,000.

Mr. SAMMOND. It is about \$125 per member. I do not know how much per family. That, by the way—you are speaking of the interest on the bonds, which we have substituted in our design for what has been stumpage payments that these people have depended on annually. They have been receiving from \$125 to \$150 a year for stumpage. This is a substitution for that.

Senator ANDERSON. If they sold this and each got \$12,000 and that were to be invested in high-yield Government securities, not necessarily Government bonds, but Government-guaranteed FNMA mortgages, and things of that nature, they could be assured of 4 to 5 percent, 4 at least.

So they would be assured of \$500 apiece. Do you think they will get that out of this arrangement?

Mr. SAMMOND. Not out of the bonds. They will get 800 jobs, if we have our way, and 800 jobs at \$3,000 apiece are worth a lot more than \$125 per member. We expect to create, before we get through, 800 jobs on the reservation.

Moreover, the figure you are using, Senator, of \$40 million is based on free cut. Congress did not give them a free cut. Congress gave them sustained yield. We have convinced the Wisconsin Legislature, by the testimony of a good many lumbermen, that sustained yield gives you a value of 30 to 40 percent of free-cut timber, if you are bound to sell it under sustained yield.

Consequently, the Legislature of Wisconsin at our request passed a law that 40 percent of the stumpage valuation should be used as the full value of this forest for tax purposes. It becomes material, for instance in the joint school district, where the entire school district of Menominee County will be part of Shawano Joint School District.

It becomes material in a number of ways. It would become material if the legislature had not given them a county, and they were part of other counties.

Senator ALLOTT. So that you would say that the value of this property, the whole thing, on a sustained yield basis, then, is somewhere around \$16 million?

Mr. SAMMOND. That is correct, sir.

Senator ALLOTT. Forty percent of \$40 million?

Mr. SAMMOND. I would not put it quite that way. The \$40 million includes about \$4 million worth of buildings that we do not discount, the villages and the mill, and other buildings. The forest is estimated at between \$30 million and \$35 million.

So what we call it is 40 percent of \$30 million, plus \$4 million worth of improvements, a total of \$16 million.

Senator ALLOTT. May I inquire on the trust agreement? I assume from the questions what you have drawn is rather than have individual guardianships you have provided for the payment of this and the handling of this in one account by one trust company so that you have avoided the multiplicity of guardian appointments and all this sort of thing; is that correct?

Mr. SAMMOND. Yes, sir. The trust company's principal role will be to meet and consider and be flexible with demands that money be released to the parents of the minors for aid and help, unemployment, illness, and so forth. To some extent they have to yield to it.

Senator ALLOTT. May I ask you another question?

Mr. SAMMOND. May I just say that this trust company arrangement versus guardianships was thoroughly debated at two meetings of the General Council of the Tribe, and the choice to go with the trust company over individual guardians was that of the Council of the Tribe.

Senator ALLOTT. I might say that as a lawyer it would be my first choice by far, too, this method of doing it.

Mr. SAMMOND. I know, but the tribe did thoroughly debate it and I think most of them understood it.

Senator ANDERSON. How many people in the tribe had had experience in the handling of large sums of money, such as \$15 million?

Mr. SAMMOND. I should say none.

Senator ANDERSON. How, then, did they have a basis for judgment?

Mr. SAMMOND. They had all the basis for judgment that Congress handed us. We were operating under law, trying to make it work. We were instructed to prepare a business plan and a governmental plan to carry on, and that we have done. There were difficult deadlines in the law as passed.

We met each deadline with great difficulty, but we met it, and that included getting the tribe to go along and the legislature.

Senator ANDERSON. Have the Indians ever testified before this committee, so far as you know, that they do not understand the plan?

Mr. SAMMOND. Yes, I think they have.

Senator ANDERSON. Would that be of any significance to you? If I gathered up a group of Sunday School children and said, "Now, I want to explain to you the difficulties of the Laotian situation," would they be competent, do you think, to decide whether this country had or had not done the right thing?

Mr. SAMMOND. Some of them might. I do not know. I do not know the answer to that hypothetical question.

Senator ANDERSON. I do not say this is not the wisest system. I might agree with Senator Allott that this was the wisest thing.

Mr. SAMMOND. I simply stated that their leaders submitted it to them. I think one of the most significant tribal decisions that was made, because of the way it was made, was that they would have a board of directors of nine people, five of whom would be white men.

There the tribe understood it, debated it and threw it out. I was present and they asked why I dared to do it, and I said I dared to do it because the leaders asked for it. They threw it out.

The next day, without my having any part in it, but being present, they came back and debated it among themselves and decided to restore the majority of white men to the board. That was a tribal decision made without any influence. They understood what they were doing.

Senator ANDERSON. Now, if you do not feel they have competency to manage their own trust, why do you feel they have competency to decide to have the trust? If you have to have an outside majority of white men in order to make a decision——

Mr. SAMMOND. I am not talking about the trust. I am talking about the board of directors.

Senator ANDERSON. You mentioned the board of directors. What was the board of directors of?

Mr. SAMMOND. The Menominee Enterprises, Inc., to receive all of the tribal property except the roads and one public building.

Senator ANDERSON. And that is not a trust?

Mr. SAMMOND. That is not a trust; no sir. That is a corporation. The trust only owns a third of the beneficial interest of a voting trust, which votes the stock, all the stock, of the corporation and owns it 100 percent. The voting trust consists of four Indians and three white men, selected by them.

Senator ANDERSON. Well, we better start over, then.

Mr. SAMMOND. Yes, sir.

Senator ANDERSON. What is the underlying organization which owns the property? May we have the name of it?

Mr. SAMMOND. Yes, sir. Menominee Enterprises, Inc., a corporation now existing, and manned not only by a board of directors, but by a president employed full time, and a treasurer.

Senator ANDERSON. Does this own the forest?

Mr. SAMMOND. Not yet. It will on April 30.

Senator ANDERSON. Will it on April 30 own the forest and all the other property of the Menominees?

Mr. SAMMOND. That is correct, except for the roads, the highways, and certain public buildings, one or two, the schools and the churches.

Senator ANDERSON. I would not want to own the highways here in the District of Columbia, but I would like to own the other real estate.

Mr. SAMMOND. This corporation owns all other real estate.

Senator ANDERSON. Who will manage that?

Mr. SAMMOND. It will be managed primarily first by its officers and a board of nine people.

Senator ANDERSON. And five of these are white?

Mr. SAMMOND. Five are white by the Indians' choice.

Senator ANDERSON. Who nominates them?

Mr. SAMMOND. The seven voting trustees. The stock of the corporation is issued to seven voting trustees. The voting trustees were chosen by the general council of the tribe in the first instance, on nomination of their own coordinating and negotiating committee and by nomination concurrently of the advisory council.

Senator ANDERSON. This is the organization where the trust company is going to have——

Mr. SAMMOND. It has nothing to do with the trust company, sir, yet.

Senator ANDERSON. You have to go a little slower, because I am not a corporation lawyer. I have to understand this a little bit. I thought we had a discussion a while ago of the fact that the trust company—

Mr. SAMMOND. That is for the minors.

Senator ANDERSON (continuing). Will have eleven thirty-seconds control of this organization.

Mr. SAMMOND. They will. I will explain.

The seven voting trustees hold all the stock of Menominee Enterprises for 10 years, as is permitted under the laws of Wisconsin. At the end of 10 years—they issue certificates of beneficial interest to the tribal members, one to each, 3,270 certificates. Eleven thirty-seconds of those certificates go to the trust company at the start.

Remember, that is a reducing figure. Every time the people turn 21, they drop out.

Senator ANDERSON. But don't some new ones come along?

Mr. SAMMOND. No. Everybody under 21 starts.

Senator ANDERSON. No new child has the rights?

Mr. SAMMOND. No.

Senator ANDERSON. That is all over?

Mr. SAMMOND. It is all over. Senator, it was all over in 1954; the 3,270 memberships were set.

Senator ANDERSON. They had a tribal roll prepared?

Mr. SAMMOND. A tribal roll prepared. New children since then may inherit their father's share and divide it, but they do not add any more members. The only ones that have been added in the last 3 or 4 years were those who took a fractional share, where their father died between then and now, or the mother.

That group will be diminishing down to 100 or 200 hard-core people who are in institutions.

Senator ANDERSON. Incompetents?

Mr. SAMMOND. Incompetents. They have already been selected by the Bureau.

Senator ANDERSON. And these voting trustees will vote, will select the nine directors?

Mr. SAMMOND. They will, sir.

Senator ANDERSON. That will be of Menominee Enterprises, Inc.?

Mr. SAMMOND. That is right. They have selected the first seven of the nine directors.

Senator ANDERSON. They have selected them?

Mr. SAMMOND. They have selected them and they are in office. The nine directors have selected some of the officers for a full-time job.

Senator ANDERSON. Are any of these nine directors officials of the trust company that may administer this trust?

Mr. SAMMOND. No, sir.

Senator ANDERSON. Do you have a list of who the trustees are that have been selected?

Mr. SAMMOND. The trustees or directors?

Senator ANDERSON. The nine directors.

Mr. SAMMOND. They are entirely different people. A trustee may not be a director, by definition.

I might say in passing that all the safeguards we could possibly put into this thing were put in by the State of Wisconsin in a week's hear-

ing before the legislature would go along with a separate county and town. They built more safeguards in avoidance of conflicts of interest into the thing than we could develop in the course of this morning's discussion.

Mr. Reynolds, the attorney general, and Mr. Bowers, his assistant, were the ones that did that.

Senator ANDERSON. When the nine people—

Mr. SAMMOND. Do you want the names of the nine?

Senator ANDERSON. When the nine directors start administering this, are they going to run the sawmill?

Mr. SAMMOND. They are, through officers.

Senator ANDERSON. Are they going to issue bonds?

Mr. SAMMOND. They are going to issue \$9 million worth of par bonds, which are only in lieu of stock. The \$9 million in bonds go to the 3,270 members. Three times that will be the number of bonds issued because each Indian gets \$3,000 par value of bonds. These are noncumulative bonds with interest at 4 percent, payable if and when earned.

Senator ANDERSON. But not cumulative?

Mr. SAMMOND. Not cumulative and not payable unless the corporation earns the money. In other words, it is not unlike common stock.

Senator ALLOTT. Why did they issue bonds instead of common stock? You must have had a reason for this.

Mr. SAMMOND. We did.

Senator ALLOTT. What was it, sir?

Mr. SAMMOND. Partly because we will not have depletion, being a sustained-yield forest, and partly because, and this is only partly, partly because we do not want the corporation to pay income taxes on what is essentially a struggling organization to start with.

In other words, the interest is deductible and dividends are not. That is only one reason. I want to emphasize that.

This is a sustained-yield operation and the growth is supposed to equal the annual recut.

Senator ANDERSON. Weyerhaeuser has a great many of its forests on a sustained-yield basis.

Mr. SAMMOND. I do not know what they do, sir.

Senator ANDERSON. Do you think they do not take depletion?

Mr. SAMMOND. We had to go into this question for the bond indenture as well, and concluded with the Conservation Commission's assistance at Madison that it would be unwise to take depletion on a sustained-yield forest, except for an exception, and that is in case of catastrophe, fire, insect, or disease, we would take depletion.

Senator ANDERSON. If the other timber companies in the United States were taking depletion on their timber holdings, you see no reason why that tax advantage should not accrue to the Menominees; do you?

Mr. SAMMOND. That is right. In this case, in addition to that, the bonds represent what we judge is approximately the economic value of this property. In other words, we think it will be some time to come before we can earn more than a fair return on \$10 million, even though you have a theoretical value of \$16 million.

Senator ANDERSON. Therefore, if the Federal Government came along and issued Government bonds to these people and bought their

stock as they did from the Klamaths, you would have a much safer position for the individual Indian, would you not?

Mr. SAMMOND. I think we would, but I doubt if you would pay as much for it as we value it.

Senator ANDERSON. We paid a lot more for the Klamath. It is going to prove to be a fine investment for the Federal Government. We paid \$90 million for the Klamath. So paying \$15 million for the Menominee would not frighten this committee.

Mr. SAMMOND. That is about the size of it. That does not show the value of it.

Senator ANDERSON. You are going to take how many of these? There are 3,270, and they are going to get \$3,000. That is \$9 million, is it not? Isn't that all they are going to get?

Mr. SAMMOND. No; they are going to get certificates of beneficial interest for one three-thousand-two-hundred-seventieth of the corporation, and if we can turn it into a value representative of the \$40 million that people talk about, that will accrue to the common stock and accrue ratably to the Indians.

That is why we divided between stocks and bonds, as I started to say. I would like to make that a matter of record. I do not want to sit here and make a pure tax-saving motive for these bonds exclusively. I said that was part of the reason.

The bonds do represent what we think is the earning value at the start of the property. We think there is a large equity which they may realize by working together. By working separately, they will dissipate their resources and go down to defeat as so many tribal groups have.

Senator ANDERSON. No business group ever says its tax-depletion program is solely for saving taxes, does it?

Mr. SAMMOND. I do not know.

Senator ANDERSON. If Senator Proxmire hears about this oil-depletion allowance—

Mr. SAMMOND. This is not the same thing. The depletion of timber is based upon what you cut. The forest is supposed to grow exactly the amount we cut, on the average. That is the theory of it. In theory, there should be no depletion here, whatever the tax laws permit.

Senator ANDERSON. There is stock in addition to the bonds?

Mr. SAMMOND. There is one share of stock held by the voting trustees. Remember, Senator—

Senator ANDERSON. Does the stockholder have any voting rights?

Mr. SAMMOND. The stockholders are the seven voting trustees for the first 10 years. They have all the rights of stockholders. But the members, the individual members, get certificates of beneficial interest.

Senator ALLOTT. One share of beneficial interest?

Mr. SAMMOND. That is right. It is one share in the corporation. That represents all the equity on top of the bond issue.

Senator ALLOTT. May I ask why this double—this is something I cannot quite figure out. You said that you have nine officers, nine directors, of the corporation, the Menominee Enterprises, Inc. Then you have voting trustees who hold the beneficial interest of the tribe.

Mr. SAMMOND. All the stock; yes.

Senator ALLOTT. Why voting trustees who elect officers?

Mr. SAMMOND. It has been explained to the tribe this way by their own leaders. To keep the board of directors out of tribal politics, so that the board of directors will be able to hire officers who will be able to get the Indians to do their job and will be able to employ and unemploy—fire, if you please—Indians on the job if necessary to make this thing work. That has been explained to the Indians. These are not my words.

Senator ALLOTT. But it has not been explained to me.

Mr. SAMMOND. I understand that. I am making the point that I did not put this over. It has been fully explained to them by their own leaders, that if they do not have this voting trust between them and the directors, the directorships will be in politics, there will be Indians threatening to get this director or that director, if his family is not put to work, and we will have an unworkable thing. A voting trust, as you know, Senator Allott, is not an unusual thing in a corporation, where control is scattered and difficult, in this case scattered with 3,270 people, many of them minors and most of them not knowing very much about corporate business affairs; they had to be protected and they were protected in this way.

It was explained to them that this was done and their leaders said, "You will have a chance 10 years from now, when the voting trust will expire, or at least it will come up, and you can vote it out of existence at the end of 10 years; and at the end of 10 more years you have another vote, if you continue it. The same thing for the third time." At the end of 30 years, the voting trust goes out of existence and the Indians receive their shares.

That is an ordinary Wisconsin law, not written for the Indians, but an ordinary corporate law that we are following.

Senator BURDICK. Theoretically, then, the trust company could control the voting trust in 4 years?

Mr. SAMMOND. It could, theoretically; yes, sir. That has been thoroughly discussed by both the State and the Indians.

Senator ALLOTT. How could it control it in 4 years?

Senator ANDERSON. It has representation for all these people.

Mr. SAMMOND. There is always a mixture between the Indians and the whites. The Indians do not have the longest terms and the whites do not have the longest terms. It is completely integrated.

The control that Senator Burdick speaks of is a working control. It is quite possible that the trust company would have to start out with a design to do it. Everyone in the picture, I can assure you—the trust company, the legislature, the State officials—have been anxious to help the Indians not to scheme for control.

The trust company does not want to control. They have told me so. They do not want the responsibilities.

Senator ANDERSON. I am not finding right away what I want, but this is a tax report that you are surely familiar with. It leads off with "how to decorate your Christmas tree with tax dollars." Then the next one reads "Sell your business to a church. Double your take and keep your capital gains." Then somewhere there is something about timber.

Mr. SAMMOND. I don't doubt we could have taken depletion on the timber, although I don't know but what in the course of time, reason and logic will come up and there will be a rule that you cannot take depletion on sustained timber. But there isn't such a rule now, tax-wise. These things are being kept sound.

Senator ANDERSON. You said 800 jobs. Has the employment in the mill been going up or down?

Mr. SAMMOND. Down.

Senator ANDERSON. Hasn't the group tried to manage it pretty well? Aren't they all off 50 percent where the industry is off about 15 percent?

Mr. SAMMOND. I think that is true.

Senator ANDERSON. Why do you think they are suddenly going to build up, when it is going down?

Mr. SAMMOND. The difference between private enterprise and a bureau running it, with no reflections on the bureau. They are doing their best. And because for 3 years the whole operation has been paralyzed by indecision and knowledge that within a short time there would be a complete turnover of management. The result is that management has made no decisions. The maintenance is down. The inventory is up. There has been more or less paralysis. I think as you say, 15 percent, which may be the figure or it may be more, that is resulting from the depletion. There is also a good deal resulting from simply standing still and waiting for this difficult period to be over, this period of uncertainty, that no manager could cope with. Finally, I don't think the manager has done a good job in the last couple of years.

Senator ANDERSON. In 1954 we had an elaborate program on how this was going to be done. This was presented to us, and \$10 million of working capital came into the tribe. But it wasn't done. Why do you think it is going to be done now? The same Indians selected people then who are going to select them now.

Mr. SAMMOND. If the law is not changed on April 30, the entire property will be owned by the corporation whose board consists of nine dedicated people, four of whom are Indians, who have already employed two people of national standing as executives, who are prepared to go to work, and the President has voluntarily told the board that he expects to operate this thing first to create employment, and we must not expect any substantial increase in profits until he has created employment.

Senator ANDERSON. When we were discussing the situation the other day on what Wisconsin would select in taxes, and maybe it would be better if the Attorney General commented on this, I asked if there wasn't a Wisconsin forest crop law that might be available. You indicated it wasn't available.

Mr. SAMMOND. I didn't indicate it wasn't available. I didn't speak on it. I would say it was available, but it was rejected by the Indians with their eyes open.

Senator ANDERSON. Wouldn't it be better, taxwise?

Mr. SAMMOND. No.

Senator ANDERSON. Why not? \$0.10 an acre?

Mr. SAMMOND. I know it. In the first place, \$0.10 an acre isn't anywhere near enough to run the tribe or run the government of the tribe. That is \$27,000. In the second place, the law is not designed to

fit sustained yield operations. It is designed to fit an operation where you plant trees on dead land.

Senator ANDERSON. It is a plantation operation instead of a sustained yield. But don't you constantly plant and replant on a sustained yield basis?

Mr. SAMMOND. Yes. But we are cutting 30 million feet a year, or we will be cutting 30 million. We are now cutting 20 million because the law holds us to that.

Senator ANDERSON. What law holds you to that?

Mr. SAMMOND. The Federal sustained yield law, which goes out of effect on April 30. That has held us to 20 million.

Senator ANDERSON. 22 million.

Mr. SAMMOND. The 2 million includes poles and downed timber. The 20 million is the cut, or maybe it is 21. I am not sure about that. But there is 1 million or 2 million of extra timber in there that doesn't count; 20 and 2 is what I understand. It is Senator La Follette's law, by the way, the Senior Senator La Follette.

Senator ANDERSON. This isn't anything new, then?

Mr. SAMMOND. It was enacted on March 15, 1908, the 20 million limitation.

I would say since then, the estimated stumpage in the forest has gone from 800 million to 1,200 million. In other words, the cut has not been large enough to keep up with the forest.

Senator ANDERSON. Mr. Lee, has there been a thought given to raising that at any time?

Mr. LEE. Yes, there has been thought given to it, since the area has been recently recruised. Under the Termination Act, however, this adjustment can take place.

Senator ANDERSON. What does the Forest Department think to be a reasonable cut?

Mr. LEE. Slightly over 30 million.

Senator ANDERSON. Even with or without termination we might have improved that.

Mr. LEE. The problem has been, Senator, that this cruise has not taken place until very recently. This is a recent thing in preparation for termination. Termination has been scheduled. This would have been done under the termination bill. There is no question but what the cut should be upped, that is, that the present law should be upped.

Senator ANDERSON. Why don't we have in this legislation, then, some change in that situation. Don't we need it?

Mr. SAMMOND. The difficulties appear April 30. The limitation is off when the property is transferred. I might supplement Mr. Lee's statement with what he probably doesn't know, that our own forester and the Conservation Department at Madison, who are much interested in this problem, have checked and rechecked and agreed that 30 million is the desirable cut.

Senator ANDERSON. How much have the Indians been cutting?

Mr. LEE. 20 million—

Senator ANDERSON. They haven't been cutting the 20 million, have they?

Mr. SAMMOND. You are talking about two different periods, sir.

Senator ANDERSON. What are they cutting now and last year and the year before?

Mr. MANGAN. They have cut around 17 or 18 million in the last 2 or 3 years. That is less than 20, but over the years they have averaged around 20. They cut 20 when they can sell 20.

Mr. SAMMOND. The Indians have one salesman, an Indian.

Senator ANDERSON. The 1961 timber cut, the volume of 7 million is estimated. Is that what they have cut thus far?

Mr. SAMMOND. I believe it is, sir. That is a fraction of the year. But Mr. Mangan is absolutely correct, that they don't cut because they can't sell, because they can't mill and can't sell. I have been advised by three managers, two being the outgoing manager, his predecessor, and the new president, that they can mill and sell 30 million feet easily. That is the judgment of the man who is taking hold. The first thing he is going to do is to set up a sales department, which now consists of one member of the tribe. He is going to set up a sales manager and several salesmen.

Senator ANDERSON. Then would you say it has been a good thing this termination has sort of stared them in the face?

Mr. SAMMOND. I never lived under nontermination. I don't know what things were before the termination law was hanging over them. But the termination law has paralyzed the last 2 or 3 years of operations, because of the uncertainties, as in any man's business.

Senator ANDERSON. In 1954 they knew they were going to terminate by 1956. It is only after the drive got on on the inside of the tribe not to live up to the termination agreement that there has been paralysis, isn't that correct?

Mr. SAMMOND. I don't know when it started. When I came in in 1958 there was very much uncertainty as to whether termination was going to be or not. From then on, there has been very little successful—management has not been successful.

Senator ANDERSON. We have had groups inside the tribe saying, "Let's not terminate, let's ask for the Federal Government to give more money." Naturally, that brought on uncertainty. That is the present request, that they again get more Federal money, isn't it?

Mr. SAMMOND. The request is that there be some transitional money, if termination occurs, to take care of the county and the town obligations, some of which stem from the termination and the paralysis we are talking about. I will explain that when I come to it.

Senator ANDERSON. If the tribe had not requested a county government, what would the situation be on termination?

Mr. SAMMOND. Do you mean the costs?

Senator ANDERSON. Yes. Where would they have been administered, how would they have been administered?

Mr. SAMMOND. Seven-tenths of the county would have been in the county of Shawano, and three-tenths would have been in the county of Oconto, which is where they are now, subject to Federal jurisdiction. The University of Wisconsin sent in a team of several professors and assistants who came up with a report, which was laid before the Menominee Indian Study Committee, which is a group of 17 or 18 people of the legislature and State officials, chaired by Mr. Reynolds, the attorney general, and reported—I have the figures before me here. This is a copy of the report. They reported that if they merged with Shawano County, the cost of government at that time, on the estimates, would have been \$326,000. If they had a separate county and

town of their own, the cost of government would be \$388,000. If they maintained their present organization, the cost of government would have been \$334,000. That is what led Congressman Laird yesterday to point out that there is only \$60,000 difference between having a separate county and not. The legislature decided that a separate county—

Senator ANDERSON. Would you give those figures again, please?

Mr. SAMMOND. This is table 3, from a report of March 5, 1959, prepared by the bureau of government, University of Wisconsin, and furnished to the Menominee Indian Study Committee of the State legislative council, which, itself, is a branch of the legislature, an interim functioning body of the legislature. If they merged with Shawano County as distinguished from dividing, the cost of government would have been \$326,700.

Senator ANDERSON. Do you know how that figure was developed? Isn't there some sort of an overall limit on taxation?

Mr. SAMMOND. No, sir, not entering into this. This is based on the estimated budget of the county.

Senator ALLOTT. Before you leave that figure, so we will understand what we are talking of, this figure is the estimated cost that they would have had to pay in taxes to the county of which they would be members, is that right?

Mr. SAMMOND. Practically. There are some elements of small income which might reduce this. This is the cost of government. This is the gross cost of operating a county and town. That is if they had merged with Shawano County.

Senator ALLOTT. If they merged?

Mr. SAMMOND. With Shawano County?

Senator ALLOTT. We are getting terribly confused about this thing now.

If they had not insisted upon setting up their own county, does this \$326,700 figure represent the amount they would have paid in taxes? They would pay taxes like anybody else, wouldn't they?

Mr. SAMMOND. That is correct. I say there might be this difference—these are the gross expenditures, Senator, and the net might be a little different, the tax roll, the income to the county. This is expenditures and not tax roll. There may be a difference. But it is practically the big source of income being taxes, as you say. Practically, you are right. But I simply made these figures correct, that these are the expenditures to operate a county.

Senator ALLOTT. This would be added expenditures to operate a county by virtue of their lands coming into the county?

Mr. SAMMOND. And their people; yes, sir.

Senator ALLOTT. And their people?

Mr. SAMMOND. Yes, sir. This is merger with Shawano County.

Senator ANDERSON. Where are their people now? In two counties?

Mr. SAMMOND. Yes, sir.

Senator ANDERSON. What are the two counties?

Mr. SAMMOND. Shawano and Oconto.

Senator ANDERSON. Why will it cost Shawano County \$300,000 more to look after the same people who are now living there?

Mr. SAMMOND. In view of your question, I think you would like me to answer how much it would have cost if they had merged with neither, if they stayed the way they were.

Senator ANDERSON. Yes.

Mr. SAMMOND. That is \$334,000.

Senator ANDERSON. Where does that figure come from?

Mr. SAMMOND. The same report.

Senator ANDERSON. What is it based on?

Mr. SAMMOND. It is based on their estimate of the cost of government to the town, county, and State, of governing this tribe and its lands.

Senator ANDERSON. Governing?

Mr. SAMMOND. Governing; yes, sir.

Senator ANDERSON. Or giving relief?

Mr. SAMMOND. Relief is included.

Senator ANDERSON. Sure. Does the county pay all of its relief bill or does the Federal Government come into this a little bit? Why would changing the county lines change the amount the Federal Government is going to pay for relief? A great many of these people are on relief.

Mr. SAMMOND. The relief figure is almost the same.

Senator ANDERSON. It is how much, \$195,000 or so?

Mr. SAMMOND. The public welfare figure—it has \$4,000 difference between a separated county and with Shawano County.

Senator ANDERSON. What is the figure?

Mr. SAMMOND. May I finish the total, first?

Senator ALLOTT. Go ahead. I would like to get them in front of me, too.

Mr. SAMMOND. If they had done nothing, the cost would have been \$335,000, the cost of operating government. That would have fallen on somebody, the two counties and the State, and presumably the Indian lands would have been taxed to produce that. If they had merged with Shawano County, that is, brought the three townships into Shawano County so that they had only one county instead of being divided in two, the cost of government would have been \$327,000. If they had a separate county and town, the estimate at that time, of cost of town and county government, was \$388,000. I may say that figure includes a constant of \$153,000 for the school district, which is the same under each. In other words, it could reduce those figures by \$153,000 and reach the same ratios because that figure is constant.

Senator ANDERSON. Who is paying for the school now? The Federal Government?

Mr. LEE, are the children of this area in Government schools?

Mr. LEE. They are in public schools and parochial schools.

Senator ANDERSON. Who is paying for that?

Mr. LEE. The tribe has been making a contribution to the parochial schools and the Federal Government has been paying Johnson-O'Malley funds to the public schools.

Senator ANDERSON. How much?

Mr. LEE. And they have been receiving some funds from 874 funds of HEW. I have the figures here.

Senator ALLOTT. Is that total schools?

Mr. SAMMOND. Mr. Chairman, they have a local school district, operated under the laws of Wisconsin for their elementary and primary schools. Now, in addition, they go to high school in Shawano and Oconto, in a sprinkling of other cities. By request of the edu-

cation department at Madison and urging of that department to the Menominee Indian Study Committee, on April 30, when termination occurs, the elementary school district will become a part of the Shawano School District and will be known as the joint Shawano School District. There will be preponderantly Shawano people in the district. It is an educational elective area body. That will include all the schools except the parochial. From the top to the bottom.

Senator ALLOTT. Could I interrupt you before we get away from the figures? Do you happen to have the cost of the county government in Shawano County, the total cost, in 1958 or 1959 or 1960?

Mr. SAMMOND. Of the county without this government?

Senator ALLOTT. I am talking about the cost of the county of Shawano. Do you happen to have that figure with you?

Mr. SAMMOND. These are projected costs that they have given us.

Senator ALLOTT. I am not talking about projected costs. I am talking about what it costs to run Shawano County as it exists. You may not have these figures; I don't know.

Mr. SAMMOND. The table in here starts out estimated annual operating cost, additional expenditures.

Senator ALLOTT. Then you don't have them?

Here is the thing, if I can have your attention a moment, that I would like to clarify. I am sure, although the chairman has not mentioned it, it must be bothering him, and it is bothering me, so we might as well get to the gist of it. I cannot understand, and I have practiced law for 32 years myself, and I have been in county government, I have lived in a small town, I have lived with ranchers and farmers, I think I understand county government, that I understand municipal government, both as a county attorney and a city attorney, so I am not completely inexperienced in these matters—the thing that is bothering me, and I am sure bothering the chairman, is how come we set up, or the Legislature of Wisconsin does, and we seem to be stuck with it, how come we set up a new county for these people. You had nothing to do with this, I understand that. But I cannot be convinced that this area could not be attached to one or two counties as the case may be at a much, much less expense than it is going to cost to set up a separate county. I have a great respect for Congressman Laird, a very able person. But you have to build courthouses, you have to build jails, you have to buy furniture. When you look around this room, you will get some idea of what this costs, and what this building costs. You have to buy typewriters. You have to have elections. You have to establish the whole machinery of government for 3,000 special people. I am not going to try to bring you into this, but these are my thoughts. Why in the world was such an impractical thing done? I will never be convinced that you could not, from a governmental standpoint, attach these people to another county and do it at much, much less than is being done here. What is the answer to this? No one is going to change my mind on this, I will assure you of that.

Mr. SAMMOND. I will try to answer your question without changing your mind. The report I read was accepted by the legislature as an authoritative study. They were sent out by the legislative committee to make the study and they came back with that report. When the

Menominee Indians took a referendum on whether or not they wanted a separate county or whether they wanted to continue as they were, or whether they wanted to join Shawano, the overwhelming vote was in favor of a separate county. That interested the legislature. Moreover, it was discussed with the school people, it was discussed with the commission on human rights; they debated the matter of segregation, minority versus control. I am not—

Senator ANDERSON. Do they have segregation up there?

Mr. SAMMOND. They have geographical segregation, sir.

Senator ANDERSON. That is a word of art.

Mr. SAMMOND. I know that. I am telling you that the Human Rights Commission, which ordinarily deals with nothing but segregation, is represented on the Menominee Indian Study Committee. They debated the matter and considered it. The study committee, of some 18 people, after spending nearly a week of solid hearings on the matter, unanimously endorsed the idea of a separate county. They had the figures before them. I have given you the operating figures as they were estimated at that time. I am prepared, when you want me to, to give you the additional operating figures that makes the difference between that figure and your 575 that you were talking of yesterday, to explain where it came from. That is another matter. Those are operating figures.

Senator Allott quite rightly asked about capital expenditures. This is a pioneer community. They will start out with a county building which will consist of their own office buildings, the tribal office building, to be deeded to the county to start with. That is where the offices will be. If I am not mistaken, they have a jail already. But whether they have or not, whatever facilities they have, there is a law in Wisconsin that permits them to rent or lease services and facilities from adjoining counties. We have had the utmost, extraordinary cooperation of Shawano County in dealing with these problems. Moreover, the law creating this county provides that in matters, specific matters, that are over the heads of these people, they are to be dealt with otherwise; for example, there are no courts, except the justice of the peace, in Menominee County, but the county court of Shawano and the municipal court of Shawano were extended to include Menominee County in turn, so there will be no judges. The courts and so forth will all be Shawano. But Menominee County will contribute by agreement to the support of the other courts.

Senator ALLOTT. May I ask a question which just occurred to me? Is Shawano an Indian name?

Mr. SAMMOND. Yes.

Senator ALLOTT. Did it represent a tribe?

Mr. SAMMOND. I don't think so. I don't recall.

There is an assemblyman here from Shawano. He ought to know.

Senator ALLOTT. What I am wondering about is this: Was the real thing that was behind this separate county a matter of tribal pride? Is that what was behind it originally or do you know?

Mr. SAMMOND. It is difficult to answer. They had a referendum, that I know.

Senator ANDERSON. Can you or the attorney general answer this question: How many people were in Wisconsin in the last census? How many millions of people?

Mr. REYNOLDS. About 3,900,000.

Senator ANDERSON. How many counties do you have?

Mr. REYNOLDS. 71.

Senator ANDERSON. Creating a county for 3,000 people is a little bit out of the pattern, isn't it?

Mr. REYNOLDS. Yes.

Senator ANDERSON. Do you have some counties of 3,000 people?

Mr. REYNOLDS. We have one of 7,000. Florence County is 3,400, I might say.

Mr. SAMMOND. That is the neighboring county or very close to this one.

Mr. REYNOLDS. If I may interrupt for a moment, when I get on the stand—

Senator ANDERSON. That little county of 3,400, is it in flourishing and prosperous condition or is it a deficit county?

Mr. REYNOLDS. It is a deficit county.

Senator ANDERSON. If you have one deficit county, why do you want another one?

Mr. REYNOLDS. I am prepared to go into this subject whenever I get on the stand, but I think it's only fair that I let Mr. Sammond continue.

Mr. SAMMOND. Vilas County is a cutover county and Shawano and Menominee will not be a cutover county. It is timber. If you have met up with a cutover county, you will know the difference.

Can I answer the previous question about why this was done? Mr. Wilkinson reminds me that one of the principal reasons was that the Menominee Tribe wanted a government of their own. They did not want to be a minority in a white man's county. And the legislature agreed with them on this projected \$60,000 cost. They are going to pay their own way.

Senator ANDERSON. My wife and I lived in the country away from Albuquerque. It has been growing rapidly, now a town of 200,000 people. Those of us who live out there would like to have a separate county of our own. There are more than 3,000 of us. Do you suppose the legislature of my State would let us have a new county, even if we named it Allott or Anderson County?

Mr. SAMMOND. I haven't the remotest idea, Senator.

Senator ANDERSON. That is the point. All of us would like to have something that we don't now have.

Mr. SAMMOND. But Wisconsin did it, and did it unanimously.

Senator ANDERSON. And you expect us to bail it out by extra money now. The figure you are using was a 1954 figure. Now they have the figure up to \$600,000 or \$700,000. As the figure gets bigger, the spread gets bigger.

Mr. SAMMOND. We are going to ask for it on the basis of a reducing, phased-out affair. It is 100 percent this year, 80 percent, 60, 40, and 20.

Senator ANDERSON. But you can't count on reducing. I used to be in what was known as the WPA and all those other relief organizations. We asked for one appropriation one time, saying that it would get smaller every year. But for a long time, it kept getting bigger and bigger. That happens to be history on these things.

You may proceed.

Mr. SAMMOND. I think it might be helpful to go to the financial figures now.

Senator ANDERSON. Can I give you something as a background for that, sort of?

In their statement to the House Committee the other day, the Indians said this, and I will quote them—

The corporation which succeeds the tribe will have many more financial obligations, including unemployment insurance, workmen's compensation, higher labor costs, particularly if the mill is unionized. These added costs are likely to add up to at least \$250,000 per year. These costs, of course, will reduce the earnings which have been made in recent years.

Do you agree with that?

Mr. SAMMOND. I do not agree with the figure, but I agree with the items. That has been taken into account by the board of directors and the officers. Yes, we know there are those expenses coming up. How big they will be is quite unpredictable. Our operating people will feel that they still can't pay \$400,000 in taxes which they plan to, in the first place, and pay the Indians \$400,000 in interest. In other words, they think they have to make \$800,000 net before those two items.

Senator ANDERSON. Last year they lost money on the mill.

Mr. SAMMOND. Senator, they made \$550,000 on the average for 5 years running before they got into the present period of uncertainty.

Senator ANDERSON. Was that a period of war situation?

Mr. SAMMOND. No, sir. I mean the 5 years ending 1956 or 1957, along in there. That was on a 20-million cut. Then I made my own estimate. I happen to be, in my history, a CPA. I made my own estimate of what this corporation could do if it cut 30 million feet. Then I went to the mill manager, and two successive mill managers, and asked, "Can you cut 30 million, mill 30 million, and sell it?" And they both answered, "Yes." I asked one of them to figure out what he would come up with in the way of profits, and he came up with \$796,000, or \$400,000 difference. So we went ahead on that basis, prepared to pay \$400,000. Our present president is just starting to work on the 1st of April, and believes he will still make, in the face of the record—and he has been through the mill, looked at all the machines, and has gone through the woods. The first thing he did before he took the job was to hire an airplane and fly over the forests to look at it. He is a man who has been cutting 300 million feet a year, not 30 million. He is challenged by this job and is going to make it work, so he says. But he will not make it work for 2 or 3 years. His first job is to make \$400,000 in taxes and \$400,000 in interest before he makes any more profits. If we don't get the Federal help we are asking for, for the transitional period, and that is all we are asking for, it will be paid by the corporation, not because I say so but because it is automatic. We cannot pay interest until we make the money. So these people, out of their \$125 apiece will have to contribute. That sounds trivial, but it is \$400,000. They will have to contribute to the shortage for the county government. That is why I am here asking aid.

Senator ANDERSON. Is it the counties that are trying to get the money for the Indians?

Mr. SAMMOND. No, sir.

Senator ANDERSON. Where is the \$400,000 going to go? To this county, itself?

Mr. SAMMOND. There is only \$5,000 of the \$675,000 that we are talking about, really, or \$575,000, I should say, in the present county budget, which is worse than the \$400,000. I will try to find the budget.

It is going to go to the county and town. There are about \$5,000 under the laws of Wisconsin that will have to be paid by the county to the Conservation Department and the property tax that the State has. It hits this county to the tune of \$5,000, give or take a few thousand. That money will come back onto the county by, I should say, \$100,000 worth of services from the Conservation Department once they move in and start giving us fire protection and all the rest. Outside of that, as I have tried again and again to explain to the tribal members, the tax problem, which frightens them in words, actually is only a matter of paying for their own government. They could have the \$60,000 cheaper by going to another county. They elected to stay with it, and so did the legislature. The budget is before you. I don't have to read the headings. But all that money will go to and be spent in the county.

A while ago, Senator Allott asked me a very good question, first about the operating expenses. How could it be only \$60,000 less. We have provided for part-time county and town officers. To begin with, we have provided for something that is unique in Wisconsin, but it dates from pioneer days, and I found it in the statutes; that is one town government for the whole county. There are 36 townships in the county. We have provided for one town government. We have provided for a town board which will be ex officio the county board, although they are two different bodies. We have provided for the officers, the clerks, the sheriff, the treasurers, assessors, and all the rest, to be part time and joint, wherever the attorney general feels that their jobs are not in conflict. That is the way we have gotten this into a reasonable budget, as it was, a real reasonable budget. Now, as to the capital equipment, as I say, we have an old building. It is good enough for tribal government now. It will be good enough for some time to come until they can afford better for county government. It is a good enough place for the boards to meet. There are no courts to meet. They have a couple of highway tool sheds to operate the highways and keep the machinery in. That is already there. They will need typewriters and adding machines. Whether they need more of them than they have now, I don't know. They are to get all the typewriters and adding machines that belong to the tribe now, by bill of sale. In other words, I think there is some figure like \$10,000 being put in for capital improvements the first year. It isn't a serious problem in this picture.

Senator ANDERSON. Can I find out from the Interior something about the timber yields in the record? They were talking about increasing the above 21-million cut. What is the current level on a sustained-yield basis for this forest? What does Interior or Forestry think can be cut and keep it on a sustained-yield basis?

Mr. MANGAN. Senator, there has been a joint study by the Interior Department and by the State of Wisconsin Conservation Department recently based on recent cruises, planometric mapping, and all the other data they need, and they have concluded that that forest grows at the rate of 36 million feet per year, and they have

then taken from that their estimate of the hazards to the forest, beetle infestations, blowdowns, and other things, and have provided a figure of 7 million feet leeway for that attrition on the forest and have concluded that 29 million is a safe figure for net annual growths of the forest.

Senator ANDERSON. Is there much overripe timber?

Mr. MANGAN. There is some; yes, sir.

Senator ANDERSON. You would then have a very much heavier harvest for a few years?

Mr. MANGAN. They will probably have a flexible annual cut. In other words, they may exceed the 29 million feet for a few years, if it is indicated, and then compensate later cutting less than that when the market is less favorable. I might indicate that we have some long-time figures which probably give credence to that. When the sustained-yield program was started under the Federal statute in 1908, the cruise, for whatever it was worth at that time, indicated that they had about 800 million feet of timber on the reservation. Since 1908 they have cut 1 billion 200 million feet, and the recent cruise indicates that they have 1 billion 400 million feet there. So it indicates that the 20 million cut was very conservative. Probably they could have cut 50 percent more across that period and still had the same timber resources that they had when they started.

Senator ANDERSON. If you increase the cut approximately 50 percent now, will this come from favored species, will it come from pine or maple or will you cut straight across the board?

Mr. MANGAN. Presumably you would cut according to the growth of those species, and it does differ, according to have an absolutely sustained yield. But I think they will, when the market requires, cut those species which are more readily marketable and more profitable and compensate for it later in order to bring the inventory back in line again.

Senator ANDERSON. Would that upset a sustained-yield basis?

Mr. MANGAN. I am not a forester, sir, but this will be supervised by the State Conservation Department of Wisconsin. They will have a veto power over that. There is a plan of management which the corporation must file with the State. The State will inspect it periodically, and they can require the corporation to bring their cut into conformance with that plan.

Mr. SAMMOND. That plan of management has been filed, sir, and it has a 15-year cycle. In other words, these are averages and species and all the rest must be worked out in 15 years. They are allowed flexibility.

Senator ALLOTT. I was speaking to a representative of the tribe, Mr. Grignon, about this same question. I would like to have him state what he told me a few minutes ago with respect to sustained yield of this timber.

Senator ANDERSON. Come forward, if you wish.

Mr. Sammond, are you sure you said correctly when you said that the sustained yield basis was on a 15-year basis?

Mr. SAMMOND. I am. I mean that we have 15 years in which to stick to the average.

Senator ANDERSON. I thought the cycle on a sustained yield basis meant—

Mr. SAMMOND. Maybe I used the wrong word in using the word cycle. We have a 15-year plan in which we are allowed to vary certain degrees in 5 years, but overall we must hit our averages on the cuts and the species within 15 years. Now, if I may withdraw the word cycle, that will end the discussion on that.

Senator ANDERSON. I don't know that that is the correct term, but it seems to me I have encountered the term cycle meaning the growing life of the forest.

Mr. SAMMOND. Let's call it a 15-year plan. We can cut 35 million one year, if we want to.

Mr. MANGAN. I think what Mr. Sammond means is that they have 15 areas and cut cyclically in those areas. In other words, what they cut this year, the area in which they cut will not be cut again until 15 years from now when they come back in that area and take the timber that has matured over that period of time, but in a volume not to exceed the annual growth in that area.

Mr. SAMMOND. What Mr. Mangan says may be true, but what I said is true also. We have 5-year periods in which we are allowed deviation from the average, and we have to hit the average in 15 years, both on the cut and species.

Mr. MANGAN. You are talking about future cut and I am talking about the current cut.

Senator ANDERSON. Can the Bureau of Indian Affairs supply us with data by species showing the volumes cut and the sales for the past few years, the last 5 years, and then projections for the future values?

Mr. MANGAN. Yes, sir.

(The Bureau subsequently supplied the following information:)

*Volume and value by species—Menominee Indian mills*

Species	1951		1952		1953		1954		1955	
	Volume board measure	Value	Volume board measure	Value	Volume board measure	Value	Volume board measure	Value	Volume board measure	Value
White pine.....	3,455,150	\$101,615.96	3,055,590	\$103,604.01	2,687,360	\$94,688.09	3,755,820	\$131,952.20	4,068,190	\$119,807.71
Non-spruce pine.....	236,890	6,230.21	269,330	8,335.44	656,720	16,393.00	535,160	12,057.13	755,020	17,025.70
Hemlock.....	11,848,600	173,700.48	7,867,640	125,174.15	6,346,720	103,038.09	7,184,400	116,494.05	6,396,080	101,324.18
Birch, yellow.....	934,230	27,737.29	1,025,800	35,903.00	885,810	32,762.03	1,034,310	42,736.04	1,173,680	47,104.26
Birch, white.....	23,290	340.27	26,810	724.41	17,920	578.70	14,420	1,060.28	1,15,770	560.94
Oak, red.....	323,580	9,332.05	319,150	7,892.58	499,960	12,628.14	466,410	12,299.45	402,330	11,848.62
Oak, white.....	12,200	351.97	10,450	272.95	13,430	338.84	10,080	264.90	16,360	431.80
Maple, hard.....	3,268,100	75,166.30	2,425,240	60,849.27	3,606,500	93,672.59	2,861,070	72,794.65	3,444,200	85,384.08
Maple, soft.....	45,220	1,079.40	134,840	2,557.91	155,880	3,883.14	192,440	4,991.57	112,330	2,744.22
Ash.....	73,870	1,272.78	58,660	1,272.51	45,230	1,045.72	155,080	3,856.84	129,890	3,474.56
Ash, black.....	90,400	1,770.94	178,660	3,791.17	123,100	2,840.15	118,710	2,952.37	147,600	3,948.30
Basswood.....	1,037,150	40,874.08	389,910	14,442.27	867,090	32,288.71	728,880	28,406.73	949,670	37,969.84
Elm, rock.....	43,160	1,010.38	8,520	170.74	47,270	1,195.46	16,070	60.810	60,810	1,381.37
Elm, soft.....	892,410	22,122.84	403,240	11,193.94	718,460	19,735.15	369,260	9,964.74	643,040	20,004.97
Beech.....	556,830	9,093.03	1,247,850	18,617.92	1,104,620	16,726.82	397,020	5,961.37	124,960	2,048.09
Spruce.....	7,160	182.79	35,630	1,129.11	15,030	431.66	59,300	884.46	91,080	1,925.95
Balsam.....	1,070	26.97	3,360	80.77	1,130	32.45	9,750	71.89	5,450	88.54
Cedar.....	1,486.36	1,486.36	313,860	3,389.69	287,620	2,274.13	763,890	5,715.30	288,050	1,662.90
Hickory.....	9,680	226.32	2,980	59.72	5,480	138.59	4,690	118.70	21,540	525.79
Poplar.....	1,132,640	5,436.67	678,040	8,482.28	1,372,970	17,612.36	1,023,990	10,746.92	1,501,280	15,623.90
Jack pine.....	3,320	16,87	195,160	1,170.96	154,480	925.88	109,670	647.80	1,179,430	1,076.04
Butternut.....	9,720	340.18	2,850	89.13	9,960	365.33	22,290	917.56	29,470	1,190.08
Cherry.....	30	6.81	100	8.50	2,540	25.40	2,380	23.80	6,160	61.60
Ironwood.....	30	3.05	3,440	13.76	3,500	14.00	4,060	16.24	3,940	15.76
Tamarack.....	1,030	3.05	3,440	13.76	3,500	14.00	4,060	16.24	3,940	15.76
Total.....	24,237,890	479,423.95	18,658,090	415,226.59	19,627,830	453,635.63	19,889,780	465,344.96	20,536,410	477,383.13

*Volume and value by species—Menominee Indian mills—Continued*

Species	1956		1957		1958		1959		1960	
	Volume board measure	Value	Volume board measure	Value	Volume board measure	Value	Volume board measure	Value	Volume board measure	Value
White pine.....	4,732,750	\$142,478.07	5,824,450	\$177,850.71	3,339,450	\$88,378.32	2,062,430	\$54,004.08	4,158,920	\$117,571.88
Norway pine.....	687,710	17,484.37	632,820	16,088.00	506,030	13,203.44	401,130	10,515.31	259,760	7,237.29
Hemlock.....	6,261,680	111,746.79	4,727,530	87,056.86	6,590,590	118,182.52	5,911,200	101,704.60	6,573,310	109,967.69
Birch, yellow.....	884,660	31,625.68	4,702,750	28,121.43	1,070,800	42,862.90	7,920	39,592.79	7,883,710	36,311.35
Birch, white.....	25,630	814.41	32,290	1,169.00	11,270	434.23	7,920	281.56	13,730	1,136.10
Oak, red.....	575,360	15,275.11	679,500	20,289.81	669,980	23,592.50	322,320	10,611.51	351,630	11,429.71
Oak, white.....	20,510	555.82	50,280	615.30	6,580	221.94	19,630	612.46	2,240	71.01
Maple, hard.....	3,307,850	80,598.02	4,364,250	124,353.69	4,412,390	124,501.77	2,917,190	82,772.71	4,301,070	137,819.64
Maple, soft.....	167,420	3,363.34	107,730	2,445.41	49,700	1,208.10	44,940	1,029.99	83,200	2,867.86
Ash, white.....	125,970	3,333.17	73,100	2,222.92	126,810	4,114.98	49,260	1,639.87	57,690	5,006.46
Ash, black.....	155,480	4,145.69	206,740	6,557.40	236,330	7,730.84	90,330	2,872.35	150,570	5,390.48
Basswood.....	1,013,880	34,252.11	1,100,370	40,425.29	1,238,030	47,080.64	797,690	31,318.13	773,620	31,897.86
Elm, rock.....	205,000	5,834.75	312,310	8,082.58	376,820	10,373.86	374,490	10,362.14	616,690	17,865.51
Elm, soft.....	702,670	21,114.63	515,660	15,872.55	606,280	19,564.62	386,560	12,838.08	453,730	15,015.60
Beech.....	146,560	2,446.09	107,070	1,543.95	495,070	7,861.71	236,590	3,274.41	440,420	7,002.68
Spruce.....	27,130	541.90	24,400	487.04	20,660	346.16	9,190	210.54	72,870	1,128.63
Balsam.....	17,070	154.81	4,130	35.00	3,300	39.60	360	8.25	42,990	128.70
Cedar.....	121,610	1,688.73	397,150	4,304.98	493,530	8,636.17	173,070	2,394.24	117,030	1,489.85
Hickory.....	10,190	252.20	45,610	1,180.39	17,610	484.80	8,220	227.45	12,670	367.05
Poplar.....	792,080	7,121.38	922,480	10,303.65	1,074,260	10,194.22	1,377,180	10,389.36	2,526,240	21,120.81
Jack pine.....	124,040	2,082.63	159,710	2,866.79	67,280	1,185.47	35,520	502.96	12,120	127.81
Butternut.....	71,170	2,505.88	111,820	6,588.44	39,000	2,430.49	50,520	3,081.44	56,190	3,870.42
Cherry.....	20,070	200.70	9,270	6,105.70	6,640	66.40	12,780	594.03	5,110	293.62
Ironwood.....	50	27.28								
Tamarack.....	6,820	27.28	4,220	16.88	990	3.96	1,020	4.08	5,960	20.84
Total.....	20,103,160	489,641.76	21,055,640	588,563.77	21,459,400	532,699.64	16,138,120	381,942.94	21,871,370	532,528.35

Senator ALLOTT. I would like to have him make the statement on the yield. Mr. Jerome Grignon of the tribe told me a few moments ago that while they could cut 30 million feet, because of timber that was ready and so forth, for 4 or 5 years, this would have to be cut back.

Am I repeating what you said to me?

**STATEMENT OF JEROME GRIGNON, CHAIRMAN, MENOMINEE  
ADVISORY COUNCIL**

Mr. GRIGNON. First, let me say that for the past 12 years I have been logging up there, and I talked to the logging superintendents in regard to this. First let me say this, that on the cycles, we have not even as yet completed the first cycle on this proposed 29 million. We have, I think, and I have the figures, about 200,000 acres or a little over that. I think 230 some thousand acres of what we classify as coarse land. In proposing the 29 million, our thinking is that for a few years you should go in there and cut 30 million, but when you get your forest back in shape, you are going to have to get back to a lower figure for these reasons. You talk about the cycles, and we have gone around there at least three times and cut, and yet there are some areas where this fall we are going into some areas, or this year we are supposed to go into some areas and complete the cut or the cycle, but because of economic conditions we did not go in there. These were pine areas. So actually we have had some of the areas where we have gone over them four or five times. There are some areas in this 200,000 that have been cut 75 percent, so your average per acre, when you talk about going in every 15 years, is going to have to be higher. You will have to raise that average.

Senator ANDERSON. Do I understand they are not cutting on a sustained-yield basis now?

Mr. GRIGNON. I am telling you that some areas have been hit four or five times, and some areas we have not touched yet. We are going to catch that, the plan is, but we have a yard full of soft woods now. It certainly wouldn't pay to go in and cut the one area to complete the cycle.

Senator ANDERSON. You don't overcut then, do you?

Mr. GRIGNON. No; but there are some places where they did cut heavy, so when you get to those areas you will have to cut light.

Senator ANDERSON. When you say they did cut heavy, do you mean they did not cut on a sustained-yield basis?

Mr. GRIGNON. I know there are some areas where they cut 60 or 70 percent heavy.

Senator ANDERSON. 70 percent is not sustained yield.

Mr. GRIGNON. That is what the logging superintendent showed me on the map. There are some areas, where you propose this 29 million and base your future on it, you are going to find that when you come back to these areas it will not produce that much.

Senator ANDERSON. This is a difficult thing. You are testifying, the, that the people from the Bureau of Indian Affairs and various conservation groups that have gone in and said you could cut 37 million don't know their business?

Mr. GRIGNON. I am not questioning that.

Senator ANDERSON. You are questioning it, when you say you cannot cut that much on a sustained yield basis.

Mr. GRIGNON. That is what we feel.

Senator ANDERSON. You say some of the loggers told you that.

Mr. GRIGNON. The logging superintendent told me that, and I know.

Senator ANDERSON. Would you take his testimony against the testimony of the people who made a careful study of it?

Mr. GRIGNON. I am just telling you what I know, Mr. Senator. For instance, last fall, I will give you an illustration, I logged one 40 where I took off 168,000. I know if you come back there in 15 years you are not going to be able to get the average, if you want to cut 30 million. I know you will not do that on that 40 acres.

Senator ANDERSON. That is why I questioned the term cycle and why I was very properly corrected. A sustained-yield basis is to take all of the marketable timber. If the term of the cycle is 40 years or 100 years, you would do it that way. It is 20 years in some areas of the South with slash pine. It is 100 years in the Olympic Peninsula. It doesn't mean in 15 years you will come back and harvest the gain. You can go in there every year, if you have a good sustained-yield basis, taking out the ripe timber.

Mr. GRIGNON. If we base the future on that 29 million, that is what we have to do. We have to come back and try to get an average of, I think it was, 31.

Senator ANDERSON. Do you dispute the figure that they gave, that there might be 37 million board feet?

Mr. GRIGNON. I believe it can be done for a few years.

Senator ANDERSON. Was your 37 million board feet based on a few years or a lifetime with the forest?

Mr. MANGAN. A lifetime, over a long period of study. This is the gross annual growth.

Senator ANDERSON. And you allowed about 8 million for blow-down and infestation and so forth.

Mr. MANGAN. And allowing 7 million for attrition in the forest. That is why they come up with 29 to 30 million as a safe sustained yield.

Senator ANDERSON. And not barring a change in weather, that would go on for 100 years or a thousand years, on a sustained-yield basis, wouldn't it?

Mr. MANGAN. If it is correct; yes, sir.

Senator ALLOTT. I have all respect in the world for the Forestry Service, but here is a man who is on the ground, who works in this area, and, knowing this, I must inject it into the committee hearings, a man who feels that they might do this for 5 or 6 years, but that there would have to be a cutback eventually at the end of that time to some smaller figure. At least, it raises the question in our mind of whether we can count absolutely on 29 million or not.

Senator ANDERSON. I commend the Senator from Colorado, because that is what I was trying to get to in asking about the cutting of species. On the Klamath Forest, it was all extremely fine timber. Some of this timber is not so good. It will be a question as to whether this 29 million figure will hold up. I think that is very important.

I was trying to see where we were with the testimony of the two groups. This will have to be checked.

**STATEMENT OF FREDERIC SAMMOND, ATTORNEY AT LAW,  
MILWAUKEE, WIS.—Resumed**

Mr. SAMMOND. I respect Mr. Grigon for his opinion, as he is a logger. I am not a logger but a member of this board. It may be interesting that the State forester, Mr. John Beal, is a member of the board of voting trustees, who selected the board. He has told me that he is satisfied with this plan. It has been filed by the forester who is now working for the Interior Department. He is satisfied that it will work. The conservation department believes it properly represents sustained yields.

Senator ANDERSON. Thank you. You may proceed.

Mr. SAMMOND. I am now going to speak about what is requested. You will recall that the Governor of Wisconsin called a meeting attended by representatives of the tribe. I was there at his request, in his chambers, and Mr. Reynolds and Mr. Bowess were there, and Mr. Abrahamson, the assemblyman from Shawano, who is on the committee, and we went over these needs. I was requested by the Governor and then had the approval of the advisory council to come in and testify on this subject.

Yesterday the question was raised of, Are these HEW figures? The answer is "Yes." That is why I didn't prepare a statement. I didn't verify them directly, but I obtained these figures from Mr. Laird, who did get them from HEW and who is putting those same figures in his request to the House.

The items which are in the budget will reduce the budget. They are not all in the budget. The items that are in the budget. The first is tuberculosis. At the time we prepared the first budget there were four cases. May be we should have anticipated that the Public Health Service would come in with nurses or make a search, or do the very valuable thing of finding out that there are 28 cases. They are now in sanitariums and will be charged to the county after May 1. The cost on that is estimated at \$56,000 by HEW.

Senator ANDERSON. \$2,000 apiece?

Mr. SAMMOND. That is what it amounts to.

Senator ANDERSON. Is this a State institution?

Mr. SAMMOND. There are several institutions, State and county.

Senator ANDERSON. Are these using the new serums?

Mr. SAMMOND. I couldn't say.

Senator ANDERSON. I went to the southwest for tuberculosis a long time ago when there were no serums. But now on tuberculosis, a man gets it and pretty soon he is back playing with the St. Louis Cardinals.

Mr. SAMMOND. I am sure the Public Health Service of HEW took that into account.

HEW stated to Mr. Laird that we will need direct relief, which is largely in the budget, of an additional \$40,000 resulting from the extraordinary unemployment being suffered now. We can debate a long time—

Senator ALLOTT. You say this is direct relief. This is what we call public assistance.

Mr. SAMMOND. Public assistance, yes, sir. There are different terms in different States. This is largely in the budget. That is, of the \$557,000. The reason for the unemployment can be debated at length.

As Senator Anderson said, it is somewhat due to a depression, but it is much more due to decisions made by management to cut down on logging and work. The inventory has piled up to perhaps 50 percent more than it should be in the finished lumber. It contains, unwisely, 10 million feet of hemlock at a cost that is more than the market.

Senator ANDERSON. More than it is worth.

Mr. SAMMOND. They cut hemlock in the face of what a number of Indians have told me they urged the superintendent not to cut it, in the face of this market. One way or another within the last 2 months, he cut off 100 and some people from the payroll, a little over 100, which means 100 families. They are getting unemployment relief, that is true. We just checked this morning to make sure that that unemployment relief will not be knocked off by termination, and it will not be. In other words, we have a little breathing spell.

Senator ANDERSON. That doesn't go to the county budget, does it?

Mr. SAMMOND. No, sir; but the \$40,000 is in the county budgets, which is the estimate of what we will have to pick up. There are other unemployed besides these, and we hope that if all goes well, we will have these people back on the payroll by next winter.

A large chunk of them were in the woods. The woods work is shut down. The new president, Mr. Bodine, told us at our second board meeting last week that he expected to put several crews into the woods this summer, cutting pulpwood and poles and posts, just to furnish employment and build up something he could sell. He also is planning, somewhat to the surprise and delight of the Indian members of the board, to put out a couple of painting crews and paint the buildings for the first time in a long time, I don't know how long. That is all planned to make employment.

But we think we can pay for it and he thinks he can run the corporation, and I have the utmost confidence in him to do it.

This is the estimate, as I say, given for this subject, by HEW.

Now we have an unexpected load of foster home care, an increase, children raised in foster homes at the expense of the county to be. I don't have the figures. This is also an HEW figure.

Senator ANDERSON. That comes under aid to dependent children. We just amplified that a bit. Would that be a county or a Federal charge?

Mr. SAMMOND. It will be a charge to Federal, unless you give us relief.

Senator ANDERSON. The Federal Government is going to pay it through HEW. We give you special relief to pay it direct?

Mr. SAMMOND. This is the HEW figure given Mr. Laird. I can not explain further except to say that it is the figure they say will come on the county as a result of the extraordinary number of foster home children.

Senator ALLOTT. What is the figure?

Mr. SAMMOND. \$67,500. A large part of that resulted from the unemployment, and a large part of it resulted from the tuberculosis, broken families and that sort of thing. This is an aggregate of stuff

directly in the budget of over \$163,000 of the one hundred and seventy-five-odd thousand that the budget has overrun our estimates.

The next item, which is also a big one, is not in the budget, and is not provided for. That is hospital and medical relief. The reason it isn't provided for is that in making this plan, under great pressure, we assumed we would have to explore later with what we would do with the hospital. It was tribal owned. It was operated by an order of sisters. It was taking care of people. The hospital was, therefore, a year ago after the plans were all made and laws passed by the State and everybody, was examined by inspectors, HEW and State people, and then came up with the report that it would cost \$150,000 to put the hospital in shape. We are not asking for that. It would be \$150,000 capital expenditure, and then the sisters who for many years blessed these people by taking care of the hospital, made their estimates and came to the conclusion they would have an operating deficit of \$100,000 operating the hospital. That is not there.

Senator ALLOTT. Where is the nearest hospital?

Mr. SAMMOND. Shawano, 8 miles away, overloaded with white people, and they are complaining because of the loads they are getting from us.

Senator ANDERSON. Why would HEW want this one closed, then, if the other one is loaded?

Mr. SAMMOND. They don't want it closed. They would assume we would run it. But they want it improved. It does not meet the standards.

Senator ANDERSON. They want you to use the one 7 miles away?

Mr. SAMMOND. They have advised us that this hospital will not be self-sustaining and it will not pay us to spend the \$150,000 to meet the medical standards of the hospital requirements.

Senator ANDERSON. So why come back to the Government for the something that HEW thinks is not worth while?

Mr. SAMMOND. We are not. We are not going to try to run the hospital.

So last January 1 HEW moved in under existing laws and took charge of a very serious situation. They opened a clinic in the hospital to take care of medical cases and emergencies. They started sending people to the Shawano hospital and the Shawano doctors. One of the underlying troubles is that with the unemployment we have, we have not the revenue to support a doctor, as doctors have a right to be supported or want to be supported, I will say. We did depend on the 800 jobs having health insurance and hospital insurance and the people having income. We do not now have—I believe we have less than 400 jobs all told, tribal as well as mill. So on the whole a deficit was projected, and PHS came in and have been spending about \$11,000 a month to run the institution. They are furnishing clinics, they are furnishing medicine and medical help for the indigents, they are furnishing emergency hospital service or care.

I estimated that when I came down to Washington on the basis of the 11,000, at \$140,000 a year, and instead they estimated it at \$108,000. That is the only item of this group that is really urgent. On April 30, HEW tells us they have to pull out under the existing laws unless Congress does something. That we are asking for, that \$108,000, which is their estimate to continue the present program. We are in-

cluding that with all the rest in the phaseout program that I spoke of, 100 percent this year, 80 percent, 60 percent, 20, and 20. We are prepared to take over as the people's income builds up, and we expect to get a doctor to live on the reservation and when the people have the income to support him, we can do it.

If necessary, the corporation will hire a doctor. But we do need that program to continue to keep people from suffering death and disease.

So there is \$271,000 to be phased out.

When I come to the capital needs program, we are talking about only one thing, and that is under the word "sanitation"—sewers and water—perhaps I am to blame for not going in there and saying to the Indians 3 years ago, "Have you got enough sewers and water?" They were living, they were drinking water, they were surviving, and I did not go and explore it. They asked PHS to come in and make a survey. PHS has made a survey and have said that they desire about \$900,000 worth of expenditures for sewer and water. They say they needed and should have \$555,000, of which they have put under the existing laws and authorized and are contracting for 117, which leaves us 438. We are not asking that. We are asking \$100,000 a year under the phased out program. In other words, the tribe will pick up the difference, not only the 38 but the other percentages in the succeeding year.

Senator ALLOTT. Are you still talking about water?

Mr. SAMMOND. And sewer. Water and sewer are both in it.

Senator ALLOTT. So you are talking about a figure of \$100,000?

Mr. SAMMOND. That is right. I said PHS talked about 900. They said 500 was necessary, 555. They are paying 117 out of existing funds. They say we have to pick up 438. If you will give us \$100,000 on the phased out basis, with a reducing 80, 60, 20, the tribe will pick up, or try to, and it believes it can, or the county, \$38,000 that we are not counting for, plus the phased out reduction.

Senator ANDERSON. Has it not been a responsibility of the Federal Government all these years to have sanitation up there?

Mr. SAMMOND. I would think so, sir.

Senator ANDERSON. It is your testimony that they have not done it?

Mr. SAMMOND. My testimony is that PHS and HEW say this is necessary for a decent standard of living for water and sewer.

Senator ANDERSON. What does the Department say? Do they say they have not given water and sewers?

Mr. SAMMOND. They have had a patchwork of water and sewer systems, Senator. Certainly the system is not a modern system or the kind of system that any community would like to have.

On the other hand, it has sufficed down through the years. It is comparable to many other systems throughout the country that we have got only on Indian reservations but in some of the smaller communities. I think there is no question but what a more modern system would be desirable.

The State standards have been increased, and, as we all know, State standards have been going up, forbidding not only septic tanks but privies and all that sort of thing.

Senator ANDERSON. Dr. Christiansen testified a year ago on this and said:

There are two ways of doing this. One would be based upon their ability to float a bond issue themselves and finance it in this way after they have

been terminated and become a county. The second would be that the State of Wisconsin has some list of the projects in their water pollution program, and they would have to fall within whatever priority system the State of Wisconsin develops to become eligible for a water pollution grant of some sort. This is a State administration program, financed in part by Federal money and State money.

Again I say, why don't we use the accepted, ordinary system, into which we put money every year by appropriation? Why do you come back in and say this has to be done by a special grant to these Indians, when it is not a bit different from anything else the State of Wisconsin has. They have water pollution problems in every other part of the State.

Why don't we go through the State of Wisconsin?

Mr. SAMMOND. We expect to go through the State of Wisconsin, and we expect HEW will go through the State of Wisconsin. They say this money is needed for this project. Remember, this is going to cease to be a Federal project entirely on April 30.

Senator ANDERSON. This would alleviate the State of Wisconsin having to put up any State money, would it not?

Mr. SAMMOND. I don't know. I don't know whether the attorney general can answer that. I have only received the HEW figure of what is needed. It is not proposed, I would like to say, that you should turn any of this money over to the tribe. We expect it to be authorized and appropriated to HEW and HEW won't spend it to please us. They will spend it to please their own standards, I believe.

Senator ANDERSON. Mr. Lee correctly pointed out at the hearing the other day that a year ago HEW had the authority to go into it to do this, but it didn't have the money at that time. What you are trying to say is that a priority should be given to this particular community.

Mr. SAMMOND. No, sir; I am not saying that. I am asking whether HEW has the authority to go in after we cease to be a tribe and a Federal project.

Do you know that, Mr. Lee?

Mr. LEE. HEW does not have authority to go in on a special project. They would have to fit into the regular State program.

Senator ANDERSON. Would the fact that you changed this from a tribe to a community change the authority of HEW to make contributions to a sanitary project?

Mr. LEE. No, I think the question involved is whether or not they can go in under their special legislation that they have for Indian sanitation facilities. They could not do this after the termination dates, but they would fit into the normal pattern of State-Federal programs.

Senator ANDERSON. A man was speaking on the steps of the Capitol some time ago and he said—

America should not ask what the Government can do for them but what they can do for themselves.

Does any one know what they can do under the Community Facilities Act to remedy this situation among these people?

STATEMENT OF GLEN A. WILKINSON, MENOMINEE TRIBAL  
ATTORNEY

Mr. WILKINSON. I think the difficulty here is that this would have to come under the HEW appropriations for Indian sanitation. Come April 30 these people are no longer Indians.

Senator ANDERSON. Do I understand you to say that white people don't have anything from HEW?

Mr. WILKINSON. No, sir.

Senator ANDERSON. Then what are we talking about? Whether it comes through Indians or others, what is the difference?

Mr. WILKINSON. I would say if you authorize the appropriation which will—

Senator ANDERSON. We will give a special appropriation, different from other people?

Mr. WILKERSON. No, sir; any kind of appropriation authorization that you want will be satisfactory, to get this job done to bring the sanitation facilities up to State standards, which I think is a Federal responsibility.

Senator ANDERSON. And not a State responsibility?

Mr. WILKINSON. I think it is a Federal responsibility because the Federal Government has been supervising this for years.

Senator ANDERSON. But in the rest of the States, the States have to contribute along with the Federal Government. You want this to be solely a Federal responsibility; is that right?

Mr. WILKINSON. I think it should be, to get up to State standards when these people are terminated; yes, sir.

## STATEMENT OF FREDERIC SAMMOND—Resumed

Mr. SAMMOND. That is the end of the list of appropriations and help that is asked. As I emphasize again and again, when it comes to what we can do for ourselves, the proposal is to do 20, 40, 60 and so on, in the next 5 years, percentage-wise.

Senator ANDERSON. What is your total amount?

Mr. SAMMOND. The first year? The first year it amounts to \$520,000. I did not yet speak of the schools because that goes to the Joint School District of which Menominee County is only 11 percent. At the present time, under the Johnson-Malley Act and Public Law 874, the Government is contributing \$260,000. Laird is asking the House to continue the \$260,000, one of which is already going forward for 1 year, over a 5-year period and a phaseout basis, just like the rest. That is only 11 or 12 percent to Menominee County and the rest to the county that is taking on the burden of Menominee County children. That figure is included in my figure.

With that added, the answer to your question, Senator, is that the requested amount is \$521,000 for the first year.

Senator ANDERSON. And for the second year?

Mr. SAMMOND. In the second year we pick up the 1 year in the Johnson-O'Malley business and it becomes 504. The third year is 378, the fourth is 152, and the fifth year is 126. I am wrong.

The fourth year is 252 and the fifth year is 126. That is what we requested.

I would like to emphasize that in our judgment these are not just pleas for handouts, but it is definitely a transitional cost. Almost all of these things are a direct result of termination, not necessarily automatically from termination but the unemployment and the unexpected blows that have developed in the last 2 or 3 years as a result of the business, and the business standstill that has been on the reservations.

You have pointed out that we have had a tremendous shrinkage under Federal auspices, much below the depression standard that you are speaking of. That is why I say that this form of help is a transitional cost. I would go back to the suggestion of yesterday that was made when Mr. Carver was testifying, that we don't see any reason why the termination cannot be wrapped up in one package with assistance in the termination program phased out over 5 years as proposed, without having to retain jurisdiction of the Indians, or continue the operation in Government hands or by contract of the proprietor. We don't think there is any technical or legal requirement that that be done, if Congress says otherwise.

Now, I would like to turn for a moment to the request which is in the bill now for a \$2.5 million loan authorization and then I will be through.

You have never been given very thoroughly, very accurately, very definitely, what we are talking about. One reason is it was put in before much of the plan was formulated. Mr. Mater, a nationally known forest engineer who made a study at the expense of the Department of the Interior, has come through with a report and he testified last week before the House committee on the same subject that he estimated nearly \$1 million could be spent on the mill to modernize and improve it, with an increased return resulting from the improvements of, I think he said, \$456,000. Let's call it \$450,000 a year.

That could be brought about, in his judgment, through a million dollars worth of modernizing. Our new man, the President, has only said that he could spend a great deal of money in that order in the mill and when he has it he will spend it and make money on it. That is part of our loan.

All we are asking is an authorization for these projects to be reviewed and studied and allowed by the Secretary of the Interior as he is convinced that they will be moneymaking and self-liquidating.

Senator ANDERSON. You don't want Congress to have another look at it?

Mr. SAMMOND. I don't care whether Congress has another look at it or not. I would rather not have to come down here on each one and ask for it as a separate matter, but it is up to Congress as to whether they want another look.

Senator ANDERSON. How would they like to have the loan handled?

Mr. SAMMOND. By the Secretary of the Interior.

Senator ANDERSON. I mean as to interest and securities, and so forth.

Mr. SAMMOND. Senator Proxmire's bill stated interest up to 4 percent. The Department has, in its testimony in the other—the Bureau has, in its testimony before the House, concurred in this loan and said there was no objection from the Bureau of the Budget, but they gave terms, which I think they should put before you. I mean, they had conditions and terms.

Senator ANDERSON. If they didn't release it to us, why did they release it to them?

Mr. SAMMOND. I am correct in that, am I not, Mr. Lee, that the Bureau has recommended some terms for this loan?

Mr. LEE. We indicated that if a loan were authorized there should be certain conditions attached.

Mr. SAMMOND. That is right.

Senator ANDERSON. Again, going back to this business of not asking what your Government can do for them but what they can do for the Government, has anybody been in asking a small business loan for this mill?

Mr. SAMMOND. No, sir; we have that in mind.

Senator ANDERSON. They have less than 500 employees. They are eligible. Have they asked for it?

Don't have it just in mind. Why not ask for it?

Mr. WILKINSON. I have discussed this with them and their jurisdiction has been, I think, one-quarter of a million dollars and they cannot handle a loan like this.

Senator ANDERSON. I thought they made them bigger than that.

Mr. WILKINSON. I discussed this with the Chief Counsel of the Small Business Administration approximately 2 years ago and as a result of that conference both of us concluded that this was not the type of a loan that the Small Business Administration could handle.

Mr. SAMMOND. I will answer your next question that we have not explored with the insurance companies or the banks as to what kinds of a loan they would make or whether they would make one. I think our prospects are sufficiently shaky and dubious under all of the circumstances so that our general character would not serve much for a loan at this stage, or too experimental or, as they say, unseasonal.

The second loan I would like to bring before you was brought up last month, introduced to us by the Governor's industrial development committee. There was a gentleman from Chicago who has offered to bring in a factory at the expense of \$500,000, a cost of \$500,000, which will employ between 150 to 200 people, men and women. He has offered to amortize it over 20 years and pay all the costs of ownership and operation during the meantime.

He is coming back after May 1. If we have title, we expect to explore that very actively and try to get that money.

Senator ALLOTT. Can you give us an indication of what type of factory it is?

Mr. SAMMOND. It is a textile factory and that is all he is willing to tell us. He is unwilling to reveal his identity yet because of hometown problems, where he is going to move from. He has a multistory factory and wants a one-story factory.

Finally, that leaves \$1 million.

Senator ANDERSON. Wait a minute. Would we put up the \$500,000 for the Chicago firm to go in and put in a textile mill to be competitive with other textile mills of the country?

Mr. SAMMOND. You would lend the money to us to put up the mill as a landlord and then we would pay it back when we got the money. That is just—

Senator ANDERSON. Aren't textiles in a little trouble over the country now?

Mr. SAMMOND. I can't defend the textile industry. This man is prepared to bring his going business in if we build the building.

Senator ANDERSON. Do you mean he wouldn't have to spend a nickel, then?

Mr. SAMMOND. That is correct, except the moving cost of the machinery and that sort of thing. He would not spend anything, except that he would amortize it and pay the costs of occupancy. That is done in many small towns, to provide employment.

The third area of loan I must necessarily be vague on, and that is in the field of resorts, scenery, and so on.

Senator ANDERSON. You wouldn't expect the Congress to authorize a loan of that nature, would you, without knowing a thing about it?

Mr. SAMMOND. I would not, but I think you might authorize the Secretary of the Interior to make that kind of a loan, just as you have RFC and others to make loans.

Senator ANDERSON. RFC has been dead for a good many years.

Mr. SAMMOND. I know, but you did RFC and small business and the rest of them. I think it is possible to delegate that authority.

Senator ANDERSON. I don't think Jesse Jones had authority to authorize loans on resorts that had not yet been built. Don't you think you should come to Congress and ask for it when you are ready to?

Mr. SAMMOND. We can; yes, sir. The tribe asks for this and the Senator and Congressman put this into the bill. I am testifying on what we have in mind so far to use the money for.

Now I have put in my story. It is more extensive than I anticipated.

Senator ANDERSON. I am sorry. It is a little hard to understand the reason for the issuance of a bond in an event of this nature. Why not issue all common stock? Why not give participating certificates on all the facets of the organization?

Mr. SAMMOND. There are many factors that entered into it, besides the ones that I mentioned. For instance, the bonds are more liquid and marketable among the Indians themselves. They can be traded. Both the certificates and the bonds are subject to restriction, but the restrictions are much less on the bonds than on the stock.

Senator ANDERSON. But in reality, there is no difference between this thing that you call a bond and a share of stock.

Mr. SAMMOND. I will not admit that at all. They are prior in every way and they represent the earning value of the institution.

Senator ANDERSON. Prior to what?

Mr. SAMMOND. Prior to the common stock.

Senator ANDERSON. Then there is a difference?

Mr. SAMMOND. There is. And the earning—

Senator ANDERSON. A 4-percent earning is guaranteed ahead of any earnings from common stock.

Mr. SAMMOND. They are limited and required to do certain things, to pay interest and so on, if and when it is made.

Senator ANDERSON. It is different from a preferred stock?

Mr. SAMMOND. I think it is somewhat different, yes.

Senator ANDERSON. In what way?

Mr. SAMMOND. It doesn't vote, it has no interest at any time.

Senator ANDERSON. There is a lot of nonvoting preferred stock. Does preferred stock ordinarily vote?

Mr. SAMMOND. That is right. But it is not different from preferred stock in regard to interest.

Senator ANDERSON. Then where does it differ?

Mr. SAMMOND. I will have to fall back on the fact that I would have to make a study of it. At one time I did.

Senator ANDERSON. You recommended it.

Mr. SAMMOND. I did, sir.

Senator ANDERSON. You studied it?

Mr. SAMMOND. I did.

Senator ANDERSON. Why did you use this route against the preferred stock?

Mr. SAMMOND. For a number of reasons, and I have had this question given to me several times, both here in Washington and at home, and it was thoroughly thrashed out with the Interior Department which I discussed it with. We had a weeklong session with them in October 1959, on this plan and all the details and that was one of the questions they were most concerned with. I have satisfied them and I satisfied the legislature. I didn't come here prepared to satisfy you because I am rusty on it, that is why. I would have to go over this bond indenture, which is hundreds of pages, in order to prepare myself to answer your question.

However, we did recommend it for a number of good reasons and included in it is the fact that the bond is more liquid and more marketable among the Indians and it does represent something more than stock.

Senator ANDERSON. You want the Indians to sell their bonds, then?

Mr. SAMMOND. We don't want them to.

Senator ANDERSON. You want them to be able to?

Mr. SAMMOND. We think some of them will. The corporation and the State have an option on those bonds in case they start moving around at a sacrifice, to protect the people. That is one of the many things that was put in by the States to protect the people.

Senator ANDERSON. How long would it take a good stockman to get away with the certificates of indebtedness?

Mr. SAMMOND. I don't know, sir. We didn't decide to turn them loose and make termination. I am not defending termination.

Senator ANDERSON. Why not give them something they can't sell?

Mr. SAMMOND. Because we have to at some point draw the line between independence and complete dependence.

Senator ANDERSON. If they get income, why should the minor children sell?

Mr. SAMMOND. The minor children will not sell, because the trustees will not allow them.

Senator ANDERSON. Where is there anything in the trust agreement that says they cannot sell it out tomorrow? They can trade it for stock in the Amos & Andy Taxi Co. the next day, can't they?

Mr. SAMMOND. No, he cannot.

Senator ANDERSON. What authority has he under the agreements?

Mr. SAMMOND. The investments are limited to trust fund investments, outside of what he receives from the Secretary.

Senator ANDERSON. Do you have a "prudent man investment ruling" in Wisconsin?

Mr. SAMMOND. Yes, sir. The trust company is very limited in what they can do with a minor's stock. But we were faced with a decision of at what point are these Indians going to cease to be wards, and we drew the line at the point I have shown. We cannot give them the stock and keep it, too. We have given them as much freedom as we felt that they could handle.

Senator ALLOTT. I can really see where this poses a very difficult problem. I share the Senator's concern that these people may be taken advantage of, and yet you are faced squarely with the problem that you cannot give them an ownership of which they can never dispose.

Mr. SAMMOND. That is it. Some of them are very competent and some of them are not. I wish you would try to explain voting trusts in the Menominee tongue, as I have heard it done.

Senator ANDERSON. Well, thank you very much.

Mr. Reynolds, we will hear from you and Mr. Bowers now.

**STATEMENTS OF JOHN REYNOLDS, ATTORNEY GENERAL OF THE STATE OF WISCONSIN, AND JOHN BOWERS, ASSISTANT ATTORNEY GENERAL, STATE OF WISCONSIN; ACCOMPANIED BY THEODORE ABRAHAMSON, STATE ASSEMBLYMAN, SHAWANO COUNTY, MEMBER OF SHAWANO COUNTY BOARD OF SUPERVISORS**

Mr. REYNOLDS. Thank you, sir.

Mr. Bowers is the gentleman who has worked on the Menominee problem, since it has been in our office, which has been since 1955.

By way of background, I might state that the legislature set up in 1954 or 1955 the Menominee Indian Study Committee, consisting of three members of the tribe, representatives from Shawano County and Oconto County, the counties directly interested. Representatives of most of these State agencies were also present and the attorney general's office.

Because of intrapolitical problems in the Republican Party in Wisconsin, the attorney general wound up as the chairman of this committee. Both of my predecessors were chairmen, and by the time I came along, in January 1959, they automatically gave me the job. Maybe this is because they think lawyers can solve these complex sociological problems.

I would like to point out that in January 1959, when the problem was assigned, it was necessary to come to a conclusion within 12 weeks. I make no claim of being an expert on Indian matters, but I did feel that I had the job of hammering this out.

Senator ANDERSON. What was the significance of January 1959?

Mr. REYNOLDS. That is when I took over. Within 12 weeks we had to come out with a plan. The committee had been in existence almost 4 or 5 years and had made many studies, but no one came out with a plan. The rough outlines of the plan outlined by Mr. Sammond were designed by his law firm. We had sessions which lasted from 8 in the morning until 10 at night, day in and day out, until we hammered out a plan.

I would like to point out that it was my understanding and is still my understanding, under Public Law 399, the Termination Act, that we did not have the discretion to embark upon a program of having the National Government buy the forest, such as with the Klamath; that it was our assignment that the tribe was to come up with a plan to manage their forest and a plan for termination; that the tribe was directed that this plan provide—

Senator ANDERSON. I do not understand your statement, that there was nothing in there that authorized the sale to the Federal Government. There was nothing in the Klamath Act. Years later we came in and asked wasn't it better to go ahead and sell.

Mr. REYNOLDS. I appreciate that now, Senator, but this I did not know at the time, but it was my understanding that Public Law 399 directed the tribe to formulate their own plan of termination. The State, itself, had no direct veto authority. The State, itself, had no direct veto authority on the actions of the tribe.

As a practical matter, the reason the State of Wisconsin could exercise, in effect, some control, is because of the fact that the tribe wanted the forest and there was a special act of the legislature passed to tax the forest at 40 percent of evaluation.

Senator ANDERSON. That was a special act?

Mr. REYNOLDS. A special act of the legislature which we did pass for the benefit of the Menominee Tribe.

Senator ANDERSON. Does that raise the tax over what they would pay under the Forest Crop Adjustment Act?

Mr. REYNOLDS. It would be higher than the forest crop.

Senator ANDERSON. How is that for the benefit of the tribe?

Mr. REYNOLDS. I know the Senator is greatly interested in the forest crop law and I will go into it.

Senator ANDERSON. Do you regard the privilege of paying more taxes as beneficial?

Mr. REYNOLDS. I don't think they could have operated under the forest crop law.

Senator ANDERSON. Is it your position they could not?

Mr. REYNOLDS. That is correct. I will mention that later.

So we did come up with this plan and I think that the judgment that the Congress has to make at the present time is whether or not to have termination under this type of plan. If this type of plan does not satisfy the Congress, then we will have to come up with another plan or abolish termination entirely.

The plan roughly came up with the idea of a separate county and there has been much discussion under the separate county. I would like to mention a few things about the separate county.

To start out with, it is not a county in the ordinary sense of the word at all. It is a form of political government but it is not comparable to the other counties in Wisconsin in the sense that Menominee

County will not have any judges, Menominee County will not have its own superintendents of education because the educational facilities will be handled by Shawano County, the judicial facilities will be handled by Shawano, district attorney services will be rendered by Shawano County and the educational facilities to be handled by Shawano.

Senator ANDERSON. May I ask you a question? Why not leave it in Shawano County?

When I became attorney general, I was against the idea of a separate county. Perhaps the sociologists at the university convinced me of the merits of it. They maintained, and they had Dr. Ames, an anthropologist, who lived on the reservation for 2 years, it being the position of the sociologists and the best advice we could get, that you had here developed a reservation culture, not an Indian culture, but a reservation culture.

The Menominees had been under the umbrella of the Federal Government for over a century.

Senator ANDERSON. Mr. Wilkinson, you gave us an answer about the Small Business Administration. I couldn't feel that your answer was correct and we have checked it. The Small Business Administration says that a loan limit of the Small Business Administration is \$350,000, but with bank participation they can go as high as they want to. I thought that was true because I had seen a loan for more than \$250,000 by quite a lot.

Mr. WILKINSON. Mr. Chairman, I did not study the law, but I had a consultation with the chief counsel of the Small Business Administration.

Senator ANDERSON. What is his name?

Senator PROXMIER. It seems to me that within the last 2 years we have changed it. It used to be \$250,000. We increased it to \$350,000. When Mr. Wilkinson talked to them 2 years ago, his answer was correct. Today \$350,000 is correct. You are right. With participation you can go higher.

Senator ANDERSON. That is what I said. The retention is so much. It is like a surety company. They can write a bond for several millions of dollars but they can only retain so much of it. The SBA can only retain \$350,000. Isn't that the point? They can make a loan for \$5 million, if they want to, if the bank takes the rest of it.

Well, I better say \$3.5 million, if they want it. Certainly a million dollar loan wouldn't put them out of business, would it?

Mr. WILKINSON. Senator, I am sorry. I didn't study the problem. I just had the conversation with the chief counsel and that is what I was advised. We proceeded on that basis.

Senator ANDERSON. All right.

Mr. REYNOLDS. I would like to continue with the reasons why the State legislature agreed to separate counties.

No. 1 is the 89 percent of the members of the tribe who voted, voted in favor of a separate county.

Senator ANDERSON. How many voted?

Mr. REYNOLDS. Forty-four percent of the 1,700 eligible people voted in this election. Of those who voted, 89 percent of the members of the tribe asked for the legislature to give them a separate county.

No. 2, the county boards of Shawano County, Langlade County and Marinette County, surrounding counties, passed resolutions urging the State legislature to give them a separate county. Oconto County, to my recollection, took no action.

No. 3, the sociologists at the university felt that a separate county would provide the Indians with the best opportunity for self-determination and self-government of their own affairs.

Senator ANDERSON. Were they asked to pass upon the economic feasibility of it? Were they asked to pass on the desirability of a county of 3,000 people when the average size of your county is 30 or 40 times that?

Mr. REYNOLDS. The sociologists?

Senator ANDERSON. Yes.

Mr. REYNOLDS. It was part of the overall study; yes, sir.

Senator ANDERSON. Were the Indians who voted overwhelmingly for it told how much it was going to cost them?

Mr. REYNOLDS. If I may, I would like to discuss the financial problems and differential between the separate county or combined counties in a moment, if I may.

Senator ANDERSON. But you say you are not going to turn over to them the courts, the schools, the enforcement of law. You are just going to have a county sitting there and they are going to pay dearly for the privilege of not having administration of their own affairs.

Mr. REYNOLDS. I will point out to you, if I may, what they will have, when they have a separate county.

Senator ANDERSON. They will have the bill.

Mr. REYNOLDS. No, I think they will have something else. I am not defending the separate county as such, but I am telling you what the reasons were, why the State gave them the separate county. I can conceive of the fact that the ideal situation probably would be to have these people just go over the country and become assimilated, but we were not given that alternative.

Senator ALLOTT. As long as we are interrupted here, you say the financial part was studied and included and considered by the sociologists?

Mr. REYNOLDS. Yes, sir.

Another reason to give them the separate county would be that if they were combined with Shawano County, which was the only alternative seriously considered—we didn't consider dividing up the reservation, 7 townships in Shawano and 3 in Oconto as presently constituted, because the 3 townships in Oconto only have 30 families and most of the property or most of the valuable timberlands. If it was combined with Shawano you would have a situation where you would have taxation in effect without representation because you would have the forests, which would be a very valuable asset, and it would work out that perhaps the Indians would have only one or two members on the county board.

Senator ALLOTT. At that point, I would like to ask you what the population of Shawano County is.

Mr. REYNOLDS. 35,000.

Senator ALLOTT. And they would have 3,000. How many people are on the board of the county?

Mr. REYNOLDS. Forty. Under Wisconsin law, you can have a supervisor on the board from each township, so that if the Indians wanted to have 10 men on the board they have to create 10 separate townships which, in itself, would be a very expensive thing, more expensive, probably than a county.

Senator ANDERSON. Isn't this a rather new theory, the fact that you have dollars to go on the tax roles and don't have representation on the county board? The Ideal Cement Co. from Senator Allott's home State, has just come to my home county and built a \$22 million cement mill. They haven't, so far as I know, a single man on the county board.

Mr. REYNOLDS. I am not defending the theory.

Senator ANDERSON. Where did dollars get into these matters of representation?

Mr. REYNOLDS. These were considerations. There was a fear that the Indians would not be properly represented because of their unique problems of having this reservation culture.

Senator ANDERSON. What does the wealth of the forest have to do with it?

Mr. REYNOLDS. They were afraid that perhaps seeing this plum, maybe—I don't want to infer that the county board of Shawano County would do this, but there are possibilities that they might tax the forest more than the Indians would tax it themselves.

Senator ANDERSON. You don't have a board of equalization in Wisconsin?

Mr. REYNOLDS. We have that, but they all have their problems.

Senator ANDERSON. You have courts.

Mr. REYNOLDS. Yes.

The next point which they considered was the control of access rights to the forest and to the county and the county board. The Indians would have a greater control over their own access. I think that the underlying reason unquestionably was the fact that the Indians wanted it. I appreciate the fact that if the Puerto Ricans, who probably number a half million in New York City, asked for a separate city, they would not give it.

Senator ANDERSON. We should give them a county?

Mr. REYNOLDS. No; not to give them anything?

Senator ANDERSON. You wouldn't give them anything?

Mr. REYNOLDS. No, sir.

Senator ANDERSON. And there are several hundred thousand of them?

Mr. REYNOLDS. But the fact is that the whole history of this country, from our history and our culture and developments—I think there is no question about it but that we, the white man in America, has always treated the Indian differently, and perhaps it is because we have a guilt complex.

Senator ANDERSON. That is true. But this is the termination, you see. So why, in termination, would you treat them differently? When they are trust wards of the Government, I can understand they might get different treatment. But this is going to termination. They will be citizens like everybody else.

Mr. REYNOLDS. The fact that we call it termination doesn't mean that it is going to change the way of life of these Indians living

together on the reservation. The State legislature appreciates this. They do not want to buck the desires of the Indians. In fact, no Wisconsin politician wants to fight the 3,000 Menominees.

Senator ANDERSON. You should live in our State where there are 100,000 Navajos.

Mr. REYNOLDS. Well, that was, in a nutshell, one of the reasons why they went along with the separate county idea.

Now, on the question of financing, I do not want to repeat anything that Mr. Sammond stated, but I would like to make the point that the cost of government, health, education, and welfare, law enforcement activities, everything that goes on in enforcing governments, if you break it down on a per capita basis, it is going to cost the Menominee to run the 3,200 people on the reservation—all the studies indicated that the difference in costs was, at the most, from \$40,000 to \$60,000, regardless of the type of political structure that you gave the Indians.

On the question before, unless the committee wants me to go into it, I will simply say that the studies indicated that this is a cost which the local units of government would have to bear, whatever you call it.

Senator ALLOTT. We seem to be going around Robin Hood's barn. I would like to ask you a couple of questions. What was the basis for computing the added cost of government in the event of a merger with an existing county? Can you answer that? Was it by taking a per capita basis, the present per capita basis, of Shawano County?

Mr. REYNOLDS. The added cost of government of having a separate county over a merger?

Senator ALLOTT. They must have taken the per capita cost of Shawano County and utilized that. Is that the way it was done?

Mr. REYNOLDS. Here is the study. They computed the general cost of government. That is, if it was merged with Shawano it would be \$326,000. If it is a separate county and town it would be \$388,000. One difference is in general government; that is, that you have fewer officers if you are merged, and there was a difference there alone of \$33,000.

Senator ANDERSON. But we don't get any breakdown to show where they get the \$326,000. We don't know how they get that. What does it cost Shawano County now to run?

Mr. ABRAHAMSON. \$1,063,000.

Senator ANDERSON. How many people have you?

Mr. ABRAHAMSON. 35,000.

Senator ANDERSON. So you would charge one-tenth of that one-third of the cost; one-tenth as many people would pay a third of the cost.

Mr. REYNOLDS. Yes; that is true.

Senator ANDERSON. That is equity?

Mr. REYNOLDS. Not equity, but providing for the means of people who are underprivileged to start out with.

Senator ANDERSON. Three thousand two hundred of them, are they more underprivileged than the other people?

Mr. REYNOLDS. Yes, very much, sir.

Senator ANDERSON. Let me get this straight—3,200 of them are there. Are you going to take care of all 3,200? How about the 800 that do not live there, who are down there in Illinois working in plants?

Mr. REYNOLDS. Well, the number that are working on the reservation.

Senator ANDERSON. Then get it to a different figure. It is 2,400; isn't it?

Mr. BOWERS. The population of the reservation, Senator, is approximately 3,500. There are some people living on the reservation who are not enrolled in the Menominees.

Mr. SAMMOND. That is about 1,000.

Senator ANDERSON. Why are you worried about them?

Mr. BOWERS. They are residents.

Mr. REYNOLDS. They have residence and there are children born after the date of termination.

Senator ANDERSON. You started with Indians and now we are to whites.

Mr. REYNOLDS. We have the children of Indians who are not on the rolls, we have their spouses who are not Indians, who are married and live on the reservation and that is all a part of this culture. I want to point out that because—for instance, on law enforcement, it is higher on the reservation per capita than elsewhere.

Senator ANDERSON. Why is that?

Mr. REYNOLDS. Because of the problems that they have with the Indians. The cost for health services is higher with the Indians than with the non-Indians. The cost for welfare is substantially higher for the Indians than non-Indians.

Shawano County is a very prosperous farm community. I mentioned law enforcement. The cost of taking care of Indians is higher. We have special bills that we send to the Federal Government for the other Indians in Wisconsin, sending money to the counties to supplement the law enforcement. I have been corrected by Mr. Bowers. He said that is a State appropriation.

Senator ANDERSON. Will you come to the forest crop law later?

Mr. REYNOLDS. Yes.

Senator ALLOTT. I would like to ask this question: No. 1, does your law of Wisconsin provide that these people will have their courts taken over by Shawano County?

Mr. REYNOLDS. That is correct.

Senator ALLOTT. And the law enforcement?

Mr. REYNOLDS. No. They will elect their own sheriff. They will elect their own county clerk. They will have their own county board. They will have their own registrar of deeds and the normal county offices. Some of them may be combined.

Senator ALLOTT. Under the law they may be combined?

Mr. REYNOLDS. Yes; if they are not incompatible.

Senator ALLOTT. If they are not incompatible according to your decision?

Mr. REYNOLDS. That is right.

Senator ALLOTT. The point was made somewhere in these proceedings that these people were to be part-time officers. As a practical man, how long do you think that this situation would last,

that these people would be just part-time officers and not say, "Well, my business requires me to spend more and more time and I ought to be a full-time officer."

In other words, isn't this a shadowy saving that we are pursuing here? I am talking as a practical person.

Mr. REYNOLDS. I think I could answer it this way: Whether or not it would be part time or not in the future, I don't know. There is an inclination for anyone to give himself a full-time job, if he can. But I don't think there is an inclination for them to pay themselves high salaries because there isn't that much money to pay them.

Mr. BOWERS. I am not sure that I fully understand the question.

Senator ANDERSON. What Senator Allott says is that he has been in politics for a while and I have been in politics for a while and Mr. Reynolds has been. If you create the job of county purchasing agent on the part-time basis, in the next administration he becomes a full-time person. We wonder why that wouldn't work out.

Senator ALLOTT. And under Parkinson's law in the next administration he has three secretarial assistants and after all that, it builds on.

Mr. REYNOLDS. I think if the Indians are not able to manage their own affairs, perhaps they should not be terminated. The assumption of termination is that they should be able to manage their affairs. Maybe that assumption is not valid.

Senator ANDERSON. The fact that you people won't let them have their own courts or own superintendents of schools indicates that you don't feel that they are competent to.

Mr. REYNOLDS. That is true. They have no lawyers on the reservation.

Senator ANDERSON. I should not ask you this, because you were not the Attorney General, but why didn't the State oppose termination?

Mr. REYNOLDS. The State has always taken the position—John wants to correct me on that, and I think he is a pretty good man. But I will say what I want to say and ask him to comment.

The relationship of the Indians to the Federal Government was their relationship. We have never been consulted on a single thing. When they passed 399, the original draft of the bill—I don't want to say we have never been consulted. That was pretty strong.

Senator ANDERSON. That was a pretty strong statement. I hoped you would modify it.

Mr. REYNOLDS. I will modify it. But originally, as I understand it, the draft of the act said that it would be subject to Governor's approval and that was stricken out. As I stated, the only reason that we had anything to say about this was because of the fact that the Indians needed us to change our laws to benefit them in the field of taxation.

Senator ANDERSON. "With the approval" of the Governor was not taken out because the Congress did not want the State to have anything to say about it. It imposed another line of authority in there that seemed to bother what the Indians wanted.

Mr. BOWERS. In line with that, Public Law 399 set up the termination date. The law contained a mandate to the tribe to come up with a plan to prepare themselves to meet this termination date. It further provided if they didn't come up with a plan or if the Secretary of Interior and they couldn't agree on the plan, the Secretary of the Interior

should appoint the management trustee. When we were faced with the prospect of meeting this date, we felt we had a mandate.

It is my recollection that there were memorials from our State legislature as late as last year, requesting Congress to either repeal or modify the termination act. But within the framework of the act, we were—and I might say, as Mr. Reynolds has pointed out, even in working with the tribe in developments of this plan, where there were areas where we felt that there were large policy and broad policy considerations we had difficulties in finding our authority to make our desires incorporated into the plan because we didn't have any written sanction.

Senator ANDERSON. Some of us were hopeful that they would appoint a management trustee and get rid of all these things, very hopeful of that. But every time we would get close to that, up would come somebody with a revision of plans, so that it kept the gate open to come in and ask for a couple of million dollars.

We thought a good management trustee would have put this mill into operation and would have done it well, would have taken some of the people who are on the rolls and who are not necessary to the operation of the mill and proceed to cut timber. Modernization of the plant is going to result in automation and losses of employment. All of this talk about 800 jobs is fine, but wait until you put that mill on an automation basis and see what the number of jobs is.

Mr. BOWERS. The first part of the law which discusses the procedure by which termination will be accomplished starts with a mandate to the tribe that the tribe should come up with a plan, and only in the event that they don't come up with a plan is the management trustee appointed. That is the order in which it was presented.

Senator ANDERSON. Would you start off, if you are going to talk about termination, would you start off a section by saying, "In order to avoid termination," that this should happen, and if they should want to have termination, then they should come up with a plan? We started with a positive thing. There is nothing wrong with that.

Mr. BOWERS. I am not criticizing the Congress, but that is the law we were working under.

Senator ANDERSON. We did about the same thing with the Klamaths as with this one and their termination worked out very well. They will get an appropriation of \$68 million very shortly. It was to be distributed yesterday or today.

Mr. REYNOLDS. I will ask Mr. Bowers to comment on the forest crop law.

Mr. BOWERS. It is my understanding, and these figures are perhaps not the most recent, but I think they will provide a basis for discussion—

Senator ANDERSON. You are going to start first of all to state why the forest crop law is not applicable to this area.

Mr. BOWERS. It isn't my testimony that the forest crop law is not applicable, Senator Anderson. It is a question of selecting all alternatives. These are the reasons why this alternative was selected.

Senator ANDERSON. Well, now, wait a minute. The original proposal I made was why didn't you come under the forest crop law? I think if we go back into the testimony, we will find a statement that it wasn't applicable to this.

Mr. BOWERS. I didn't say it wasn't applicable.

Senator ANDERSON. Do you say it is or isn't?

Mr. REYNOLDS. I will say they didn't think it was workable. I don't want to get into a problem of semantics, but the fact is that you start out with a proposition that the forest crop law would not provide enough revenue to take care of the Indians by themselves. That is the fact.

Senator ANDERSON. We are trying to keep the costs down, not to gig them.

Mr. REYNOLDS. We are trying to make sure that they can live as decent American citizens. One thing is that they have to learn to take care of themselves.

Senator ANDERSON. Do I understand that it is your testimony that the reason you reject the forest crop law is that it doesn't take enough money out of the Indians?

Mr. REYNOLDS. They have to learn how to support themselves.

Senator ANDERSON. But taxation is not a basis for learning how to support yourself. Taxation takes from you.

Mr. REYNOLDS. No.

Senator ANDERSON. You should have seen the day I had in Albuquerque, trying to pay my Federal income tax. I know what it does to you.

Mr. REYNOLDS. Taxation gives you very essential services. Those services have to be provided. My point is that the services rendered through Government are very essential, and especially to the Indians, and if they are not capable of taking care of themselves in the fields of health, education, welfare, police control, whatnot, then someone else has to provide these services. Under Wisconsin law we couldn't ask Shawano County to do it.

Senator ANDERSON. Why not, if they lived there?

Mr. REYNOLDS. Because I think it would be an unfair burden to ask the people of Shawano County to take.

Senator ANDERSON. So this is a relief bill for Shawano County, then?

Mr. REYNOLDS. No.

Senator ANDERSON. Well, you have to have it one way or the other. You can't have it both.

Mr. REYNOLDS. The fact is that the care of the Menominee Indians is a responsibility of the Federal Government.

Senator ANDERSON. Up to termination.

Mr. REYNOLDS. I am not so sure that it is up to termination.

Senator ANDERSON. Give us the law on that, would you?

Mr. REYNOLDS. I don't think that you can take people who have lived in an institution all their lives, since childhood, and their fathers have lived there and immediately throw them out of the institution and then claim that the operator of the institution has no responsibility for what happens to them.

Senator ANDERSON. I am not trying to be captious with you, but I did raise the question as to why they didn't go on this basis.

Mr. REYNOLDS. Every other witness shied away from this saying that it is a Federal responsibility. I believe it is a Federal responsibility.

Senator ANDERSON. We treated the Klamaths pretty well and we will treat the Menominees pretty well, and so forth, before we get

through with this, but I don't see why, if they started off that they had to have the county, and it bothered Senator Allott and me, and now we get the reason, that it was a revenue-making decision.

Mr. REYNOLDS. No, I didn't say that.

Senator ANDERSON. But the forest crop law would have given a lower tax.

Mr. REYNOLDS. I haven't finished that. But the point where we do not agree is that you have to have governmental services rendered for people. The second point why I don't think the forest crop law would be desirable is that there is no positive assurance under the forest crop law of Wisconsin that the forest would be operated on a sustained yield basis. One of the basic reasons that we went along with the Sammond plan, or the plan of his law firm, is that regardless of what happens, so far as the business is concerned, there will always be a forest up there, natural resources will always be there under our law. As long as you have the natural resources, the forests operated on a sustained yield basis, it is my view that you always have a mill. Let's assume that everything goes bad and they go bankrupt and somebody else buys the mill and buys the forest. If they operate the forest under a sustained yield basis, you will have a forest there, and you will have employment in the mill.

Senator ANDERSON. But didn't we in the amendment to the law in 1956 provide that it had to be operated on a sustained yield basis under the Federal law?

Mr. REYNOLDS. That is right.

Mr. BOWERS. May I respond?

Senator ANDERSON. Yes.

Didn't that remove the worry?

Mr. BOWERS. No, Senator, it did not. May I say that this was one of the things that was of extreme concern to the people in the State government, this sustained yield measure. Congress put that sustained yield requirement into the law, but I respectfully submit that come termination date there was no provision in Public Law 399 to enforce it.

Senator ANDERSON. It wasn't in 399 in the beginning. It was in an amendment.

Mr. BOWERS. But once termination occurs there is absolutely no sanction, unless the State acts to enforce sustained yield operation on that land. It has to be put in the deed and we must have a State law responsive to that in order that we can watch this, in order that we can have some control over it. Public Law 399 didn't provide it. It said that the plan should provide for sustained yield, but once termination occurred—

Senator ANDERSON. The plan is not approved unless it does provide for sustained yield.

Mr. BOWERS. That is what we are doing here. But the Federal law, once termination happens, the sustained yield provision in 399 is no longer applicable.

Senator ANDERSON (reading):

With the passage of this Act, the making and recording of the order heretofore mentioned shall constitute a contract between the State and the owner running from such time for a period of fifty years—

And so forth.

Mr. REYNOLDS. We are aware of this. But then they can get out of the contract by paying up the taxes that they would have paid if they had not been under it.

Mr. BOWERS. May I make a further point? No one denies what the law provides, that there is a forest crop law, that you can make a contract that runs for 50 years; that you can file a forest management plan. In that connection, Congressman Laird pointed out yesterday, and he was talking about the same point, the applicability, and as originally enacted it is a fact that the forest crop law was designed to put in a forest management plan, as it was since amended. But suppose there is a boom in the lumber industry? As I understand the forest crop law insofar as sustained yield is concerned, the owner could clear-cut that forest and the only sanction on him is twice the severance, 20 percent, and he could come out, as far as his money is concerned, way ahead.

There is no way to control on a year-to-year basis this management plan except with the cooperation of the owner. That is the way I understand. There is a question of flexibility in developing a management plan. Under our sustained law that we passed in response to Public Law 399, on 2 days' notice the attorney general can get an injunction against the owner preventing all cutting upon a showing that they are violating their management plan, 2 days' notice.

We feel that that is essential to protect forests. We do not feel that the forest crop law gave us the protection that we needed. That was our judgment.

Senator ANDERSON. I will not argue it, but I will say that we made it a part of our contract, when we put it under this management trustee, that they had to do it on a sustained yield basis.

Mr. REYNOLDS. How would you enforce it?

Senator ANDERSON. I don't know. All I know is that I think I signed the first sustained yield basis that the Government of the United States put through the Forest Service. That was for 100 years. If a man violated it, I will bet they would find a way to enforce it by the Attorney General or otherwise.

I think they can do something about it, and I think you can do something about it. I can't believe that if a law says they have to do it in a certain way that people can just violate the law and go on.

Mr. REYNOLDS. There are other points that should be mentioned. One is under sustained yields, of course, it would open up the whole reservation for hunting and fishing. I mean the forest crop law, not the sustained yield. It would open up all the lakes and streams to public access.

Secondly, if you go under the forest crop law—

Senator ANDERSON. Is there a provision in the forest crop law that makes them do that?

Mr. REYNOLDS. Yes.

Unless your flexibility in that you are not able to sell off some of the land, take it out for the purpose of going into tourist business and recreational facilities. It is my judgment that probably in the long run they will make more money off of the recreational facilities of this forest than they will off of the mill. I do not claim to be an economist, but it is a desirable tract of land from the tourists point of view. Under the law that we have it now, the way it is set up, in any one

year, the corporation may sell 250 acres a year provided they get approval for this for higher use. In other words, if they want to sell some property on the shoreline for a resort, they can do this, and they can sell 10 acres without a showing. Under the forest crop law they could not do that. Those are the various factors that went into that decision.

Senator ANDERSON. That is the first light we have had on it, and I appreciate it.

Mr. REYNOLDS. Yes sir; it is a pleasure.

I do feel to repeat myself, if I may, that if the Indians are going to get along with their neighbors, they have to be able to take care of themselves. I do not think you can thrust these people on Shawano County and expect for good relationships.

Mr. BOWERS. Senator, believe me, this sustained yield proposition was a cause of genuine, sincere concern to all of us who were concerned in developing a plan for this termination program. We had many, many, many hours of hassling back and forth and argument to try to come up with a law which would be acceptable to the tribe and acceptable to the State, and which we felt would give the assurance which Congress intended but which in our judgment was not provided as such in the Federal act. The term "sustained yield" in the Federal act is not even defined. Once the April 30, 1961, comes, the Federal act is no longer applicable. This was our judgment on the matter.

Mr. Reynolds commented on the withdrawal proposition.

Senator ANDERSON. I just want to point out to you the sustained yield law chapter 258 of 1959, and the Menominee law is 259, so you must have had the Menominee situation in mind when you wrote it. Why didn't you write in the legal provision? Did you write in a legal provision?

Mr. BOWERS. For sustained yield?

Senator ANDERSON. Yes.

Mr. BOWERS. Yes, and that is what we have done under this tax law. That was the only sanction that we had for making provision that the State could step in and require them to file a forest management plan, to stop cutting, to require the continuance of the sustained yield basis. Under the forest crop law, if an owner wants to withdraw, it is true, if he withdraws he has to pay the tax which he would have had to pay had he not entered under the forest crop law. If you are under forest crop for a long period of time with a forest of this size, this could be enough of a sanction to prevent you from withdrawing, if you left it under.

Senator ANDERSON. You could have written it into the Menominee Act, if you wanted to.

Mr. BOWERS. It is in there. It is chapter 258. That is our sustained yield law, which we passed in response to the Termination Act. That is the same act which provides for the 40-percent tax.

Senator ANDERSON. Do you think it is effective, then, in preserving a sustained yield basis there?

Mr. BOWERS. With that addition, that in the deed which the Secretary of the Interior will execute to this corporation, and this is another very important point, that deed will expressly provide that for this forest, the owner is required to operate it on a sustained yield

basis until released therefrom under the laws of Wisconsin or by Congress. With that restrictive covenant, our law can be effective. We can then keep it on sustained yield. That is my judgment.

Senator ANDERSON. If that is true, why not go under the forest crop law?

Mr. BOWERS. Under the forest crop law—

Senator ANDERSON. I am trying to find out why we did not save the money by going that way.

Mr. BOWERS. This is a possibility, but there are other problems. That is not the only problem. Mr. Reynolds pointed out the lack of flexibility. As I said, and this is subject to check by foresters, as I understand the forest crop law, let's say they entered the entire 220,000 acres initially under the forest crop law. There is a much reduced tax. There is no question about that. I have the figures here to show it. Let's say at the end of 25 years they decide that they needed about 10,000 acres to devote to a higher beneficial use, whatever that might be. When they do that, they have to pay the tax that they would have paid had they never entered under the forest crop law. That is what the act provides. This could be confiscatory. Under our law, 258, they are permitted to withdraw thereto to the Department of Taxation, 10 acres, that is, 10 continuous acres, from sustained yield, and not to exceed a total withdrawal of 250 acres per year. If they want to withdraw more than that, they have to file an application with the State, have to make a showing that they are going to devote it to a higher beneficial use, and if they make the showing, they can withdraw it without penalty. If they later want to come back and reenter, they can do it.

Senator ANDERSON. I get confused. You say they cannot do it and then you proceed to say how under your law they can do it. You mean under the original act, the original forest crop law, but not the law as amended?

Mr. BOWERS. I was speaking—

Senator ANDERSON. There is no confiscation under the law amended, is there?

Mr. BOWERS. No.

Senator ANDERSON. Then why don't they do it now, set the county up now under the forest crop law, as amended, and save the money?

Mr. BOWERS. Senator, we did not amend the forest crop law. We passed—

Mr. REYNOLDS. We created a new law to operate this forest on a sustained yield basis.

Mr. BOWERS. And tax it at 40 percent.

Mr. REYNOLDS. Instead of tax at 100 percent of value, for this particular forest, it is being taxed at 40 percent of assessed valuation.

Senator ALLOTT. Going back to the figures which have been given about the respective costs of the Government, according to the figures given by this gentleman from Shawano County, the per capita cost of government in Shawano County a person to be about \$30. The per capita cost of government for the Indians in Menominee County would run about \$100?

Mr. REYNOLDS. That is correct.

Senator ALLOTT. This is in round figures. It would thus appear that there is a discrepancy of considerable proportion, over three times

as much. Am I to understand from the testimony of yourself, Mr. Reynolds, that you think the additional cost is to be taken up almost entirely because of the special health and education services that these people require? There is no question that their government is going to be about three times as expensive, at least three times as expensive, per capita.

Mr. REYNOLDS. I think that is substantially correct. I think that the history of what it has cost to govern the Menominees has been in that neighborhood.

Hasn't it?

Mr. BOWERS. Yes.

May I comment? I asked our Division of Public Assistance to give us a figure on per capita cost compared with other per capita figures. It has been my understanding, and this report which Mr. Reynolds referred to at that time showed, that the per capita welfare cost on the reservation was three times what the per capita cost State average was, three times what the per capita cost in Shawano County was. Let me give you a new figure, and I must qualify this in this manner, that the dollar amount for figuring the State per capita is in actuality the dollar amount for Menominees projected, based upon experience. The State total, 1960, expenditures are \$76,656,951. Divided by the population of 1960, of 3,951,777, it figures out to be a per capita of \$19.40. Menominee Reservation, projected annual expenditures, \$168,042. Estimated population, they have as 3,606, I believe; per capita cost, \$64.94.

Now, that is not because we are going to create a separate county. That is a per capita welfare cost. That cost exists whether you have a county or do not have a county.

Senator ANDERSON. Who pays the welfare cost?

Mr. BOWERS. At the present time?

Senator ANDERSON. Yes.

Mr. BOWERS. Well, there are—

Senator ANDERSON. It does not reflect it 100 percent in the county budget.

Mr. BOWERS. No, it does not.

Senator ANDERSON. Then why would that be so different?

Mr. BOWERS. Well, it reflects it percentagewise in the local budget.

Senator ANDERSON. How much does the county put up?

Mr. REYNOLDS. There are different formulations.

Mr. BOWERS. There are different formulas for the different forms of aid that you are giving. Let me comment parenthetically that at the present time, for example, in aid to dependent children, the State, out of State funds, is spending \$55,000 a year to support the program of aid for dependent children on the Menominee Reservation. That is a State fund. The reason for that is that this reservation is presently on a tax-exempt basis under the trusteeship. These cases have been adjudicated by our department as at-large cases, and the State picks up the cost, rather than charging it back to Shawano County.

Senator ANDERSON. Am I wrong in thinking that under aid to dependent children, the Government does not make a contribution?

Mr. BOWERS. On these dependent children, I believe that is a State matter.

Mr. REYNOLDS. No, ADC is State-county—

Senator ALLOTT. This gentleman should be able to tell us whether the county contributes to it or not, on ADC?

Mr. ABRAHAMSON. I will have to look it up.

Mr. BOWERS. I have it here.

Yes; I stand corrected. The Federal contribution is \$17,430, for ADC, on an 8-month period, and the State would be \$8,270. I stand corrected. The local is \$7,580. I stand corrected. My figure was wrong on aid to dependent children. I am sorry. There is a general relief cost.

Senator ANDERSON. So there's a fourth and more of the burden going to something other than the county?

Mr. BOWERS. On that one program.

Senator ANDERSON. Take the next program.

Mr. REYNOLDS. General relief is by the county.

Senator ANDERSON. I do not know what the term "general relief" means.

Mr. REYNOLDS. Well, if you cannot qualify under any other program.

Senator ANDERSON. If you cannot qualify under anything else, you ought not to get relief.

Senator ALLOTT. The Federal Government does contribute to public assistance but not to general relief.

Mr. BOWERS. My \$55,000 figure—I will have to check that.

Mr. REYNOLDS. Are there any other questions?

Senator ALLOTT. I have no further questions.

Senator ANDERSON. Do you know how many acres of forest there are in Wisconsin and what percentage is under the forest crop law?

Mr. REYNOLDS. I do not know offhand.

Senator ANDERSON. It is small. Isn't the forest crop law kind of full of loopholes for the pulpwood industry up there? Maybe you would not care to comment on that. I will express my own personal opinion that there may be some loopholes.

Mr. REYNOLDS. Before I close, and I do not want to repeat everything that Mr. Sammond said about the need, if there is termination, for a phasing-out program to help these people get going, but, in fact, they need this help whether you have termination or not. When you are dealing with an economically depressed area—and I am not here to present a rosy picture at all; it is depressed now and we are hopeful that it will not be as depressed in the future—but, by changing the political structure of the tribe or the Menominees, I do not think it is going to have an effect of all of a sudden making them extremely wealthy overnight. So, whether you have termination or not, I think you have to—I think that the Federal Government will have to—help them out in some of these programs that Mr. Sammond testified at length to.

Senator ANDERSON. Do you think that the figure of \$2.5 million is anything but sort of a blue-sky figure? Why couldn't it just as well have been \$5 million or \$500 million? Don't you ordinarily ask for a loan on the basis of need?

Mr. REYNOLDS. It is my understanding that they will ask for the loan on the basis of need. In other words, the Secretary of Interior

would only grant it on the basis of need, but he would have authority to loan up to that amount. However, they would have to justify it. That is what they are asking for, to my understanding. In other words, Congress is not making the loan.

Senator ANDERSON. I can understand the loan for the mill, and I can understand improving on the formula that the Senator from Wisconsin suggested in his bill, up to 4 percent, by making it the average of the long-term indebted necessity of the United States or something similar to that, which would bring it down to 3 percent or below that, in order to help these people get started. But it is pretty hard to ask the Congress to authorize a loan to a fellow in Chicago who would like to come in there and have you build a textile mill, and without any financial risk of his own, just moving stuff in, and start producing textiles.

Mr. REYNOLDS. I do not believe the capital, the risk capital, should be advanced by the Government. Mr. Sammond and I may disagree on that. Still, I think the Secretary of Interior should have the authority to grant them a loan. Friends, as I indicated before, the tourist business perhaps is their greatest potential. If they want to build some nice resorts up there, the Menominee Enterprises may want to go ahead and borrow the money to build the resorts.

Senator ANDERSON. I wish I could remember, and I do not want to be wrong—maybe Mr. Lee can help me—I think there is an Apache group in Arizona, the White Mountain Apaches, who have opened up their recreational areas along the streams, and it is the most valuable resource they have. The result of it has been that the Jicarilla Apaches in New Mexico, in northern New Mexico, have decided to take an area of a river where they have some ground and develop it. I have encouraged them as vigorously as I can, because it does not produce any income now but it can produce a great deal. Senator Allott knows, I am sure, of some figures that were released a short time ago, showing that water for irrigation might be worth, and I may use the figures wrong, but I apologize, something like \$50 an acre for irrigation of agricultural lands, \$100 an acre for industrial use, \$200 an acre-foot for domestic water supply, and several hundred dollars an acre for recreation. These figures indicate that the highest use of water in certain areas of Colorado would be for recreation and not for industrial or domestic or irrigation purposes. These Indians may have a priceless heritage in recreational opportunities. Senator Douglas and others are at us all the time to create the dunes area so that the Chicago businessmen will have a chance to go over and take their family into the Indiana dunes. Indiana says, "If they want dunes, they had them right where the city of Chicago now stands. Why didn't they preserve their dunes instead of wanting to steal our dunes?" Wisconsin may have a pretty good answer to that.

Mr. REYNOLDS. In Wisconsin, the tourist industry is the third largest industry in our State at the present time.

Senator ANDERSON. In case we notify this and made provision for a loan to the lumber mill and authorized the Secretary of Interior to make loans for the development of tourist and recreational facilities, that would be a little more popular right now, I think, on the Senate floor, than trying to put somebody in the textile business, when the boys from North and South Carolina, and Georgia, and even Senator

Pastore from the New England States, with a special textile committee—

Senator ALLOTT. I would say that I would be very happy to let the Senator from New Mexico try to carry that proposal.

Senator ANDERSON. We had a proposal come before the Joint Committee on Atomic Energy a while ago. It was a very interesting proposal. The only difficulty was that it ran contrary to everybody's belief. It involved a display to the Russians of atomic secrets that we have guarded pretty carefully. I said, "This is a fine bill. In recognition of its purposes we will just call this the Hickenlooper-Van Zandt bill and let these two sterling gentlemen, head of the minority groups in our committee, both on the Republican side, introduce the bill." They did not see it in quite the same light. They thought that in this administration, maybe I ought to introduce the bill. This is something, when it comes to proposing textiles, it is a pretty touchy subject, because the competition of the Japanese textiles has been something that has been very distressing to our mills. I am giving you fatherly advice when I suggest that maybe if we kept the textile proposal out and centered on the lumber mill and the recreational facilities, you would have smoother passage.

Mr. REYNOLDS. I think what the tribe has in mind is that they have a surplus labor supply currently on the reservation, and if they could induce some industry to move up there, they would like to do so.

Senator ANDERSON. If they did, it might be well to do it after the bill had passed.

Mr. SAMMOND. That is the way the bill is drawn. The bill says nothing about textiles.

Mr. BOWERS. Senator, I have some per capita costs for three other counties which are high, if the committee would like to have it. Forest County, 62.74. There is an Indian population in that county, Norens County, 66.77—these are the welfare.

Senator ANDERSON. That is the tiny county, 3,000 people?

Mr. BOWERS. Thirty-four hundred and per capita cost is 56.77.

Senator ANDERSON. You ought to be warned by that. Any time you have a small county—

Mr. REYNOLDS. This is a very important point. The size of the county does not affect the per capita cost of taking care of the poor people in that county.

Senator ANDERSON. No, but it does affect per capita costs of running the county.

Mr. REYNOLDS. Yes. The difference is \$60,000.

Senator ANDERSON. We created a county in New Mexico at one time, not too long ago, and a great many of us thought it was an unwise thing to do. Now that county is in real distress. It has no money to operate. It has, I think, 2,200 people, the last time I heard.

Mr. REYNOLDS. But my point is that an economically depressed area, whether it is large or small, will be economically depressed. I appreciate the fact that it is costing Menominee \$60,000 a year more to have a separate county.

Senator ANDERSON. How many Menominees are off the reservation?

Mr. REYNOLDS. Close to 1,000, about 800. I will frankly say that the part of this plan that disturbs me is that—my home in Green Bay, Wis. Menominees have come to Green Bay and work in our mills and factories there. And under this plan, they do not share.

Senator ANDERSON. Don't you think it is a little unfair for them to not get a rush on their capital so that those remaining can use the county setup and mills to sustain themselves?

Mr. REYNOLDS. Yes. I will qualify that by saying that they will get these bonds which we hope will pay 4 percent. It is a matter of balancing various values. Again, we thought we had to work within this framework. We did not. It seemed that this was the best judgment we could make, given all the facts.

Senator ANDERSON. This corporation plan, did you have a referendum from the members on the cooperation plan or did 91 people vote it in?

Mr. REYNOLDS. I cannot testify to that, but I know there was no referendum on the plans as such.

Senator ANDERSON. Ninety-one were there?

Mr. REYNOLDS. I understand that to be true.

Senator ANDERSON. Isn't that pretty rugged, to take 91 people that come into the meeting and let them make disposition of the property of 3,000 or 3,200 people and have assets worth \$30 or \$40 million?

Mr. REYNOLDS. Well, I think that many times we ask a small number of people to make very momentous decisions in this country, and we assume, and I do not want to get myself in the position of stating that the 91 knew what they were voting on, because I know that is the next question, but the fact is that they knew that they had the best counsel in the State, they knew that they had all the State's officials studying and restudying this plan. I held hearings on the reservation.

Senator ANDERSON. I commend you for that.

Senator ALLOTT. The meeting was well publicized?

Mr. REYNOLDS. It was well publicized. But this does not disturb me. The fact that the Indians do not understand the plan does not mean that it is not a good plan. I do not know how you can expect unlearned people or those who are uneducated to understand this plan. Some of them claim not even to be able to speak English.

Senator ANDERSON. I will tell you one thing—some of the people who do speak English have a little difficulty understanding how you have bonds and stocks and participating interests when there are other ways of doing it.

Senator ALLOTT. I will say this, too. We find that we are constantly being whipsawed by the poor, unlettered people in this country who cannot speak English.

I do not have any questions.

Senator ANDERSON. Thank you very much.

Do you have an additional statement?

Mr. REYNOLDS. No, Mr. Chairman.

Senator ANDERSON. We will recess subject to call.

(The subcommittee recessed at 12:45 p.m., to reconvene at the call of the Chair.)

## AMENDMENTS TO THE MENOMINEE TERMINATION ACT

MONDAY, APRIL 24, 1961

U.S. SENATE,  
SUBCOMMITTEE ON INDIAN AFFAIRS  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The subcommittee met, pursuant to recess, at 10 a.m., in room 3110, Senate Office Building, Senator Frank Church (chairman of the subcommittee) presiding.

Present: Senators Frank Church, of Idaho; Clinton P. Anderson, of New Mexico; Quentin N. Burdick, of North Dakota, and Gordon Allott, of Colorado.

Also present: Stewart French, chief counsel; and James H. Gamble, consultant on Indian Affairs.

Senator CHURCH. The subcommittee will be in order, please.

The subcommittee has held 2 days of hearings on the Menominee proposals that are pending before us. I believe we have heard all of those who wished to testify with the exception of the Menominee representatives who are here today. I was not able to attend the hearing on Wednesday, but I understand from the record that those who represented the State, as well as Mr. Sammond, requested that this committee consider providing Federal funds to aid the Indians in the transition from trust to nontrust status.

I though it would be helpful if we had some background on the health, sanitation, and education problems on the reservation, so I instructed the staff to invite some gentlemen from HEW to appear here today. I recognize that the bills we have before us do not make any specific provision for these Federal aids, and, therefore, the Department of Health, Education, and Welfare was not requested to submit a formal report, but I believe we can obtain information that will be of great use to the committee in determining the extent to which the Congress should try to help the State of Wisconsin and Menominee County following termination.

I would hope that we will be able to conclude the formal hearings on the Menominee legislation in an hour or so because we are anxious to proceed to the consideration of S. 751, a bill relating to the extension of the life of the Indian Claims Commission. Several witnesses from the Justice Department and the Commission will be here at that time.

I believe we will commence with the Indian witnesses, Mr. Gerald Grignon and Mr. Mitchell Dodge; and then we will ask the HEW witnesses, Dr. Thomas Shinnick and Mr. Albert Stevenson, about the health problems at Menominee.

Gentlemen, if you would come forward, we would like to welcome you.

Mr. WILKINSON. I am Glen A. Wilkinson, attorney for the tribe. If I may, I would like to sit at the table also.

Senator CHURCH. Very well, Mr. Wilkinson, feel free to do that.

**STATEMENTS OF JEROME GRIGNON, CHAIRMAN OF MENOMINEE  
ADVISORY COUNCIL, AND MEMBER, BOARD OF DIRECTORS OF  
MENOMINEE ENTERPRISES, INC., AND AL M. DODGE, MENOMINEE  
DELEGATE, ACCOMPANIED BY GLEN A. WILKINSON, ATTORNEY  
FOR MENOMINEE TRIBE**

Senator CHURCH. Mr. Grignon, you may proceed.

Mr. GRIGNON. First may I say to the honorable members of the committee we want to thank you for granting us a hearing, to be able to present what we think is best for the tribe. As you probably know, I am not only a delegate but I am chairman of the advisory council.

In my statement, I state in the first part the authorization of appropriation should be made available to the extent of not to exceed \$2,500,000, and the authorization for the Secretary of Interior to make loans to the tribe or successor entity at such time and in such amounts and at such rates of interest not in excess of 4 percent per annum, as he deems appropriate.

Section 2 of S. 870 seems satisfactory for this purpose.

I would like to go into that and state the Tribe's position. We realize that we have come before this committee several times and asked for extensions. I believe that up until recently the tribe has been in the position that we didn't know exactly where we were going. I believe until we have the industrial survey completed, until we had the survey on the health, education welfare, and social problems completed, we still didn't know where we were going. It is on those bases that we feel that if we are terminated on April 30, there is no question, from the information, from the facts, that we have assembled, that we just cannot make it, financially.

I might say the tribe in voting on different parts of the proposed operating plan more or less, as I refer to it, were led to believe that this plan certainly could work and there was no gamble connected with it. However, we found since then that the facts are that it is a big gamble. When we started off, and I know, because I voted on it myself, we were told the proposed county would cost us \$380,000. Now we find that it is going to cost us close to \$600,000 per year. One of the things we were told, and we went on the belief, was that the county would cost us \$380,000. In fact, I specifically asked what the cost would be if we annexed to another county, and what the taxes could be. The minutes show that we were informed that if we annexed to Shawano County it would have been in the neighborhood of \$750,000. If we annexed to Oconto County it would be around \$800,000. So it was a question, from the business standpoint, of what would be the best to accept, so we accepted the county.

Senator ALLOTT. Where did you get those figures, Mr. Grignon? That was not borne out by the testimony of last Wednesday morning, when Senator Anderson and I were here, I don't believe. I have my original notes that I made at that time.

Mr. GRIGNON. What happened, as I understand it, was when we accepted a county, the State had not passed any legislation yet, and it

wasn't until the State passed legislation where the 40 percent of valuation came into being. Those rates were based on what the rates were to people who owned land and forests in other surrounding forests paid. That would be, as I understand it, on the full value of the timber.

Senator ALLOTT. Let us try to get this into context. Isn't it a fact that apparently, even though the figures are somewhat conflicting, that the great cost in connection with Menominee Indians are those services which relate to health? I have a list here. Tuberculosis, direct relief, foster home care, hospital and medical care relief, sewers and water. Schools, probably, would not change in any instance. They would cost the same. But it is in the other public health services where the real added expenses to the Menominee termination will come, is it not, not in Government taxation or not in governmental functions. Rather, it is in these so-called extracurricular social and health needs?

Mr. GRIGNON. I would say this, Mr. Senator, when the figure of \$380,000 was arrived at, a lot of these problems were not known until the survey was made by HEW, which brought it to light. I will give you an example of why I say that. That is this, that before they made the survey, to bring our sanitation, sewerlines, water, and so forth, to meet the standards and the regulations required by the State, I remember one figure when we asked what it would be and they said in the neighborhood of \$60,000. After the survey was made by HEW, that figure was upped to \$900,000. So it was not until we actually had these surveys made by technical people that we actually knew what the figures were going to be.

Senator ALLOTT. All right, go ahead.

Mr. GRIGNON. I might say one other thing, when we accepted the county. Here was what was passed out to the people when we voted for the county, the advantages and disadvantages, on this document. There was the fact that we were told that that is what the rates would be for taxation. We went under the theory that it would be \$380,000.

Senaeor CHURCH. You may proceed with your statement, Mr. Grignon.

Senator ALLOTT. Since you have handed me this document, I will request that it be made part of the record.

Senator CHURCH. Without objection, it will be made part of the record.



(The exhibit is as follows:)

*Several advantages and disadvantages in forming local government on the Menominee Indian Reservation*

ADVANTAGES

Of forming 1 county	Attaching to another county	Remaining in Oconto and Shawano
<ol style="list-style-type: none"> <li>1. Better control of local taxes.</li> <li>2. Better protection of tribal assets.</li> <li>3. Avoid unequal representation in county government.</li> <li>4. Years of experience would provide better understanding of local problems.</li> <li>5. Possibly avoid competing interests (agriculture versus forest affairs).</li> <li>6. Possible representation in State assembly (legislation needed).</li> <li>7. No split of responsibility in county government.</li> <li>8. Control of county ordinances (zoning, etc.).</li> <li>9. One administration of tax kickbacks from State.</li> </ol>	<ol style="list-style-type: none"> <li>1. Government structures, including facilities, already established.</li> <li>2. Availability of trained personnel, including lawyers, social workers, etc.</li> <li>3. Avoid responsibility of working out school problems (districting, etc., by county school committee).</li> <li>4. Relieve ourselves of responsibility of governing.</li> <li>5. No split of responsibility in county government.</li> <li>6. Probably less expensive than having our own county.</li> </ol>	<ol style="list-style-type: none"> <li>1. No need for legislative action to form county or counties.</li> <li>2. Government structures, including facilities, already established.</li> <li>3. Availability of trained personnel, including lawyers, social workers, etc.</li> <li>4. Avoid responsibility of working out school problems (school districting by county school committee, etc.).</li> <li>5. Relieve ourselves of responsibility of governing.</li> </ol>

DISADVANTAGES

<ol style="list-style-type: none"> <li>1. Lack of experienced personnel to begin with, especially lawyers.</li> <li>2. School districting problem to work out, alone or with other counties.</li> <li>3. Capital investment in setting up plant for county government.</li> <li>4. Assume responsibility for county government.</li> <li>5. Responsibility for collection of taxes.</li> <li>6. Probably more expensive than belonging to another county.</li> <li>7. Need for legislative action to establish 1 county by State legislature.</li> </ol>	<ol style="list-style-type: none"> <li>1. Need for action by State legislature to establish authority.</li> <li>2. Need for referendum in county to which we propose to join (outcome unknown).</li> <li>3. Unequal representation in county government.</li> <li>4. Little voice in control of county and school district taxing.</li> <li>5. Possible disinterest in forest affairs.</li> <li>6. No local control of zoning and districting.</li> <li>7. No control of county ordinance making.</li> <li>8. No local control of administration of tax kickbacks from State.</li> </ol>	<ol style="list-style-type: none"> <li>1. Unequal representation in county government.</li> <li>2. Little voice in control of county and school district taxing.</li> <li>3. Possible disinterest in forest affairs.</li> <li>4. No local control of zoning and districting.</li> <li>5. No control of county ordinance making.</li> <li>6. Split in county government may affect local planning and administration in all affairs.</li> <li>7. No local control of administration of tax kickbacks from State.</li> </ol>
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Senator ALLOTT. I notice, among other things, the chief disadvantages enumerated herein attaching to other counties is unequal representation, a feeling by the Menominees that they would not get an even break in the government. Is that right?

Mr. GRIGNON. I believe that is right.

Senator ALLOTT. Would you say that is the controlling reason or the prevailing reason?

Mr. GRIGNON. Why we accepted the county?

Senator ALLOTT. Why you asked for a county, yes?

Mr. GRIGNON. I believe the prevailing reason was the fact that we were told that if we annexed to another county it would be in the neighborhood of \$750,000 to \$800,000—that our taxes would be that. I believe that was the basis, or at least my basis for voting for a separate county.

Senator ALLOTT. Thank you very much.

Mr. GRIGNON. I believe the other point that I want to go into is the economy on the reservation. As you know, the survey is completed, being contained in this book that I have.

Senator CHURCH. Let me ask you this one question, Mr. Grignon. You say at the time that the vote was taken you were under the impression that to annex to one of the other counties would be more costly?

Mr. GRIGNON. That is right, Senator.

Senator CHURCH. Yet on this list that was circulated, as a kind of pro and con sheet to the voters to assist them in making up their minds, there is listed as one of the advantages of attaching to another county, No. 6, probably less expensive than having your own county.

Mr. GRIGNON. That was it. That is why I say if we get down to specifics, I asked specifically what the costs would be, and that is where we got into the costs. I did not know until the State testified that actually the actual picture now is that it would be \$60,000 less in trying to belong to another country. I believe that was brought out here. So those figures, when we accepted the county, were not available at that time.

I would like to submit this for the committee. It is the industrial survey which was conducted by the Mater Engineering.

Senator CHURCH. This was completed in November of last year?

Mr. GRIGNON. That is right, sir, 1960.

I believe, Mr. Senator, if you turn to page 10 in the survey, it gives a summary of the improvements that would have to be made, and the cost. This, as I understand it, is the modernization program. This is the program that, if we could complete it, would put our mills in a position to compete with outside competition successfully. I believe it gives a picture as to what the exact conditions are. The methods that are being used today, outside of actually the mill, itself, are obsolete. As the report has indicated, and somewhat of what we have known, is, the lumber industry has gone to a package deal, with everything being done by machines to hoist. Even in our planing mill, we cannot get a hoister in the planing mill. The mill was built back in 1926 and it is too low. In fact, the way the lumber is brought in, that is, when it was built, it was brought in on tracks. They had carts on these tracks which they pulled with horses. We did improve a little. We cut the tracks out of the yard and use the hoisters out there. The lumber is brought into the planing mill and still put on these little cars, with what they call the straddlers, bringing the package deal. We don't have horses any more. We use a little tractor now. Then it is put on trucks in the planing mill and pushed out by hand. When that is completed, it is outside. One of the places where they sorted lumber was just about condemned. I have pictures to show.

This photo shows the trucks which are used in the planing mill. Way back in 1929 when I was going to high school, I worked there and they were using those trucks at that time. It is still the same method. You get into a tight cost.

Senator BURDICK. Mr. Chairman, I would like to ask a question at this point. After you get all streamlined and modernized, will that mean the loss of jobs for some of the people?

Mr. GRIGNON. It will. As I understand, first, let me say this, from talking to Mr. Mater, it is possible now to go into automation and run a sawmill with five men. Today we have 52 men in our sawmill. If you put in automation and have machines that run machines, you wipe out all except the five men. Also, in your lumber sorting, as shown

in this picture, it is done by hand, but now they have what they call stackers that eliminate probably half of the men. We are trying to arrive at some point where we don't eliminate all the jobs, because that is one of the bases we have to have to work.

This picture shows the shed that I was telling you about, which is obsolete. They have bars running through the building to pull it together, to keep it from falling down. That is our dry shed, where most of the sorting should be done, but it is more or less eliminated and they are using just the outside. Of course, when rainy weather comes, specially during summer months, when you have the peak of your year, you lose all that time. You have to get out the lumber and if you don't get it out, you lose the orders.

Senator BURDICK. What else is there to employ the people there?

Mr. GRIGNON. We just have the sawmill, that is all. Some of the people make a living off the forest by picking greens and cedar boughs, when there is a good market for that. They can make a living off of that.

Senator BURDICK. I am not against progress. I am all for it, but in a case like this we are trying to rehabilitate people. Wouldn't you like to provide jobs for as many as you can?

Mr. GRIGNON. That is our plan. In this survey, as I understand it, it is in two parts. One is modernization, getting the plant to where you can compete, and the other is more expansion, where you put in other industries in that area in line with the forest products, such as maybe a pulpmill, converting some of the pulpwood into chips and maybe treating the chips to a certain degree, in connection with the pulpmill, itself. In the back of this report we have some of the industries that we could go into.

Senator CHURCH. But none of that is contemplated in this \$922,000 figure?

Mr. GRIGNON. No, none of that is. But it is something that might be able to be worked out later. The first thing that is planned is to put the mill on a basis so it can compete.

Senator ALLOTT. Doesn't that amount to this: You spend \$1 million, which is what you want to spend, as the other people have testified, that you want to spend on the mill, and you are going to operate the mill, itself, not with 52 men or even 10 men. You may make more money off the mill, but you are also going to have 40 men out of work. What do you do with these 40 men.

Mr. GRIGNON. Well, they just go on relief. That is our big problem today.

Senator ALLOTT. Can't the mill be operated, then, with some happy medium of men working, even if they work at a little lesser wage, so that they don't have to live on relief?

Mr. GRIGNON. That is the point I was trying to bring out in the automation, where you have to arrive at a medium where you can employ a lot of people.

Senator CHURCH. That is going to be your objective?

Mr. GRIGNON. That is right. That is our objective.

Senator ALLOTT. Not to go to a completely automated mill but to try to balance off the advancements with employment.

Mr. GRIGNON. That is right. I think at the present time we have the biggest relief problem that we ever had, right now. It has been

testified that the lumber business has dropped in the Nation about 15 percent. However, at the Menominees it has dropped 50 percent. So we have a condition where we have a big inventory, probably about three times as much as any of our neighboring mills carry, and we also have a big inventory of logs because of this recession and so forth. We are in a position where we have to curtail our business. We just don't have the room to put in any more lumber. It is not good business to have a big inventory.

Senator ALLOTT. I realize you don't compete in this area, but since the first of the year the price of plywood in this country has gone up from \$60 to \$74 a thousand. It is almost fantastic as a paradox that you could raise the price of one wood product from \$60 to \$74 in the course of 4 months, and that you would have—I realize it is a different kind of wood, used for different things—in this other wood area that you would have wood laying out there without being able to find a market of any kind.

Senator CHURCH. Actually, lumber prices generally are of concern, not merely plywood.

Senator ALLOTT. I am not acquainted with others, but I do know that this is what has happened in the plywood market in the last 4 months.

Mr. GRIGNON. Our statements show that in the last 4 months we actually had a loss in the net profit, showing a little over \$100,000, including stumpage. But, actually, the loss was, I think, a minus \$36,000.

Senator CHURCH. This was the last 6 months?

Mr. GRIGNON. The last 6 months; yes.

To go further, I tried to show you that there is a need. Mr. Mater has pointed out that our dry kilns are in such condition that it would be better to build new ones. To replace them, and also that a new planing mill should be constructed because we cannot use the old one any more because of the main structure.

Senator CHURCH. We would pretty much have to accept, on the basis of the evidence before us, the proposals that have been made in this survey, with respect to plants and what its needs might be. I don't think there is much question as far as the committee is concerned with respect to this survey and what its costs are going to come to. What really faces us as a problem is the overall situation and what to do about it. Given the \$922,000 expense connected with a balanced modernization of the plant, let's move on, then, to the other items that are going to involve further outlay of money and see where we end up.

Mr. GRIGNON. I would like to say, then, Mr. Chairman, that we should go to part 2 of this survey and go into the expansion programs, which would be what we thought would provide more employment. If you are going to modernize, certainly you will cut down on jobs, and somewhere along the line we have to do something to create more jobs. Some of the things they have proposed are molding plants, a veneer mill, not at the present time, however. But the studies show that veneer was not a solid program to go into at this time. It suggested going into pulp. These are some of the things that could be done. It suggested making particle boards, as I recall. That would be going into other industries, although they are within the forest products that we have.

Senator ALLOTT. Plus the recreation.

Let me ask you this: How does the tribe feel about the development of this area as a recreation area? Are they going to resist it?

Mr. GRIGNON. Let me say that some of the experiences that we have had have not proven successful. What we are trying to do is to have a survey made. We are in the process of doing that now. A while back, Mr. Knotte, who has been working on the reservation, who is the chairman of this committee which has been making a study, proposed to the tribe to open up the streams and lakes to the public. He estimated that we would make anywhere from \$50,000 to \$75,000 a year on this program. Well, the tribe went along with the program. They opened up the fishing on the lakes and streams. Of course, the first year instead of making money, we lost money. We lost around \$5,000. In the past year, which was the second year, we probably picked up that \$5,000, and so far the program is probably close to being even. So when the program was presented to the tribe, it was with the thought that they were going to make a lot of money and so far they didn't.

Senator ALLOTT. Who planned and conducted this program?

Mr. GRIGNON. I would say Mr. Knotte was the one who had proposed the plan, and then it was set up that a committee be appointed to set up this program. So it was on that basis.

I believe this, that my own thought would be that until we have a survey and we have a master plan to work from, and technical people make the plans, so that we can come up with a kind of program where we tell the tribe that this is going to do so much, maybe it will do that. I would hesitate to try to go ahead with any programs in this field until we have these studies made and until we have a good, sound plan to work from. There will be some need for money for this program. That would be a justification for this \$2.5 million.

Senator CHURCH. On the basis of all the testimony that you have heard in the past few days, is it still your position that the tribe will be better off if it establishes its own county and assumes these additional costs that will attend the separate county government than to simply merge into and become a part of an adjoining county?

Mr. GRIGNON. I would say in some of the programs we have already merged with the other county, such as for educational purposes, for the judicial programs, law and order.

Senator CHURCH. I know, but if termination takes effect as it is now planned under the present law, you are going to have a separate county established.

Mr. GRIGNON. We will have a separate county. But we will still be merged with the other county for the programs that I told you about.

Senator CHURCH. You may have some cooperative programs underway, but you will have a separate county with a separate county government established.

Mr. GRIGNON. That is right.

Senator CHURCH. You have indicated that when this decision was made earlier, all of the facts were not before you, and that you learned for the first time in the course of these hearings that it would cost \$60,000 more to have your own county than it would have cost had you merely merged into an adjoining county. What I would like to know

is: On the basis of all the evidence that has now been adduced, is it your position still that you ought to have your own independent county?

Mr. GRIGNON. I would have to say this, Mr. Chairman, from what the facts show in the reports of our business and so forth, I just don't know how, if we are terminated, how we are going to be successful. It is pointed out that everything is based on a one economy program, and that isn't making any money now. So regardless if we were annexed and paid \$540,000, we are still going to be in the position of where are you going to get the money to pay it.

Senator CHURCH. There are two questions here. One is the question of what additional money you may need in the form of Government credit or in the form of Government grants to meet these problems, to bridge you over. That is a separate question from whether or not you ought to have your own separate county. It is possible that Government credit and grants could be extended to the Menominee Indians on the reservation in conjunction with termination, without the need for establishing a separate Menominee County. What concerns me is that you are beginning an experiment that establishes a county government on a sawmill. I don't know of any instance where this has ever been done before. I am not at all sure that it is a sound concept. Government units are properly established upon a general tax basis. This close interconnection between a county government and a sawmill, and the additional costs that it is going to entail by virtue of the need for establishing all these separate county offices, seems to me to be an item of considerable importance. You are close to insolvency now, faced with the problems that you have. Here we have an item of a continuing cost of \$60,000 over and above what you would otherwise be faced with if you didn't have a separate county to maintain.

Mr. GRIGNON. I would say this, that my own position was looking at it from the business standpoint. Of course, now, as I understand, because of State legislation it probably would be impossible unless you got the legislation resigned to go back and say we wanted to be annexed to another county. The legislation set it up, and this is what it is going to be, regardless. I have tried to look at this from a business standpoint, and I just can't see where we are going to succeed.

Senator ALLOTT. Will the chairman yield?

Senator CHURCH. Let me ask one question, first, from the legal experts.

Are we now in a situation where, if termination takes place, the only thing that can happen, under the laws of Wisconsin, is that a separate county will thereupon be created, and this can be avoided only if termination is not effected now?

Senator ALLOTT. Or if Wisconsin should change their law.

Senator CHURCH. And that would take time.

Mr. SIGLER. Neither one of those events need happen, Mr. Chairman. The Wisconsin statute provides that the Menominee County will come into existence when the Secretary publishes the termination plan. That plan has not yet been published. It is contemplated that the plan will be published on termination date, that is, when the assets are transferred to the tribal corporation. If Congress directed that the plan not be published, then, in my judgment, the Menominee County would never come into existence.

Senator CHURCH. Now, suppose that termination does take place and the plan is not published. Then what happens? What is the political status of the Menominee Indians under Wisconsin law? That is the question. Does it follow that they automatically become a part of some existing county? If so, which county?

Mr. SIGLER. I cannot answer that except to give you an impression. I think that the lands are already physically within the two existing counties. But that is an impression I have not checked. To follow it out, if I am right on that, the failure to create an existing county would leave the reservation now in the two counties that exist.

Senator CHURCH. I see. So in your opinion, then, the reservation would then lie within two separate counties?

Mr. SIGLER. Yes.

Senator CHURCH. What would the tax consequences be should that happen?

Mr. SIGLER. I don't know, Mr. Chairman.

Senator CHURCH. Do we have testimony on that point?

Senator ALLOTT. Mr. Chairman, while you are examining that document, I would like to make a remark about this matter.

It seems to me if you use the devious means, and there is no use calling it any other thing, of stopping the county from coming into existence by directing the Secretary not to publish it in the Federal Register, or stop it from coming into being, you really have a complex legal situation and we would only be compounding it, because you would have the entirety of the area which lies within the two counties, but the law of Wisconsin contemplates that upon termination these people shall become a county. So what we would do by not publishing it is we would keep them from becoming a county. But they would no longer, however, be under the jurisdiction of the Federal Government as wards of the Government, and yet they would be sitting there in two counties. So you would have a completely paradoxical situation, and I think an untenable one.

Mr. WILKINSON. Mr. Chairman, if I might, I think my opinion varies with Mr. Sigler's in one instance. Publication in the Federal Register of the termination plan is what triggers the State laws into effect. On that date the new county becomes a county. If the termination plan is not published in the Federal Register, in my judgment the legal status of the tribe will continue just as it is now, until such time as the termination plan is published or Congress sets some other date.

Senator BURDICK. Mr. Chairman, I would like to ask counsel a question.

Suppose that this legislation were passed where termination was delayed for 8 years. Then there is a delay in the coming of the county, too, isn't there?

Mr. WILKINSON. It would be delayed until such date as—

Senator BURDICK. In other words, the county would not come into existence until the actual termination by the Federal Government?

Mr. WILKINSON. That is my judgment.

Senator CHURCH. And you think termination can be effected only with the publication of the termination plan?

Mr. WILKINSON. Yes, sir.

Senator ALLOTT. Mr. Wilkinson, will you correct my reasoning if I make a mistake in these steps? We now have a situation where we have a reservation which belongs not to either county but to the Menominee Indians, which the Federal Government trusts for them.

Mr. WILKINSON. Geographically it is within the two counties.

Senator ALLOTT. Legally it is not a part of the two counties.

Mr. WILKINSON. That is correct.

Senator ALLOTT. The two counties have no legal control over the area itself?

Mr. WILKINSON. That is correct, in most senses.

Senator ALLOTT. Except the ones such as court and other things named here the other day.

Mr. WILKINSON. By legislation the State has jurisdiction over criminal and civil matters.

Senator ALLOTT. But, now, physically Menominee County lies within these other two counties, physically. I am not speaking about legally but physically.

Mr. WILKINSON. That is correct.

Senator ALLOTT. And the Wisconsin Legislature has decided to establish Menominee County as a separate entity. If it is prevented from becoming an entity by the failure or direction not to publish in the Federal Register, then even though you may have provided the termination, and even though this county lies physically within the other two counties, you have not provided anything to establish the entity of this county, have you?

Mr. WILKINSON. That is my opinion; yes, sir.

Senator CHURCH. Just to complete that, on the other hand, the only reason why the reservation is not now legally a part of the two counties in which it lies is because of the trust status—the fact that the Federal Government holds this land in trust and because of the wardship. Now, if these factors were eliminated by termination, the land reverted to the Indians themselves and the Indians become citizens without strings attached, like any other citizens, then the location of the land and the location of the Indians within these two counties would make them citizens of the two counties like any other citizens. In other words, you just remove the bar that has thus far legally prevented them from being a part of the two counties in which they are located.

Mr. WILKINSON. Except, Mr. Chairman, I think there are two intervening events which make that impossible. One is adoption of the plan which was agreed upon between the tribe and the Secretary of the Interior. That contemplates establishment of a separate county. The second thing is the State legislation which establishes the separate county.

Senator CHURCH. What you are saying is that whenever termination is effected, by virtue of the force of Wisconsin law, a new county comes into being.

Mr. WILKINSON. That is correct; yes, sir.

Senator CHURCH. Mr. Sigler, did you want to make a comment on this?

Mr. SIGLER. Yes, Mr. Chairman. I would like to be sure that I was correctly understood and that I understood Mr. Wilkinson correctly. It is my judgment that the two counties in which the reservation now

lies do have jurisdiction over the reservation. They have law and order jurisdiction and the reservation physically and geographically and legally is within those two counties. It is my further opinion that the Wisconsin Legislature has—

Senator ALLOTT. Would you stop there? You said geographically. Geographically we all admit. Now, is it your opinion that it is legally within the jurisdiction of those two counties?

Mr. SIGLER. Yes, Senator Allott. The State exercises civil and criminal jurisdiction over the area and occupants.

Senator ALLOTT. They don't have the taxing power.

Mr. SIGLER. But their civil and criminal jurisdiction is a legal jurisdiction.

Senator ALLOTT. But that is just a small part of legal jurisdiction.

Mr. SIGLER. Without using the adjective, it is a part.

Senator CHURCH. The State is not exercising full sovereignty.

Senator BURDICK. Will the State yield?

Senator ALLOTT. Yes.

Senator BURDICK. The State has jurisdiction for certain purposes and the Federal Government has jurisdiction for some purposes. If termination were effected, then all jurisdiction of the Federal Government would cease and jurisdiction would flow fully to the State?

Mr. SIGLER. That is right. One other comment, if I may make it, and I will cease. It is my judgment that the Wisconsin Legislature has provided for the creation of a new Menominee County and has specified when that county shall come into existence. That is a matter for the State to decide, of course, the creation of county government or the failure to create a county government. One other point: The State law contemplates that the county will come into existence upon the publication of the plan, and it is an implied provision that that plan will be published when termination occurs. That is not a legal requirement. That is, the State law doesn't say when termination occurs, it says when the plan is published. The Federal Government could, if it wanted to, say that "We shall not take the Federal action that the State has said is a condition to creating the county." That doesn't preclude the State from legislating further and saying "Notwithstanding what the Federal Government has failed to do, the State will or will not create a county as it sees fit." They can do whatever they want to, about creating a county. The only thing that the Federal Government is called upon to do is to take administrative action, which, according to the State law, will trigger the creation of the county. The Federal Government may or may not take that action as it wishes.

Senator BURDICK. May I ask a question at that point? Suppose the Congress decides to extend the date of termination. The county would not be in being during that period?

Mr. SIGLER. That is correct, if the Secretary fails to publish the plan. As we pointed out at a prior hearing, all the Wisconsin law says is that when the Secretary publishes the plan, the county will come into existence. The Secretary administratively has refrained from publishing the plan until termination occurs.

Senator BURDICK. Is there any view in the Department that termination should be extended and the county still come into being?

Mr. SIGLER. It could, but I don't think anyone proposes to do it.

Senator CHURCH. I think maybe we better put the section of the State law into the record, section 42, which reads:

SEC. 42. Subject to the provisions of this section, this Act shall take effect and be in force on the date on which the Secretary of Interior causes to be published in the Federal Register the termination plan pursuant to Section 7, Public Law 83-399 as amended: *Provided*, That this Act shall not take effect unless such termination plan provides for a covenant in the deed to forest lands to be conveyed by the United States restricting any subsequent transfer of ownership or encumbrance of said lands for a period of thirty years without the prior consent of the State Conservation Commission of Wisconsin with approval of the Governor, excepting only lands released from sustained yield basis under the laws of Wisconsin. This Act shall continue in effect for the period ending July 31, 1965, and thereafter unless repealed by the 1965 legislature it shall continue for an additional period of four years ending July 31, 1969. Unless repealed by the 1969 legislature it shall become final.

Senator CHURCH. There are certain other conditions attached, apart from the publication of the plan.

Mr. Grignon, I am sorry for this long interruption. I think we have pretty well covered the subject matter of your written statement. Is there anything else you would like to add?

Mr. GRIGNON. My comment in regard to welfare and sanitation appears in my prepared statement.

I would like to make a statement with regard to the extension of the termination date.

One of the reasons the tribe is hesitant to accept this April 30 date is that we believe from the facts that have been presented so far, and the information that we have received from technical people, it is almost impossible for the tribe to succeed without modernization. We are not even going to be able to compete with our competitors. In fact, this little sawmill is going to have to carry a big program of around \$600,000 for a county, it is going to have to carry new obligations, itself, when it becomes a private corporation. In fact, at the present time we are 50 percent below in the business part of it. There are those things, and the fact that we need—well, let's say this: The tribe, through its corporation, will have to carry the county, will have to carry these new costs, such as workmen's compensation, unemployment insurance, unionization, and, of course, we will have to start paying taxes on automotive equipment and licensing.

Senator ALLOTT. Unionization?

Mr. GRIGNON. Yes. Usually it will be found that compared to any boring mills, we are below the scale of wages and we will have to get up to paying union scales.

Senator ALLOTT. You better scratch that out and put wages in. I wouldn't want anybody to think that we were out organizing unions in this committee.

Mr. GRIGNON. Well, that is one of the programs that will have to be undertaken. Of course, then we lose all the advantages such as in the purchasing of supplies and materials and so forth. So we figure that this corporation is going to have a big total of new obligations, and also, even if we get the loan and so forth, there will be the principal of \$200,000 plus interest. From what we can gather from talking to some of the neighboring lumber mills, it just seems impossible that a little sawmill could undertake such a program. We feel that we have in the past been certainly unwise in the way we

handled the profits and the stumpage payments before. I think the committee has gone into that before, of paying out the full stumpage when actually we only made a small profit in the mills that then we had to go back and dig in our reserve of funds to take care of our social programs that we had. Actually, we were paying profits and actually running into the red. We feel that if the time is granted, that this stumpage payment should not be paid out but used for modernization. I believe instead of the tribe having to pay all these new obligations of the county, around \$600,000 and probably another \$250,000 of these added expenses that we will have, that we could use that money to modernize and do some expanding without the loan. That is the way we think we could handle this problem. As we said before, we have appeared before you many times, but I think it is the first time that we have come here with some kind of a sound, concrete program.

Senator ANDERSON. That is what you had in 1954, too, a sound, concrete program.

Mr. GRIGNON. I agree, as I said before, Senator, when you were not here, that I don't believe the actual picture was developed until we had the industrial survey and also the survey that was conducted by HEW, that we actually had a basis to start acting, that before it was more of a hit and miss. Some things we thought would be the answer then, certainly are not the answer today.

Senator ANDERSON. But you did have a mill modernization program and \$10 million at that time.

Mr. GRIGNON. That is correct.

Senator ANDERSON. Now you have run through the \$10 million?

Mr. GRIGNON. That is right.

Senator ANDERSON. You have a little longer to go on that, haven't you, another year or two to get rid of it?

Mr. GRIGNON. That is right.

Senator ANDERSON. But you will get rid of it without a question; won't you?

Mr. GRIGNON. I wouldn't say we are just getting rid of it.

Senator ANDERSON. What have you left out of it? A million and a half or two million dollars?

Mr. GRIGNON. I don't know exactly. From the figures presented to us, we will have about \$800,000 to go on April 30. If they don't pay it, we will have—

Senator CHURCH. Is there any question about paying the stumpage? You have said that it was a mistake in the past, and now you are saying that you are going to go ahead and pay it again, probably.

Mr. GRIGNON. No; it is up to the Department. I understand they ruled recently that it should not be paid.

Senator ANDERSON. Can somebody enlighten us on that? He said they had a ruling that it should be paid and then it should not be paid.

Mr. GRIGNON. I said it should not be paid.

Senator ANDERSON. The first ruling was that it should; wasn't it?

Mr. GRIGNON. The first one, but I mean this last year.

Senator ANDERSON. I understand.

Can you explain it?

Mr. SIGLER. The latest advice is an opinion from the Department saying that inasmuch as termination is scheduled to occur on April

30, the stumpage payment that would otherwise be due on June 30, the end of the fiscal year, could not be made, because termination will have occurred first. That is, if termination goes into effect, this stumpage law will cease to be operative.

Senator ANDERSON. Therefore, how much money will the tribe have?

Mr. MANGAN. Approximately \$1,300,000 in cash, sir, and inventory and other negotiable assets that are currently carried on the books at \$1,900,000.

Senator Church. We will put your entire statement into the record, Mr. Grignon.

(The statement is as follows:)

STATEMENT OF JEROME GRIGNON, MENOMINEE DELEGATE, ON S. 869 AND S. 870

My name is Jerome Grignon. I am a delegate of the Menominee Indian Tribe. I am chairman of the Menominee Advisory Council and a member of the board of directors of Menominee Enterprises, Inc.

On behalf of the Menominee Indian Tribe, I request the following amendments to the Menominee Termination Act:

(1) Authorization of appropriation, to remain available until expended, of not to exceed \$2,500,000, an authorization for the Secretary of the Interior to use such funds to make loans to the tribe or its successor entity at such times, in such amounts, and at such rates of interest not in excess of 4 percent per annum, as he deems appropriate. Section 2 of S. 870 seems satisfactory for this purpose;

(2) Authorization for appropriation of funds to assist the tribe or its successor entities (corporation and local government) in the fields of health, education, and welfare, so as to enable the corporation and county to survive; and

(3) Extension of the termination date.

LOAN PROVISION

When other Menominee delegates and I appeared before this subcommittee during the last Congress, we advised of the progress of an engineering study by Mater Engineering. That study was completed in November 1960. It shows, in substance, that in excess of \$950,000 is required for modernization of the Menominee Mills, something which is necessary for the Menominees to compete effectively with established businesses. In addition, in order that the Menominees may have some diversification and so that Menominee County will not be a one-industry county, it is necessary that other industry be established. The recreational potential of the reservation seems most promising for this. The Secretary of the Interior has made available the services of representatives of the National Park Service for preliminary study. They have recommended commercial organizations and some contacts have been made with them. Negotiations are now underway with one specific organization. Whether this will continue depends largely on what Congress decides with respect to a loan. The loan authorization would make it possible for modernization and expansion of the mill and development of recreational or other activities.

HEALTH, EDUCATION, AND WELFARE

The recession in the timber industry, which has hit the Menominee Tribe harder than competing businesses, makes it essential that the Federal Government provide financial aid if Menominee Enterprises, Inc., and Menominee County are to survive. It is submitted that the Federal Government should do this as a final payment on its commitment to supervise the Menominee Tribe.

Many of these costs have only recently come to light. In substance, they are as follows:

Sanitation.....	\$555,000
Educational costs (small portion of which will go to Menominee County).....	260,000
Unusual health costs.....	165,000
Welfare, including direct relief.....	107,500
Total.....	1,087,500

Similar figures have been compiled by officials of the Menominee Tribe. I understand the above figures are supported by data developed by the Department of Health, Education, and Welfare. The subcommittee may wish to obtain confirmation from that Department.

#### EXTENSION OF TERMINATION DATE

As recently as January 9 (general council) and March 31 (advisory council), the Menominee Tribe has taken official action to support an extension of the termination date. Faced with recession, a tremendous welfare load, and other unforeseen expenses, I personally believe that grant of an extension is the only solution to assure that the Menominee termination plan will succeed.

The primary justification for an extension of the termination date (both extension of services and transfer of property) is an economic one. Early in the planning stages, it was contemplated that the Menominee Reservation, to become a county upon termination date, could support increased governmental costs by increasing the cut of timber on the Menominee Reservation (now limited by law to 22 million board feet per year) to approximately 29 million board feet. This planning is now seriously out of balance due to a recession in the lumber market. Although authorized to cut and market 22 million board feet per year, the actual cut during 1959 dropped to 16,158,000 board feet and during 1960, it amounted to 19,701,000 board feet. During fiscal years 1953 through 1958, the Menominee Indian mills realized average annual earnings, including stumpage, of \$559,700. During 1959, the earnings were down to \$373,595. Earnings went back to \$529,330 in 1960, but the first half of 1961 reflects an operating loss of \$35,896. There has been some recovery of this, but it is doubtful there will be any earnings during this year.

The recession in the lumber industry has, of course, resulted in substantial unemployment among members of the Menominee Tribe. The Menominee lumber mill at its peak operates three shifts. At the present time, it is operating with one seriously curtailed shift. There is much suffering and hardship among the members of the tribe.

Tribal funds are at a dangerously low point. It is estimated that the tribe will have a reserve of less than \$1 million by termination date. It has frequently been estimated that a reserve of \$3 million is necessary for operation of the mill. These figures do not take into account the fact that the corporation which succeeds the tribe will have many more financial obligations, including unemployment insurance, workmen's compensation, and higher labor costs, particularly if the mill is unionized. These added costs are likely to add up to at least \$250,000 per year. These costs, of course, will reduce the earnings which have been made in recent years.

With the cooperation of the Department of the Interior, which made experts from the National Park Service available, some consideration has been given to development of the recreational potential on the Menominee Reservation. Four different firms have been consulted, but the board of directors of Menominee Enterprises, Inc., has decided that this problem should get further study before a contract is negotiated. If the Menominee Tribe is to operate successfully after termination, it will be necessary that the recreational potential be developed so that there will be another industry to supplement the one industry which now supports the tribe. Some extension of the termination date could allow for development of this potential. Much more income must be produced to support local government if termination is to be successful. The tribal income during the past 2 years has been totally inadequate to support such government.

In short, I think Congress should consider seriously the proposal of the Department of the Interior as submitted in its April 10 report to the House subcommittee—a proposal which would keep "strings" attached sufficiently long to determine whether termination can be successful.

## INADVISABLE FEATURE OF S. 870

Section 4(a) of S. 870 provides that Menominee Enterprises, Inc., should "be considered to be chartered under Federal laws." We are advised by counsel that this would create an unworkable situation, and ask that the subcommittee not give further consideration to it.

I thank the subcommittee for the time and attention it is giving to Menominee problems.

Senator CHURCH. Have you anything further before Mr. Dodge proceeds?

Mr. GRIGNON. This is referring to not modernizing. There was some modernization done. I would like to put that into the record, if you would like it.

Senator ANDERSON. Wasn't there a program in 1954 that involved modernization of the mill?

Mr. GRIGNON. I think that was 1957.

Senator ANDERSON. I thought it was 1954.

Mr. GRIGNON. Here are the things that were done at that time, Mr. Chairman.

I have just one other thing that I would like to present, the fact that some of us are a little hesitant on raising the annual cut to 29 million. We feel that in just a few years we will have to come back and take a new look at this figure. We feel that it is too high, that it would be too high, and that we eventually will have to come down some. We feel that because we feel at the present time we are cutting a lot of trees which are the trees that should be growing. I have some pictures to show, showing how small the trees are. We feel eventually you catch up with yourself if you cut the trees that should be growing.

Senator ALLOTT. You testified to this the other day, I believe. I think your position is fairly clear, that you feel that you could cut matured timber where it is too heavy, but that after a period of 5 or 6 years you would have to cut back from the 29-million figure.

Mr. GRIGNON. That is right. That is our basis for that.

There is just one other thing that I wish to say at this time. If we are not granted any extension, I think we would hope that the committee would find ways and means that if we go on this venture, this experiment, which certainly is a big gamble—I have yet to find any millman, even Mr. Mater—they just can't see where we are going to succeed. If we are going to lose it, then I think we should at least try to salvage the tribal members themselves. Most of them are on unemployment. Of course, if we are going to stay on unemployment, we certainly can't pay taxes, pay our loans, and so forth.

Senator ALLOTT. May I ask a question at this point?

This is probably in the record, but how many of the people are literate?

Mr. GRIGNON. We had one place where they thought in regard to the trust that they would have an extra hundred or so, who would be in that category.

Senator ALLOTT. What percentage of your people are graduated from college?

Mr. GRIGNON. It is very small. It is just in the last few years that we have been getting some people to college.

Senator ALLOTT. You just have a few college graduates?

Mr. GRIGNON. Very few.

Senator ALLOTT. What about high school?

Mr. GRIGNON. That has progressed very good. I don't remember the figures. I presented them last year.

Senator ALLOTT. What percentage of your children now going to school are graduating from high school? Do you know?

Mr. GRIGNON. I would say the biggest percentage. I would say maybe 80 percent. We have a few that drop out. But we have buses that go to Shawano and go to Antigo.

Senator ALLOTT. Do we have these figures from Public Health Service or anybody else, Senator Anderson?

Mr. GRIGNON. I will try to find them. I might have them with me. I gave them last year to Mr. Gamble. I had to return my copy to the educational department.

Senator ALLOTT. We will get it from another source then.

Mr. GRIGNON. I think at that time there were four going to college, if I remember right. The committee last year was very generous. They extended the educational program, and some of the students have taken part in it. But once it is ended, with the people working in the sawmill, it will drop because the people won't be able to do anything to send the people to college.

Senator ANDERSON. Can I ask a question about the letter you handed to me? It is by James Frechette, addressed to Senator William Proxmire, April 20. Since it seems to concern me, maybe I ought to ask some questions about it. You put it into the record. I didn't.

Mr. GRIGNON. No, I didn't—

Senator ANDERSON (reading). I don't know if the reporter was recording what took place in the recent Senate committee hearings on Menominees' problems correct or not but it seems to me Senator Anderson's inquiry as to "What happened to the \$10 million granted to the tribe in 1954 for modernization of the mill."

Did I say that the \$10 million was granted for modernization of the mill?

Mr. GRIGNON. Mr. Senator, just let me explain. That was just handed to me. I didn't even read it. But I saw the list of the modernization.

Senator ANDERSON. I understood the money was awarded as a result of a judgment for mismanagement against the Government of the United States. Is that right or wrong?

Mr. GRIGNON. That is right. You are right, Mr. Senator.

Senator ANDERSON. Did I say it was granted for mill improvements?

Mr. GRIGNON. I don't know if you did, Mr. Senator. As I say, I just have seen that.

Senator ANDERSON. Where did he get that information?

Mr. GRIGNON. I don't know. He was chairman for a long time.

Senator ANDERSON. Wasn't he voted out at one time?

Mr. GRIGNON. Just recently I became chairman, December 2.

Senator ANDERSON. Then he says, "His further charge 'that the tribe didn't use a penny of this money to improve the mill.' Wow, how wrong can a guy get?"

Well, I don't know how wrong a guy can get, but out of the \$10 million you got, the attorney got \$850,000, I believe.

Mr. GRIGNON. I believe that is correct.

Senator ANDERSON. You got \$8.5 million and the attorney got 10 percent, and they withdrew a \$1,500 per capita payment, \$4,750,000. New parochial school at Neopit, \$350,000; modernization of the Keshena Hospital—does that belong to the tribe?

Mr. GRIGNON. Yes, sir.

Senator ANDERSON. Does the school belong to the tribe?

Mr. GRIGNON. The school building does; yes, sir.

Senator ANDERSON. Then the corrected stumpage payment was \$2,457,000, and that totals \$8,650,000, which is a little bit more than the judgment; isn't it? The judgment was \$8.5 million, wasn't it?

Mr. GRIGNON. I believe it was.

Senator ANDERSON. Then he refers to the improvements that they have put in. You are in the lumber business. Are these improvements or replacements? Is this modernization of a mill or replacements?

Mr. GRIGNON. I believe at the time they were put in they were improvements. We had no chipper before that.

Senator ANDERSON. The saw rig, new edging machine, new trimming machine.

Mr. GRIGNON. Before it was a single band mill and now it is a double band mill. They have carriages on each side. Those were improvements.

Senator ANDERSON. Did these come out of the per capita funds or the stumpage payments or charged to operation of the bill?

Mr. GRIGNON. It came out of our 4-percent fund, I believe.

Senator ANDERSON. Came out of your what?

Mr. GRIGNON. Came out of our funds in the Government, what we refer to as the 4-percent fund. It came out of what they call the mill fund, as I understand it.

Senator ANDERSON. What is the 4-percent fund?

Mr. GRIGNON. Do you want to answer that, Mr. Dodge?

Mr. DODGE. The 4-percent fund is the money that is set aside in the Treasury for the operation of the Menominee mill and related activities, such as logging. That was established by the act of 1908.

Senator ANDERSON. Who sets it aside? From what?

Mr. DODGE. From the original money that was established in 1890. A part of that was put into what they call a 4-percent fund, and then in 1908 it became a legal part of the programing for the operation of the mills.

Senator ANDERSON. The Government pays you 4-percent interest on money that is deposited there?

Mr. DODGE. Yes, sir.

Senator ANDERSON. And these improvements were paid for out of that?

Mr. GRIGNON. Yes, sir.

Senator ANDERSON. Then did it come from the \$8.5 million?

Mr. GRIGNON. Well, it is hard to say.

Senator ANDERSON. This says, "How wrong can a guy get?" when I ask about these things.

Mr. GRIGNON. I didn't even read the letter, Senator. I just gave it to you to show the list that I saw there, that there were some improvements made, and as I recall, those improvements were made, with the

chipper, the extra band put on, and some modernization. For instance, a while back we used to have tracks in the yard. Those were all torn up and replaced with gravel roads and they have these hoisters, they call them, that take the lumber in a package and go out and pile it. They have eliminated the track system and the work that was done by piling the lumber in the yard for drying. That was all done by hand. Now they just package it and these hoisters do all that work.

Senator ANDERSON. Is that what you understand is the program that the industrial experts have given for modernization of the mill?

Mr. GRIGNON. Well, I have explained that. They have presented this industrial survey for modernization, where it amounts to nine hundred and some thousand dollars. It is divided into two parts. As I understand it, one is modernization to put the mill into a position to be able to compete with our neighboring mills—or any mill, for that matter, that is in the lumber business. The second part is the part which deals with expansion, creating more jobs, because, as I explained just before, Mr. Mater had told us that it is possible now to take the sawmill and with automation, with 5 to 8 men, to do the same work it takes 52 men to do now, that you eliminate all of these men and put them out of work. At least we were looking at it from this angle, that we know we have to go into some automation, because you have to control these costs and get them down to where you can compete. Maybe we don't want to go overboard on just automation. As the Senator from Colorado said, if you put all of these people out of work, and we only have a sawmill, then you will have them on welfare. So we have to try to arrive at some balance. How far should we go with automation? As we said, the first part was for modernization and then we have to go into expansion, because you do have to create jobs. That is the whole program. As I say, if we get to the point where we will lose the sawmill, we should try to salvage at least for the tribal members themselves, because if this plan, which is a gamble at its very best, strictly a gamble—as I said, I contacted some of our neighboring lumbermen, and Mr. Mater himself, and there is just a chance that the tribe could succeed with termination successfully. It is a big gamble.

Senator ANDERSON. Do you think you are better off trying to run the sawmill than you would be if you sold your timber to the Forestry Service?

Mr. GRIGNON. Well, as we say, when this was gone into, I think that question was brought up by our logging superintendent, we were informed about that, because one thing they look for was more or less survival, and we were informed at the time that the national forests, or the national parks would not buy the reservation. That is a matter of record in the minutes. So, although these avenues which you are talking about now were explored, they were more or less dropped because of the fact that they were informed that the national parks and national forests would not buy it.

Senator ANDERSON. Who informed you of that?

Mr. GRIGNON. I think one of the attorneys did.

Senator ANDERSON. One of the attorneys for the trust company?

Mr. GRIGNON. No. I don't recall. It was one of them.

Senator ANDERSON. Has there ever been a referendum by your people on whether they would like to sell their timber outright to the Forest Service?

Mr. GRIGNON. There was no referendum. But when we had the general council, with all the tribal members present, not all of them but a percentage of them, this avenue was discussed, but as I said, it was dropped because we were informed that the national park or national forest would not buy the reservation.

Senator ANDERSON. Supposing I informed you outside that the Government would do nothing more for the Menominee Indians for the next 1,000 years. Would you believe that or go check it a little bit to see whether it was true or false?

Mr. GRIGNON. I don't know. I might take your word, Senator.

Senator ANDERSON. How do you know that the Forest Service would not buy it? When the Klamath Act was under consideration, there was no language in that that said that the Forest Service was going to buy the forest and give them \$90 million for it, which was 225 percent or maybe more, about 225 percent, of what they thought they could get on an outright cash sale. Has there ever been anything that your people have discussed in a referendum except this plan submitted by the trust company?

Mr. GRIGNON. That is about all that I know of that went on referendum. I think there were two things. There was this proposed county.

Senator ANDERSON. Was that a referendum?

Mr. GRIGNON. The proposed county was a referendum. And the other was the fishing program.

Senator ANDERSON. Was the county a referendum?

Mr. GRIGNON. No; I mean a referendum on the reservation, Mr. Senator.

Senator ANDERSON. It was a referendum on the reservation on the county?

Mr. GRIGNON. Yes; on the proposed county.

Senator ANDERSON. And was there one on the termination plan, the money being left with the trust company, the formation of the corporation?

Mr. GRIGNON. I don't recall.

Do you recall, Mr. Dodge, if that was a referendum?

I don't believe so. I believe it was in the general council.

Senator ANDERSON. Ninety-one people there?

Mr. GRIGNON. I believe that was the figure.

Senator ANDERSON. Out of how many? Three thousand?

Mr. GRIGNON. That is the enrollment.

Senator ANDERSON. It is 91 out of 3,000?

Mr. GRIGNON. Yes, sir.

Senator ANDERSON. That is the only reference you have had. There was no reference, of any kind, of the sale of your timber to the Federal Government?

You said it was discussed and dropped.

Mr. GRIGNON. It was dropped because the tribe was informed by the attorney that—

Senator ANDERSON. What attorney? Let's get him identified. What attorney?

Mr. GRIGNON. I just don't recall.

Senator ANDERSON. Was he authorized to speak for the U.S. Government?

Mr. GRIGNON. Well, I don't know.

Senator ANDERSON. Who was he? Can you recall who it was?

Mr. GRIGNON. I don't recall who it was.

Do you know who it was, Mr. Wilkinson?

Mr. WILKINSON. All I can say is that I advised him on at least one occasion that there was no provision under law for purchase by the Federal Government. Of course, Congress could, as it did in the Klamath Act, provide for that.

Senator ANDERSON. Congress didn't in the Klamath Act provide for purchase by the Federal Government? In the original Klamath Act?

Mr. WILKINSON. No, sir; in the amendment.

Senator ANDERSON. In an amendment. If you want to do that with this act, you come in with an amendment. This was identical with the Klamath situation.

Mr. WILKINSON. Well, I think there were differences. But there is no resolution or no request from the tribe for a Federal purchase program, so far as I know.

Senator ANDERSON. Would you repeat that, please?

Mr. WILKINSON. There is no request from the Menominee Tribe that Congress consider a Federal purchase possibility.

Senator ANDERSON. I think that is correct. The only request is to turn it over to a trust company that will have eleven thirty-one hundredths of the voting power at once, and by voting control very quickly if it wishes to, and then what voice does the Menominee have in the disposition of their assets, the sale of one of the finest forests in the country?

Mr. GRIGNON. If I can, Mr. Senator, I would state that that was one of the things that I, at least, would beg the committee to do, to at least put some strings on this during the experimental period, so that if we fall on our face that the tribe, itself, would be protected and would have a chance to try to salvage something out of it.

Senator ANDERSON. It sounds to me as if you would like to have us guarantee that your bad business judgment was made good in case it was bad.

Mr. GRIGNON. I would say this, in dealing with the tribe, that somewhere along the line we have to go with the people that we hire to look into these matters for us. I know it was in the minutes. I would be glad to produce the minutes, to show that when we did talk about this, the different avenues that we could take, that more or less after we were informed that the Government, the national forest, and the national parks, would not purchase, then we went these other avenues. That was where we were more or less forced to go along with that thinking. At least, it was my thinking, and I was at all of these meetings, that for this avenue of trying to turn it over to the national forests and let them operate it more or less, and let the tribal members work at the mill, live there, that certainly that was a lot of the Menominee people, including myself.

Senator ANDERSON. Well, I don't think the Federal Government would have operated the sawmill. I would hope it wouldn't. But the

Federal Government has a lot of timber, and I don't believe it operates many sawmills, over the rest of the country. I don't know any reason why it would operate one for the Menominee Indians.

Mr. GRIGNON. That was the thinking, Mr. Senator, at that time.

Senator ANDERSON. I am wondering if you wouldn't be a lot safer selling your timber to the U.S. Government at a reasonable price, than you are in putting yourself in what I regard as a rather dangerous noose with a trust company administering it. If the trust company administers it benevolently, fine, you might come out all right. But anytime it wants to administer it otherwise, you have given it, by the power over the minors and incompetents, you have given it virtual control of your corporation. It is a weird deal because there isn't any stock in the corporation to start with, or bonds issued, and then there are participating certificates. It is a business transaction, the like of which most businessmen have not gone into. The able Senator from Colorado is a very able business lawyer, but I don't believe he ever drew up for his clients a business proposal like this, where they turn their property over to the trust company, let the trust company do the administering, and then issue the participating certificates back to the people, and didn't organize a corporation without any stock. Why, I don't know. But if the trust company desired to clean out the Menominees and take their property, you at least have given them a good vehicle to do it.

Mr. GRIGNON. I certainly agree with you, Mr. Senator. I think you lose me when you start talking about stocks and bonds.

Senator ANDERSON. Well, there are days when some of the rest of us would be better off if we had been lost.

Senator CHURCH. Mr. Dodge, you may proceed with your statement now.

Mr. DODGE. Mr. Chairman, I would like to offer a short statement for the record. It relates my views as a tribal delegate. Furthermore, I want to say this, that this termination problem has been a very difficult problem to solve, with all its details, to try to work out solutions, to live up to the mandate of the Congress. We have engaged three different firms of attorneys to assist us in drafting these documents, and also getting special legislation in the Legislature of Wisconsin. We have a local law firm employed in Shawano, Wis., and the corporation attorneys in Milwaukee, Wis., and also the law firm here in Washington. We don't have any attorneys of our own in the tribe, and as Mr. Grignon stated a moment ago we have very few college graduates. I don't think they exceed over 15, most of whom are employed away from home.

I visualize that there will be some very difficult times here within the next few years in trying to assess and appraise our chances of succeeding. Mr. Grignon has gone very thoroughly into the subject with respect to economics upon which most of our business depends, for our livelihoods and for revenues to pay our local government costs, aside from that, the expansion and modernization, and also the possibility of developing the recreational potential of the reservation will take some time before we begin to realize anything out of these various ventures that are contemplated in our studies. But we get to raise our revenues to the extent of \$5 million annually, which we hope will be a mark which we will try to reach. Until we reach that area of

receipts in our business I don't think we are going to be on any stable basis. Our experience has indicated that we have been receiving receipts of around \$2 million; \$2.25 million, in our peak years. With all the added costs that will be upon this corporation, I dare say it will be less than \$2 million for the next few years. We hope by proper advice and good management we may be able to reach \$5 million over a 6-year period. It would have to be that much in order to sustain our economy. Otherwise, you have the alternate point of view where we are unable to meet our taxes and our property will go the way it has gone with other Indian tribes that had property at one time in our neighborhood. Now they don't own anything.

Senator CHURCH. Mr. Dodge, your written statement will be included in the record at this point.

(Statement to be furnished follows:)

STATEMENT OF AL M. DODGE, MENOMINEE DELEGATE, ON S. 869 AND S. 870

My name is Al M. Dodge of Neopit, Wis. I am at present a Menominee tribal delegate and also a member of the coordinating and negotiating committee on Menominee termination problems. I realize that this committee has very limited time in which to hear witnesses on the pending Senate bills pertaining to Menominee termination. Therefore, I respectfully submit a statement that in essence contains a reflection of the tribe's views in this particular field of legislation.

It is my contention that the proposed language stipulated in the bills enumerated as S. 869 and S. 870, introduced jointly by Senator Wiley and Senator Proxmire, both of whom represent the sovereign State of Wisconsin, probably might not contain the full and complete phraseology; however, they represent in principle the thoughts and views of members of the Menominee Indians.

It is felt that the United States is making a too hasty approach on termination of the Menominee Indians and, since this is primarily a pilot experiment, it must be reconciled so that the interests of the people involved will be protected.

In studying all of the ramifications entailed in the complicated document presented as "a plan," agreed to by the tribe and the Secretary of the Interior as the statute provides, it is indeed a very difficult task to prevail upon the Menominee people, 99 percent or more of whom cannot understand the details and responsibilities contained therein. It is believed that this committee should be informed of this precarious situation as it exists.

The ultimate result of the impact of taxes necessary to sustain local government, which a declining industry cannot support, may be chaos and may effectively destroy the economic future of the Menominee Indians, who have long been sustaining themselves with their work, industry, and other activities as a race of people under our Government.

I hope the committee will look favorably upon legislation which will have for its purpose the continued supervision and other services required for the benefit of the Menominee Indians, which will enable this tribe to be a successful tribe in your new field of pilot termination. It is hoped sincerely that with effective analysis of all phases of Menominee termination, it does not end in failure. As members of the committee, I urge very respectfully that serious consideration be given to the entire problem as manifested by the documentary evidence that is being submitted to your committee. It is our fervent hope that a noble and honorable approach can be made to this problem at hand.

With respect to the loan, it is realized that the United States has given millions of dollars in grants and aid for countries occupying more than half of the earth. Therefore, it seems that a moral obligation exists that the tribe be allowed an authorization for a loan as specified in the proposed legislation in order for the Menominees to become economically solvent and to provide in the future more employment and create more industries so that our people may assume their rightful place in Wisconsin society.

The eyes of the Nation are fixed upon your management of this pilot experiment and it is prayerfully suggested that a very deliberate and sympathetic review be made of this entire problem.

We thank the Senate committee for its action in extending to the tribe the additional time in the last session on termination need which has been of great importance to the welfare of the Menominees. Without this additional time it has been revealed that the tribe would have been seriously damaged in their efforts to comply with the congressional mandate. It is known by history that Indian property has gone out of existence because of exploitation and other actions, depriving the Indians of the sense of security that the United States owes its first Americans.

I wish to thank members of this committee for past considerations that the Menominees have received. I believe the foregoing statement reflects the views of the Menominee Indians.

Mr. DODGE. I wish to thank the committee for extending the tribe the 4 months which was given us, which has enabled us to work out more details indicating our needs. If we didn't have this additional time, I am sure that we would have been in a very serious situation.

Senator ALLOTT. Mr. Chairman, I would like to ask one question.

I want to express my appreciation to these two gentlemen, Mr. Grignon and Mr. Dodge. I am sure they are completely serious and conscientious in what they are trying to do.

I want to address a question to Mr. Wilkinson.

Realizing that you are here in the capacity of attorney for the tribe, Mr. Wilkinson, you undoubtedly have studied the corporate enterprise, I believe it is called the Menominee Enterprise, Inc.

Mr. WILKINSON. That is correct.

Senator ALLOTT. And which, at the very best, as the Senator from New Mexico described it, a very unusual setup. You are an attorney of great experience, not only in Indian matters but in many other matters. On the basis of your considered judgment as a lawyer, as counsel for this tribe, do you believe or do you not believe that there are inherent dangers to the tribe in the particular forum of plan, plan of termination—we have all been through it, and I will not describe it again—which has been set up as a plan of termination for this tribe of Indians?

Mr. WILKINSON. I believe, Senator Allott, that the plan, the corporate organization, is the best to be produced under the circumstances. Certainly there are serious dangers and risks for the future of this tribe. To my mind, those don't arise from the plan which has been worked out pursuant to the Termination Act. They arise more from the economic situation that faces the tribe. I concede it is theoretically possible that the First Wisconsin Trust Co. could gain control. However, I do not think, as a practical matter, that will ever happen. If it doesn't happen within the next 3 or 4 years the class of minors will have lessened to such an extent that it will then become impossible for the First Wisconsin Trust Co. to gain control. And under all the circumstances, I think the plan which has been developed is the best that can be developed.

Senator ALLOTT. Thank you very much.

Senator ANDERSON. Did we ever get an answer to the question of how much the trust company is going to charge for looking after all these minor interests?

Mr. WILKINSON. I have, Senator Anderson, a letter to you, which I planned to offer for the record, from Mr. Frederick Sammond, who testified last week, which states, in substance, that the initial cost of handling the minors' interest under guardianships would be approximately \$120,000 per year. Under the trust company it will be

approximately \$35,000 per year. Both of those costs will diminish in future years somewhat correspondingly. I will offer that for the record.

(The letter is as follows:)

FOLEY, SAMMOND & LARDNER,  
Milwaukee, April 21, 1961.

Re Menominee Indian Tribe—Termination plan.

HON. CLINTON P. ANDERSON,  
Chairman, Senate Committee on Interior and Insular Affairs,  
Senate Office Building, Washington, D.C.

DEAR SENATOR ANDERSON: In connection with my testimony on the above matter on April 19 you requested me to furnish information regarding the fees of First Wisconsin Trust Co. to be paid under the "Menominee Assistance Trust" which is for minor members and others deemed in the need of assistance. The latter group have already been determined to number approximately 100 persons, which out of an adult total of around 1,900 persons is about 5 percent and in my judgment a surprisingly good showing of competence.

This will confirm my statement that First Wisconsin Trust Co. was selected by the coordinating and negotiating committee out of a group of several interested trust companies, and I had no part in the choice. This selection was confirmed by the advisory council on delegation from the general council in August of 1958.

As to fees, the statement in the termination plan (document A-1) is the following, at page 10:

"First Wisconsin Trust Co. has agreed to assume the fiduciary responsibility for the beneficiaries at rates comparable to going rates for similar activities."

In the trust agreement, document A-5 of the termination plan, page 12, the trustee is entitled to "the schedule of fees attached hereto as schedule B and made a part hereof." Schedule B has not been written and the trust company officers have asked for an appointment to discuss the matter before April 30 with representatives of the Secretary of the Interior. However, tentative fees were discussed in the conferences prior to the approval of the plan by the Secretary and also in prior conferences with representatives of the tribe, and in conferences with the Menominee Indian Study Committee whose approval was required by the legislature prior to its enactment of the required legislation.

A copy of letter dated April 4, 1961, to the chairman of the Menominee Advisory Council on the letterhead of First Wisconsin Trust Co. summarizes the amounts which the trust company contemplates asking to be included in exhibit B. A copy of the same is enclosed herewith. This letter indicates an estimated fee of about \$35,000 per year for handling the account. In 1958 and again in 1959, in correspondence and oral presentation to the tribe and to the Wisconsin Legislature, the cost of individual guardianships based on fees regularly allowed in Shawano County court and on the cost of surety bonds required by statute indicated a cost of \$120,000 for the first year and \$70,000 per year thereafter, reducing as the minors matured and dropped out. Of course, the trust company fee being based on a charge for each account will likewise reduce.

In this connection, you may be interested that this trustee undertakes in addition to all the business handling of the assets and the accounting to "maintain, in or near Menominee County, an agent for the purpose of conferring with such persons, agencies and beneficiaries, and will cause an officer of trustee, with authority to make decisions, periodically to make himself available for consultation by such persons in or near Menominee County" (p. 6).

If you have any further questions, I shall, of course, be glad to answer them.

Very truly yours,

FREDERIC SAMMOND.

Senator ANDERSON. These are 1,000 minors, or 1,100 minors?

Mr. WILKINSON. Approximately 1,100.

Senator ANDERSON. You estimate that if it was just handled in the ordinary fashion, it would be \$110 a head and under this rule it will be about \$35 a head, when there isn't one single piece of individual work that has to be done for a single minor. Isn't that correct?

Mr. WILKINSON. I am not certain I understand you.

Senator ANDERSON. If there are 1,100 minors but they are all in a group, it is like saying to a man that is giving a man physical culture, if he has to take him all alone and give him setting up exercises he would charge so much, but if he had 2,000 men on a great playground he would charge each one of them the same amount. But it isn't the same, he is just going 1, 2, 3, 4. That is all this legal thing of these minors is concerned about. The minors are not going to run the mill, are they?

Mr. WILKINSON. No, sir.

Senator ANDERSON. Yet you say if we had it in ordinary legal procedure it would be \$120,000 per year. Wasn't that because they passed a special law that put the minor children up there in a little bit different category than the minor children in the Navajo Reservation?

Mr. WILKINSON. Senator, the only law that changes the status of these minors is the Menominee Termination Act and the State laws which are part of the Menominee termination plan.

Senator ANDERSON. Did anybody, when the Menominee Termination Act was being drawn up, try to deal with this question of how much the minors would pay? The Navajos have, I said the other day, \$150 million. Somebody corrected me and said they have \$300 million. They have all kinds of minor children. Do we crowd the courts of New Mexico and Arizona with litigation for minors, for the protection of minors, and get each lawyer to come in and represent each minor child. The Laguna Indians will have \$18 million from uranium. There are only 400 families. All the men are at work, but they have some minor children. Do we come in with special legislation for them? I don't see why the Indian minor children cannot be considered as a single case. I know that may sound strange. But even \$35,000 is a lot to charge people for protecting them when you are not doing a single, solitary thing for them, not one.

Mr. WILKINSON. They are keeping separate accounts, and keeping an office on the reservation to be in the position to consult with people.

Senator ANDERSON. Separate accounts? You say keep separate accounts. I do a little business myself once in a while. If every account is identical, if all minor children are exactly in the same category, and they are, are they not, up there, why do you have to keep a separate legal item for each one of them?

Mr. WILKINSON. I believe it is a requirement of Wisconsin law, Senator. Please don't misunderstand me. I am not trying to protect or defend the trust company. These negotiations were carried on by the trust company and the Department of Interior.

Senator ANDERSON. Did the Department of Interior think this was the right fee, Mr. Lee?

Mr. LEE. Senator Anderson, the actual fee is still open to further negotiation. The agreement was based on the going fees for similar services rendered elsewhere.

Senator ANDERSON. I understand, but did you have a comparable situation? I admit that if some person of our knowledge passed to his reward he might leave some minor children and there might be all sorts of complications arising for it, or two of them in a single case.

But here are 1,100 of them in one pocket, with \$35,000 to look after them.

Mr. LEE. The only thing I can say to that—

Senator ANDERSON. He will sign his name one time, maybe, in the course of the year, when he certifies the distribution of money.

Mr. LEE. I would like to repeat that the actual fee is still open to negotiation. It is not a fixed fee. Finally fixing that fee, Senator Anderson, these various considerations, of course, will be kept in mind.

Mr. DODGE. Mr. Chairman, the Termination Act as it reads gives the Secretary of the Interior the responsibility as to the determination of what group of Indians need assistance in the handling of their business.

Mr. MANGAN. Could I help on this, Senator? This bulk assistance trust indenture in the first place does require the trust company to maintain separate accounts for every beneficiary. That is because these minors will have varying amounts in their trust accounts. They will all have equal interest in the corporation, but they have other assets.

Senator ANDERSON. I know. But you and I are familiar with IBM cards. You can punch one and put the repeater signal down. Punch 1,100 of them and the girl can do it in an hour. That is a lot for \$35,000.

Mr. MANGAN. For their common interest in the tribal property, it is true that there will be an identical posting each year to those accounts, but these minors have other assets, bonds that are being held in trust for them by the United States now.

Senator ANDERSON. Individually?

Mr. MANGAN. Yes, sir.

Senator ANDERSON. Who keeps that now?

Mr. MANGAN. We have them in our custody.

Senator ANDERSON. Is there any law that says you can't keep track of those minors once they terminate?

Mr. MANGAN. Yes, sir.

Senator ANDERSON. What would that be?

Mr. MANGAN. This trust termination law, which says that after the date of proclamation, these people are not Indians, in effect, but are in the same situation as anybody else.

Senator ANDERSON. Including the minors?

Mr. MANGAN. Yes, sir. It directed the Secretary of Interior to make some other provision for the protection of these minors. That is why this bulk trust exists. Beyond that, beyond this maintaining separate ledger accounts, including both their interest in the cooperation and their individual properties, the trustee maintains the accounts for 106 adults and they may have to defend themselves in court for the lifting of the restrictions under that trust. It is incumbent on them to defend the trust in that instance. They also have to vote the stock of the minors in this corporation.

Senator ANDERSON. That really would be hard, wouldn't it?

Mr. MANGAN. Well, it might be, sir.

Senator ANDERSON. Really?

Mr. MANGAN. Well, they have to decide—

Senator ANDERSON. I am president of a small company. We have several thousand stockholders. They are kind enough to give me a proxy, or my son. You would be surprised how easy we vote that.

Mr. MANGAN. That may be so, sir, but in this case, presumably the trust company must search its soul as to what is good for a spread of 1,200 people.

Senator ANDERSON. I search mine.

Mr. MANGAN. All right, sir.

I might add to Mr. Wilkinson's point that not only is there a diminishing interest in this trust company as the years go on, but also this common stock is not negotiable.

Senator ANDERSON. What common stock?

Mr. MANGAN. The common stock of Menominee Enterprises, Inc.

Senator ANDERSON. I thought they got a bond?

Mr. MANGAN. They get stocks and bonds, sir.

Senator ANDERSON. No; a certificate of ownership.

Mr. MANGAN. They get a certificate indicating that their pro rata interest in this income bond, and they also get 100 shares of common stock at \$1 par value.

Senator ANDERSON. That I didn't know at all.

Senator BURDICK. Will the Senator yield?

Senator ANDERSON. Certainly.

Senator BURDICK. The Indians are trying to become a part of our community, having asked for termination once and now they ask for it to be extended. Shouldn't they be given something to do to make this transition? My thought is this: Aren't there four or five substantial Indian people in the Menominee Tribe who could act as personal trustees for these people?

Mr. MANGAN. It would be more expensive, sir.

Senator BURDICK. Why?

Mr. MANGAN. Because the schedule that we are now paying for it—or allowing—guardianships, as Mr. Sammond's letter indicates quite correctly, I think, runs about three times what is proposed to be charged each of these under the bulk trust.

Senator BURDICK. You misunderstand me. To have four or five of the Indians as trustees for the minors in the tribe. Couldn't that be worked out? Then it is just a question of accounting after that.

Mr. MANGAN. They would have to have trust powers under the State of Wisconsin, I believe.

Senator BURDICK. In my State, I can be a trustee or you can be a trustee, anybody can be a trustee.

Mr. MANGAN. I am not sure I am completely competent in this field, but the issue of trust powers, which is rather stringent in the State of Wisconsin, has entered into this. That is why the First Wisconsin Trust Co. is the trustee.

Senator BURDICK. Do you mean you cannot have a private, individual trustee in Wisconsin?

Mr. MANGAN. Yes, you can have guardianships. You have to qualify as a guardian. The cost for each individual guardianship and the reporting to the court each year would aggregate more than for this indenture under the First Wisconsin Trust Co.

Senator BURDICK. But there are competent Indian people that could act as trustees?

Mr. MANGAN. I am sure they could qualify as guardians; yes, sir.

Senator CHURCH. Well, thank you very much, gentlemen, for your testimony.

I want to read a telegram we received from Mrs. Geraldine Weso, in Cudahy, Wis., addressed to us. It reads:

CUDAHY, WIS., April 23, 1961.

Senator ANDERSON,  
Senate Office Building,  
Washington, D.C.:

We Menominees want termination, not extension.

Mrs. GERALDINE WESO TREDRAY.

So there is at least this indication of some dissent which I think ought to be included in the record.

Mr. GRIGNON. Mr. Chairman, we have several requests, too, for the reservation to be sold, so that people can get their interest and get out. We have had that request, too.

If there are no objections, I should like to present this for the record, about the county and the statement of the conditions. We have an item on unemployment, with the balance sheet, and Mr. Mater's report.<sup>1</sup>

Senator CHURCH. Very well, they will be included in the record without objection.

(Material referred to follows:)

#### ESTIMATED OPERATING COSTS FOR MENOMINEE COUNTY AND TOWN, 1961-62

The assessment roll and proceedings for the collection of initial taxes for Menominee County and town during this period will serve for 1961-62, as being provided by State law. The attached estimate is a barebones projection based on a full year's requirements.

The estimate for 1961 may be prorated for the period May 1 through December 31, 1961, but, many of the supply items, new organizational costs (such as State auditors and public service commission fees), and some capital items will have to be absorbed in 1961.

The estimate, exclusive of public utilities and highways, totals \$576,865 for 1 year. Prorated on the basis of an 8-month period \$384,576 is indicated. However, the new costs must be almost totally absorbed by the 1961 budget, resulting in an increase to at least an even \$400,000. Extreme other new costs which account for the higher than expected budget estimate are explained in the attached memorandum.

Respectfully submitted to the task force studying the organization and programs of the Bureau of Indian Affairs.

State law limits the amount counties and towns may levy for local support purposes to 1 percent of valuation. In Menominee County this rule has been modified to permit the county to levy 1½ percent and the town one-half percent. The basic valuation for Menominee County is about \$17 million. Therefore, the Menominee community is limited as follows:

County levy	-----	\$255,000
Town levy	-----	85,000
Total	-----	340,000

The levy for public school district is estimated at \$170,000. This may drop to about \$153,000 if Public Law 874 funds in the amount of about \$150,000 is approved by the Department of Health, Education, and Welfare. It may increase to as much as \$178,000. Assuming the levy is \$170,000, the total estimate for the community rounds off at \$510,000 for a figure well over the ability of the Menominee corporation, which must bear the brunt of initial taxes, to pay. We had hoped to hold the line of levy at \$400,000.

It must be pointed out immediately, because of several new situations explained below, that the \$340,000 limitation for county and town purposes will not be sufficient for current needs at the present time.

<sup>1</sup> Filed with the committee.

AMENDMENTS TO THE MENOMINEE TERMINATION ACT 137

For the period through fiscal years 1953 and 1958, the Menominee forest and mills earned a combined total of \$559,000 annually; in 1959 this average dropped to \$373,000; in 1960 it increased to \$529,000, in 1961 it will not exceed much over \$240,000 because of economic conditions. We have no way of predicting the condition for 1962.

The total estimated levy for Menominee County and town is \$406,865, exclusive of the school district levy, or \$66,865 over the statutory limitation. The \$406,865 is a barebones estimate, which, added to the \$170,000 for public school purposes totals \$576,865, or \$176,865 over the amount the Menominee corporation can afford to pay at this time, assuming it could afford the \$400,000 hold-the-line levy.

The items accounting for this increase are:

1. The \$75,000 for tuberculosis patients under sanitariums care. This is expected to go even higher as a result of findings resulting from X-ray mobile operations during the period March 27-31, 1961. When earlier estimates were run for Menominee County we had only 4 and 5 patients under treatment. The \$75,000 is the county share after State aids based on \$21 per week per patient have been deducted----- \$75, 000
2. Direct relief due:
  - (a) To unemployment not covered by unemployment insurance (130 mill and forest workers laid off in the last 3 weeks)----- 35, 970
  - (b) Extra medical costs for needy due to unemployment and stoppage of HEW interim medical services program on April 30, and stoppage of hospital and medical services insurance for unemployed mills and forest workers. This figure is not firm and no doubt must be increased, but is limited here to the limitation of \$85,000 on the town government. Any increase would have to be picked up by the county to be funded by Federal or State assistance.
3. Surplus commodity program due to unemployment situation----- 12, 000
4. Charge back of 50 percent of care of children under custody of Division of Children and Youth and correctional services. This figure will no doubt have to be increased per more recent information from State welfare services----- 50, 000

*Estimate, annual operating costs, Menominee County and town*

	County 1/2 percent	Town 1/2 percent	Total	Levy
General government-----	\$59, 115	\$6, 240	\$65, 355	\$65, 355
Protection of persons and property-----	31, 300	30, 590	61, 890	61, 890
Health and sanitation-----	86, 825	9, 000	95, 825	<sup>1</sup> 94, 825
Education-----	17, 100	-----	17, 100	17, 100
Joint school district-----	-----	170, 000	170, 000	170, 000
Public welfare-----	104, 825	35, 970	140, 495	140, 495
Unclassified-----	3, 000	-----	3, 000	3, 000
Capital expense-----	20, 000	-----	20, 000	<sup>2</sup> 20, 000
Public utilities-----	-----	3, 200	3, 200	3, 200
Public highways-----	-----	46, 845	46, 845	<sup>(3)</sup>
-----	-----	-----	103, 000	<sup>(4)</sup>
Public highways-----	103, 000	-----	103, 000	-----
Grand total-----	424, 865	301, 845	726, 710	<sup>5</sup> 575, 865
General government:				
Boards (6 members times 6 meetings times \$10)-----	360	360	720	720
Committees (6 committees times 6 members times 6 meetings times \$10)-----	1, 080	1, 080	2, 160	2, 160
Chairman-----	500	250	750	750
Clerks-----	3, 500	500	4, 000	4, 000
Treasurers-----	3, 500	500	4, 000	4, 000
Assessor-----	500	2, 500	3, 000	3, 000
Register of deeds-----	3, 200	-----	3, 200	3, 200
Surveyor-----	500	-----	500	500
Coroner-----	275	-----	275	275
Courts and district attorney-----	15, 000	-----	15, 000	15, 000
Elections-----	400	400	800	800
Office supplies and materials-----	6, 500	150	6, 650	6, 650
Office help-----	15, 000	-----	15, 000	15, 000
Other (legal insurance, light, water, travel, and vehicle expense)-----	8, 800	500	9, 300	9, 300
Subtotals-----	59, 115	6, 240	65, 355	65, 355

See footnotes at end of table.

## Estimate, annual operating costs, Menominee County and town—Continued

	County 1½ percent	Town ¼ percent	Total	Levy
<b>Protection of persons and property:</b>				
County sheriff.....	\$6,500		\$6,500	\$6,500
Town police department (chief deputy and 4 others).....	17,000		17,000	17,000
Radio, relief, and special deputies.....		\$7,200	7,200	7,200
Operating expense.....		10,000	10,000	10,000
Boarding prisoners.....	7,500		7,500	7,500
Fire departments.....		3,000	3,000	3,000
Bounties.....	300		300	300
Capital expense (3 vehicles and radio conversion, and rescue equipment).....		10,390	10,390	10,390
Subtotal.....	31,300	30,590	61,890	61,890
<b>Health and sanitation:</b>				
Patients in sanitarium (based on 1960 expense)....	75,000		75,000	75,000
Public health nurse.....	7,000		7,000	6,000
Sanitarian (combine with chairman).....				
Garbage and rubbish.....		9,000	9,000	9,000
Vital statistics, disease prevention, clerical, and so forth.....	4,825		4,825	4,825
Subtotal.....	86,825	9,000	95,825	94,825
<b>Education:</b>				
County superintendent (share with Shawano).....	3,500		3,500	3,500
Aid to common schools (14 × \$350).....	4,900		4,900	4,900
Agricultural agent (including supplied).....	4,000		4,000	4,000
Home agent (including supplied).....	3,000		3,000	3,000
Tuition for outside training.....	1,600		1,600	1,600
Other.....	100		100	100
Total.....	17,100		17,100	17,100
<b>Joint school district: Menominee town-county levy</b>				
		170,000	170,000	170,000
<b>Public welfare:</b>				
Public welfare administration.....	11,325		11,325	11,325
General relief.....		35,970	35,970	35,970
Public assistance.....	16,000		16,000	16,000
Mental institutions.....	2,000		2,000	2,000
Child welfare.....	50,000		50,000	50,000
State hospitalization.....	7,500		7,500	7,500
Industrial schools.....	5,000		5,000	5,000
Surplus commodities.....	12,000		12,000	12,000
Veterans service.....	700		700	700
Subtotal.....	104,525	35,970	140,495	140,495
<b>Unclassified:</b>				
Fair.....	2,000		2,000	2,000
Other (deed service, survey, retirement, and so forth).....	1,000		1,000	1,000
Subtotal.....	3,000		3,000	3,000
<b>Capital expense: Rehabilitation of office building</b>				
	20,000		20,000	(2)
<b>Public utilities:</b>				
Street lights.....		3,200	3,200	3,200
<b>Water plants and sewerage:</b>				
Neopit.....		22,695	22,695	(3)
Keshena.....		20,950	20,950	(2)
Subtotal.....		46,845	46,845	3,200
<b>Public highways:</b>				
County and town, estimate.....		63,000		(4)
State, estimate.....		40,000		(4)
Subtotal.....		103,000		

<sup>1</sup> State provides \$1,000 contribution for a public health nurse.

<sup>2</sup> The Bureau of Indian Affairs has been requested to treat as a reimbursement item; 50 percent may be reimbursed.

<sup>3</sup> This estimate is based on engineering studies, revenues may not be sufficient, necessitating special assessments to finance deficits.

<sup>4</sup> This is an estimate made by the State highway department. If available we may not require a tax levy to maintain public road system.

<sup>5</sup> Assuming utilities and roads revenues can carry the programs, a local levy of \$575,865 is indicated.

<sup>6</sup> Exclusive of State aids.

EXHIBIT No. D

Fiscal year	Timber cut, volume	Stumpage value charged to mills operation	Forestry cost	Stumpage profit, net	Operating profit	Total profits	Total sales, everything
1953-----	19,627,830	\$453,635.63	\$44,821.52	\$408,814.11	\$130,057.70	\$538,871.81	\$2,181,526.59
1954-----	19,889,780	465,344.96	44,658.93	420,686.03	96,921.12	517,607.15	2,162,379.29
1955-----	20,536,410	477,383.13	1 26,553.78	450,829.35	58,870.86	509,700.21	2,327,069.47
1956-----	20,103,160	489,641.76	32,611.44	457,030.32	117,786.15	574,816.47	2,673,586.52
1957-----	21,055,640	558,563.77	48,949.46	509,614.31	147,781.06	657,395.37	2,535,544.64
1958-----	21,459,400	532,699.64	58,399.55	474,300.09	85,542.48	559,842.57	1,910,190.18
1959-----	16,158,120	381,942.94	71,101.33	310,841.61	62,753.15	373,594.76	2,493,706.46
1960-----	19,701,120	504,475.67	59,499.56	473,028.79	2 56,310.75	529,329.87	(3)
1961-----	7,001,820	190,255.97	32,528.61	157,727.35	4-35,896.41	111,831.00	(3)

<sup>1</sup> Paid by agency, \$18,080.57.

<sup>2</sup> Lumber, \$9,642; forest products, \$17,811; lath, etc., \$1,900; miscellaneous and warehouse, \$46,722 (water and sewer, \$20,000 loss); net financing, -\$19,833.

<sup>3</sup> So mixed he could not report accurately.

<sup>4</sup> Lumber, -\$39,092; forest products, \$4,283; byproducts, -\$8,166; miscellaneous and warehouse, \$12,563; net financing, -\$5,509.

FIRST WISCONSIN TRUST CO.,  
April 4, 1961.

JEROME GRIGNON,  
Chairman, Menominee Advisory Council,  
Menominee Indian Reservation, Keshena, Wis.

DEAR MR. GRIGNON: We are informed that among the agenda items scheduled for the general council meeting Thursday, April 6, is the question of the trust company's annual fees for serving as trustee of the Menominee Indian assistance trust. As we advised the tribe on prior occasions, the total anticipated costs are \$30,000 to \$40,000 a year. This is based on the following analysis: fee per account, \$20; extra services per account, \$5. For roughly 1,400 accounts, this would produce a fee of \$35,000.

It is hoped that the \$5 extra services portion of the fee would be sufficient to cover (1) out-of-pocket expenses for travel to the reservation; (2) compensation for officer's time on the reservation; and (3) cost of maintaining an agent on or near the reservation. These expenses, of course, cannot be anticipated of a certainty but it is hoped that the quoted figure is adequate.

We quoted an acceptance fee of \$3,000, for the services and time spent up to the time the trust is created, but there has been no agreement as to whether this should be paid, and, if so, whether it constitutes reimbursable expense.

We considered the U.S. savings bonds as part of the trust in quoting the above fees. Our estimate of fees, based on an account basis, would be the same whether or not the savings bonds are added to the assistance trust.

At the time of prior discussion, it was felt that the assistance trust provided much greater flexibility in the use of savings bonds than would Wisconsin guardianship law.

We would be happy to give you any additional information you need and if the tribe wishes a representative of the trust company to appear in person to answer questions at any time, we will be happy to oblige.

Yours very truly,

DONALD S. BUZARD, *Trust Officer.*

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS,  
MENOMINEE INDIAN AGENCY,  
Keshena, Wis., April 4, 1961.

JEROME GRIGNON,  
Franklin Park Hotel,  
Washington, D.C.

DEAR MR. GRIGNON: I have finally had a chance to check on the questions you have asked me and the following is submitted in reply. There were 164 Menominees drawing unemployment payments on April 3, 1961. The man in charge of the office stated that this is about 94 more than was the case 3 months ago.

There were 49 families who received direct relief assistance during the month of March through the Shawano welfare office.

There is no plan so far as I know of shutting down the Menominee mills between now and April 30. I am told that the lumber market is improving somewhat in the last few weeks and that it is the consensus that there would be no material advantage in closing down at this time.

I trust that the foregoing will be of benefit to you but if you have any additional questions don't hesitate to write me.

Sincerely yours,

MELVIN L. ROBERTSON, *Superintendent.*

#### ANALYSIS OF ESTIMATE OF MENOMINEE COUNTY OPERATING COSTS

Under general government, items through 1 to 9, and 11, and 14, are self-explanatory and necessary.

Item 10: For the period May 1, 1961, through December 31, 1961, the Shawano County board estimated that \$10,856 will be necessary for judicial services furnished Menominee. For a full year, we have rounded the estimate out at \$15,000.

Item 12: The H. C. Miller Co., of Milwaukee, Wis., ran the estimate of types of record material necessary and the cost. The State auditor has reviewed the estimate and believes it adequate. The Miller estimate is \$6,244 for the county and \$109 for the town. The estimate does not include letterheads, envelopes, etc. We have run the estimate to \$6,500 and \$150, respectively, to provide for such supplies.

Item 13: This \$15,000 is to provide at least three office girls and for cleaning, etc.

#### PROTECTION OF PERSONS AND PROPERTY

Item 15: \$6,500 is to provide the sheriff with a salary of \$4,200 to \$4,500 and travel expense immediately connected with his office, transporting prisoners, etc.

Item 16: \$17,000 provides for a chief deputy and four deputies, including traffic patrol, a normal complement for our situation; \$4,000 for chief deputy, average of \$3,250 for others.

Item 17: \$7,200 provides \$2,600 for regular radio operator, \$2,100 for relief, and \$2,500 for special deputies used throughout the year for extra weekend and special events duty.

Item 18: \$10,000 covers insurance for officers, gasoline and oil, and maintenance and repair of equipment.

Item 19: \$7,500 covers \$4,800 for board of prisoners in Shawano County jail based on experience, the remainder is for medical care while in jail and breakage and damage in cell blocks, etc.

Item 20: Town government must provide fire protection; \$3,000 covers maintenance and operation of firetrucks and equipment at Neopit and Keshena. The trucks will be transferred to the town by the corporation which now owns and operates them.

Item 22: \$10,390 covers cost of converting police radio to the FCC narrow band wavelength at a cost of about \$3,500, replacement of some or all of three cars if possible, all have over 170,000 miles, and lake dragging and other rescue equipment.

#### HEALTH AND SANITATION

Item 23: \$75,000 is based on the care of an average of 21 patients in sanitariums for TB purposes. At one time in 1960 the figure was up to 47 patients. The weekly cost for such case is \$92.64 per patient, the State pays an aid of \$21 per week, \$71.64 is charged back to county of legal settlement. As indicated in the narrative, this amount may not be sufficient for 1961.

Item 24: \$7,000 is necessary for the salary and mileage expense of the public health nurse.

Item 25: Because of finance limitations we propose to load this sanitarian responsibility upon the town or county chairman, although we realize it is not the best solution. We hope he can program and delegate some of the work to highways and utility crews.

Item 26: Under contract we have been able to get this service in the past for \$8,700; we hope to get it again for \$9,000.

Item 27: The major item is clerical assistance for the public health nurse, which takes up much of her time that ought to be devoted to more intensive work with fieldwork. Vaccines are also involved.

## EDUCATION

Item 28: We are now advised that we can eliminate the \$3,500 item because law does not require us to share the cost when we are in a consolidated district such as Shawano District 8.

Item 29: The public elementary schools at Keshena and Neopit will have a total of 14 teachers, Menominee County must levy \$350 for each as a county contribution.

Items 30 and 31: The estimates for each are fixed in the present program and represents Menominee County share. These programs are doing excellent work with youth and some adults. They should be continued as a community must. Loss of either employee now here would wreck a good program that must be expanded.

Items 32, 33, and 34 are musts and need no further explanation; \$1,600 covers assistance to the handicapped needing special training. The \$170,000 for the Menominee share of the Shawano Joint District 8 levy is a firm estimate worked out with State department of public instruction representative, based on existing and expected enrollment.

## PUBLIC WELFARE

The total estimate and the breakdown by items for public welfare is an extremely difficult matter for us to authoritatively work out. At this time we do not know how public welfare will be administered for Menominee.

We used the University of Wisconsin study done in 1956 and updated in 1959 as a basis, modifying specific items as we were able to justify need.

It had been planned for the past several years that Menominee would contract with Shawano County for staffing and administration, in which event we would have to estimate about \$33,400, rather than the \$11,325 for administration only now in the estimate. The Menominee advisory board by resolution has asked State authorities to resurvey welfare needs and to work out a program involving Federal, State and county financing. If so arranged, we would suggest that staff professionals and their compensation be carried by the State, service costs by the Federal assistance, and administration and clerical assistance by the county.

Item 35: As noted in above paragraph.

Item 36: \$15,000 was believed sufficient for direct relief and extra medical costs for OAA, ADC, blind and disabled, and relief recipients. With the marked unemployment we had to raise this estimate and have used the figure \$35,970 only because it keeps town estimates within the one-half percent of assessed value of the town limitation. Because of increased direct relief and extra medical care costs involved we feel that \$35,970 is not sufficient. Extra medical costs for the needy is difficult to pin down firmly. Examples are: For the period July 1 to December 31, 1960, we had 13 admissions in the State hospital at Madison for a total of 161 days of care, at a per diem cost of about \$28; for the period January 1 through March 31, 1961, we had 11 admissions in the State hospital and do not now know the total days of service; for the period January 1 through April 10, 1961, we had 101 patients admitted to the Shawano Municipal Hospital for a total of 550 days of care, usually at \$10 per day ward rates plus other services, totaling a per diem rate in excess of \$25. Outstanding hospital bills due by uncovered individuals and welfare patients in this hospital alone for this period reflect an impact of about \$6,400, not including doctors fees.

Items 37, 38, 42, and 43 seem to be fairly adequately estimated.

Item 39: \$50,000 is estimated on the basis of Menominee County having to pay one-half of the cost of foster home care. Past experience reflects a level of around 200 children, more or less, in foster home care; 218 children are now in such care. Commitments for 1959 and 1960 indicate this level will be maintained. After May 1, when Menominee becomes a county new cases will be charged back to it on the basis of 50 percent of the total cost of care.

Item 40: For reasons indicated under item 36 above, the \$7,500 estimate should be increased to at least \$9,500.

Item 41: At the present time there are 17 Menominee children in State industrial schools. This incidence has been as high as 26 or more, and is expected to maintain a level of 17 to 20. Based on 17 children under such control at a

weekly charge back to county cost of \$8.42 per child, the estimate of \$5,000 must increase to \$7,500. These 17 children are in addition to the 218 under foster home care. The experience at Menominee indicates the necessity for an intensive on the ground social service program.

## OTHER ESTIMATES

Item 44: The Menominee Reservation since around World War I period has maintained an annual fair. The buildings and grounds are in fair repair shape. The fair plays quite an important part in the community life as in other counties, it can just about finance itself out of gate receipts and other revenues. It has not been able to totally maintain buildings and facilities; \$2,000 has been our average level of maintenance expense.

Item 45: The \$1,000 may or may not be adequate.

Item 46: During the first 8 years after termination, we do not feel that Menominee County should consider a large-scale capital investment to construct a municipal building. During the 8-year period the legislature may make other governmental arrangements. Two engineer-architectural firms believe \$20,000 is sufficient to place the tribal office building at Keshena in condition to meet industrial commission inspection. The Bureau of Indian Affairs has declined to treat rehabilitation expense as a termination cost. Menominee County will have to bear all the cost.

Item 47: There are 90 street lights in the villages of Keshena and Neopit. An electrical engineer estimates an annual cost of \$35 for each light for power, repair, and replacement.

Item 48: This department will be a serious problem to work out. The General Engineering Co. of Portage, Wis., developed the maintenance and operation costs for Neopit, and Keshena as follows:

## Neopit water and sewers:

Power.....	\$1,080
Operator.....	4,000
Maintenance (2).....	5,000
Materials.....	3,134
Depreciation.....	9,480
Total.....	<u>22,694</u>

## Keshena:

Power.....	1,080
Operator.....	4,000
Maintenance (2).....	5,000
Materials.....	580
Depreciation.....	9,268
Total.....	<u>19,928</u>

Past experience at Neopit indicates about a 50-percent deficit will have to be overcome if the \$22,694 estimate holds firm.

For 1959 and 1960 in Keshena \$738 was collected annually for water and sewer service, indicating a serious reorganization and finance problem to be overcome.

Water meters are not in use in either village. The best estimates are that Neopit uses about 200,000 gallons per day and Keshena about 60,000. Neopit has been as high as 250,000 gallons and Keshena 70,000.

The figure \$20,950 used in the estimate is in error by \$1,000, the 950 being used to round off the 928 estimate.

Items 49 and 50: Testimony adduced at a State senate highway hearing estimated that \$103,000 would be available for Menominee County public highways—\$40,000 for State Highways 47 and 55, and the balance to be distributed between town and county roads. If senate bill 153 passes there should be adequate maintenance and operation funds for Menominee County during 1961; if not there will be no funds unless there is a Federal supplement made for the period May 1961 through December 1961. Menominee County could not raise the amount.

*Several advantages and disadvantages in forming local government on the Menominee Indian Reservation*

ADVANTAGES

Of forming 1 county	Attaching to another county	Remaining in Oconto and Shawano
<ol style="list-style-type: none"> <li>1. Better control of local taxes.</li> <li>2. Better protection of tribal assets.</li> <li>3. Avoid unequal representation in county government.</li> <li>4. Years of experience would provide better understanding of local problems.</li> <li>5. Possibly avoid competing interests (agriculture versus forest affairs).</li> <li>6. Possible representation in State assembly (legislation needed).</li> <li>7. No split of responsibility in county government.</li> <li>8. Control of county ordinances (zoning, etc.).</li> <li>9. One administration of tax kickbacks from State.</li> </ol>	<ol style="list-style-type: none"> <li>1. Government structures, including facilities, already established.</li> <li>2. Availability of trained personnel, including lawyers, social workers, etc.</li> <li>3. Avoid responsibility of working out school problems (districting, etc., by county school committee).</li> <li>4. Relieve ourselves of responsibility of governing.</li> <li>5. No split of responsibility in county government.</li> <li>6. Probably less expensive than having our own county.</li> </ol>	<ol style="list-style-type: none"> <li>1. No need for legislative action to form county or counties.</li> <li>2. Government structures, including facilities, already established.</li> <li>3. Availability of trained personnel, including lawyers, social workers, etc.</li> <li>4. Avoid responsibility of working out school problems (school districting by county school committee, etc.).</li> <li>5. Relieve ourselves of responsibility of governing.</li> </ol>

DISADVANTAGES

<ol style="list-style-type: none"> <li>1. Lack of experienced personnel to begin with, especially lawyers.</li> <li>2. School districting problem to work out, alone or with other counties.</li> <li>3. Capital investment in setting up plant for county government.</li> <li>4. Assume responsibility for county government.</li> <li>5. Responsibility for collection of taxes.</li> <li>6. Probably more expensive than belongint to another county.</li> <li>7. Need for legislative action to establish 1 county by State legislature.</li> </ol>	<ol style="list-style-type: none"> <li>1. Need for action by State legislature to establish authority.</li> <li>2. Need for referendum in county to which we propose to join (outcome unknown).</li> <li>3. Unequal representation in county government.</li> <li>4. Little voice in control of county and school district taxing.</li> <li>5. Possible disinterest in forest affairs.</li> <li>6. No local control of zoning and districting.</li> <li>7. No control of county ordinance making.</li> <li>8. No local control of administration of tax kickbacks from State.</li> </ol>	<ol style="list-style-type: none"> <li>1. Unequal representation in county government.</li> <li>2. Little voice in control of county and school district taxing.</li> <li>3. Possible disinterest in forest affairs.</li> <li>4. No local control of zoning and districting.</li> <li>5. No control of county ordinance making.</li> <li>6. Split in county government may affect local planning and administration in all affairs.</li> <li>7. No local control of administration of tax kickbacks from State.</li> </ol>
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SUMMARY OF MENOMINEE MILLS CONDITION AS OF FEBRUARY 28, 1961

The balance sheet for the Menominee Mills, dated February 28, 1961, reflects working cash in the amount of \$1,390,652. In addition to this amount there is \$327,000 deposited in local banks, which was advanced by the Government from the Menominee Mills account in the U.S. Treasury for payment of the common stock issued by Menominee Enterprises, Inc., for a total of \$1,717,652. As of June 30, 1960, the Menominee Mills account in the Treasury rounded off at \$2,275,000.

The stumpage account in the amount of \$318,742 will not be paid for the period July 1, 1960, through April 30, 1961. The figure \$1,717,652 can be treated as fairly firm, subject to operations through March and April. From it Menominee Enterprises, Inc., must advance taxes to Menominee County and town for the period May 1, 1961, through December 31, 1961.

The balance sheet lists a lumber inventory valued at \$1,522,339. The sales report for February 1961 reflects that there was 19,635,486 board feet of lumber in the yard. Of this 6,712,942 is in hemlock at \$66.94 per thousand; 2,467,679 at \$52.10; and 316,292 at \$34.99. The average cost of lumber in the yard is \$77 per thousand.

As of February 28, 1961, mills disbursements totaled \$1,460,624.69 and receipts \$948,201.39 for an excess of disbursements in the amount of \$512,423.30.

The balance sheet reflects an operating profit of \$9,727.42. This is improvement over our December 31 statement, which reflected an operating loss of \$35,896 for the first 6 months.

The increased health and welfare estimates necessitated in the budget estimates for May 1, 1961, through December 31, 1961, and for 1962 make it impossible for the Menominee Enterprises, Inc., to bear the total impact.

## RESOLUTION

Whereas :

I. The Menominee Tribe of Wisconsin, within its financial, and training and experience, ability, has in good faith tried to meet the requirements of the Menominee Termination Act, as amended from time to time, and has perfected a plan of organization for the administration of its varied business and governmental affairs required by the termination act ;

II. The Menominee Termination Act and the organizational plans, so carefully worked out by State and tribal agencies, are at best at grand experiment, and neither the economic nor the human factors necessary to success have been tried or tested ;

III. The success of the termination act and the termination plans, in their entirety, depend upon the successful management, operation, and redevelopment of the now very limited and nonmodern industrial affairs of the tribe, which have not kept pace with the business world during the last 50 years, resulting in limited employment opportunity and a low living wage standard ;

IV. The health and welfare of tribal members, and their dependents, are seriously at stake because of the forced closure of the Menominee hospital, the delimiting of medical services, and the questionable ability of the municipality to care for its needy ;

V. The plans for redevelopment, improvement, and expansion of the industrial plant have only recently been completed and necessitate substantial restudy and capital investment now not available from tribal funds or sources ;

VI. The State of Wisconsin, after long and careful examination, study, and negotiation, has providently seen fit only to establish a provisional form of government for the reservation area, reviewable and reversible by the legislature during the next 8 years through 1969 ;

VII. Many of the people most drastically to be affected by termination effects will have passed on : Now, therefore, be it hereby

*Resolved by the Menominee General Council in a regularly convened session at Keshena, Wis., this 9th day of January 1961, That we do hereby and respectfully, in all good faith, request that the Congress of the United States, through the guidance and assistance of the Secretary of the Interior, amend the Menominee Termination Act to—*

1. Provide not less than an 8-year period, similar to that enacted by the State of Wisconsin in 1959, for readjustment of business and governmental affairs to the end that the trials and errors of industrial expansion, improvement, and redevelopment are given a reasonable period for resolution ;

2. Provide exemption from Federal and State income and State direct property taxes for a similar period ;

3. Provide that the plan of organization for business and governmental services, as now incorporated in the Menominee termination plan, shall proceed as now intended, the business organization to be incorporated as a Federal chartered corporation and the governmental affairs to be conducted according to the forms of State law as required by the Menominee County law, but not as a totally integrated part of State government ;

4. Provide for establishment of a separate stumpage account administered as before 1955, such funds to be used to defray administrative and other governmental expenses and to develop a reserve fund ;

5. Provide authority for the Menominee Tribe to borrow Federal funds at reasonable terms and amounts necessary to expand, improve, and redevelop business operations ;

*Resolved further, That copies of this resolution be forwarded to the Wisconsin delegation in Congress, namely, Members of the House of Representatives and the U.S. Senate, the President of the United States, and the Secretary of the Interior.*

Motion to adopt resolution by Al Dodge ; seconded by LaVern Tourtillott. Result of vote, 99 in favor, none opposed.

## CERTIFICATION

I, the undersigned, as chairman of the General Council of the Menominee Tribe, hereby certify that the general council was composed of more than 75 tribal members, constituting a quorum, at the meeting thereof duly and regularly called, noticed, convened, and held this 9th day of January 1961 ; that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 99, none opposed.

FREDERICK F. MILLER, *Chairman.*

Mr. WILKINSON. Thank you, Mr. Chairman. I believe you have been very generous this morning.

Senator CHURCH. Thank you, Mr. Wilkinson. We are always pleased to have you with us.

We are falling rather badly behind our scheduled time this morning. We have had here with us for more than an hour or better than an hour and 15 minutes a former colleague of ours, Senator Watkins.

Senator, we want to apologize for keeping you this long.

Commissioner Watkins of the Indian Claims Commission is presently in the audience waiting to testify on S. 751 concerning his Commission. However, Senator Anderson has several questions he wishes to put to the Commissioner pertaining to alleged statements made to the Menominees.

Senator ANDERSON. Senator Proxmire in his statement said:

In considering the proposed amendments to the Menominee Termination Act which is before this subcommittee today, I think it is well to remember that the termination process did not stem from the initiative of the people most directly concerned, the Indians; rather, it was thrust on them by Congress.

As evidence that it was thrust upon them, your visit to the Menominee Indians was referred to. I may be stating this incorrectly, but the impression I had was that somebody thought you stood there and said, "You are going to be terminated. You might just as well go ahead and do it."

I remember your coming back from your visit up there, and it seemed to me you were quite, as I recall it, thrilled with the interest the Indians had with termination, standing on their own feet.

Do you recall whether or not there was anything said to the Indians about what they had or had not to do?

#### STATEMENT OF ARTHUR V. WATKINS, CHIEF COMMISSIONER, INDIAN CLAIMS COMMISSION

Mr. WATKINS. I do not think anything was put to them as you have said it there, where they simply had to do it. I did argue with them, I did try to present the views of the Congress, which were adopted unanimously in a famous resolution more or less known to you all.

Senator ANDERSON. Resolution 108.

Mr. WATKINS. Yes, that that had to be done. And the Indian Committee of the U.S. Senate, the subcommittee, was trying to carry out that job. This particular tribe of Menominees had been up for consideration way back in the 80th Congress.

It was reported to the Congress at that time by the then Acting Indian Claims Commissioner, that these Indians were probably ready for termination; that is, this particular tribe. There were nine others, as I recall. We were only carrying out what the Congress was trying to do.

I did try to point out to them some of the benefits. Of course, one of them was that they could stand on their own feet as full-fledged citizens of the United States, managing their own affairs, and they would not have to have the United States as their guardian any longer, and a United States which had been very negligent in its conduct of their affairs to the extent they had to bring them into court and get a judgment against them of some \$8 million. I understand I was some \$2 million off.

Senator ANDERSON. \$8.5 million.

Mr. WATKINS. \$8.5 million. I said personally I would not want to hire a trustee or guardian for any of my children, or myself if I needed one, who would violate his duties that way. I would not want him to work any longer after I found it out.

I think maybe that was one of the things that helped them go ahead, because they did have a vote sometime after I was there, in which the majority of them voted for the termination.

Senator ANDERSON. But you did not tell them they had to terminate?

Mr. WATKINS. I do not recall exactly. I did not tell them they had to have it. I told them Congress was probably going to go ahead with these programs that had been outlined in this resolution. It had been suggested. In fact, the Interior Department, as I recall the resolution, was directed to bring in to the Congress legislation, report legislation, which would have that effect.

Whatever I said there, I was trying to make clear to them what the Congress said about it. They were all citizens, you will remember now, since 1924, citizens of the United States, the same as you and I. They are entitled to all of the rights of citizens, full protection of the law.

If there was a facetious remark of some kind or another made, they knew the intent. The intent was to try to get them on their feet in accordance with what Congress said ought to be done. I think we were fair with them. They seemed to be willing to work along.

I certainly did not stay there to compel them to vote the way they did.

Senator CHURCH. I would suggest, if the committee has no objection, that Senator Watkins come forward to present his testimony now, even though it relates to a different bill, and then we can proceed afterward as time will allow on the matters that are before the committee.

(Thereupon, at 11:52 a.m., the committee proceeded to other business, to resume its consideration of this matter at the call of the Chair.)

#### AFTERNOON SESSION

(The subcommittee reconvened at 3 p.m., Senator Frank Church (chairman of the subcommittee) presiding.)

Senator CHURCH. The subcommittee will be in order.

We will resume hearing on the Menominee matter. We have Dr. Thomas Shinnick and Mr. Albert Stevenson. Have you gentlemen any statement of any kind to make?

#### STATEMENTS OF DR. THOMAS SHINNICK AND ALBERT STEVENSON, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. SHINNICK. No, sir.

Senator CHURCH. Have you any figures to give to the committee with respect to the health and sanitation problems that you are going to be faced within the Menominee Reservation?

Dr. SHINNICK. Well, I have some experience with figures of an actual operation we have been conducting out there for the last 4 months. Beyond that I have some background on the medical care

problem. Mr. Stevenson has some background on the sanitation facilities.

Senator CHURCH. Why don't you proceed and give us information that you think would be useful, bearing upon the problems, and I will ask you whatever questions occur.

Dr. SHINNICK. We started about a year and a half ago at the request of the Menominees, looking into their health and sanitation problems at their request. Our Division had not been dealing directly with the Menominees following the transfer of the Indian health program to the Public Health Service from the Department of the Interior. Our only activity up there directly had been the employment of a sanitation aid and consultive services to them in medical care. We had not operated a program for them through that period of time. About a year and a half ago the Menominees asked us to advise them in preparing for medical care at the time of termination. This we have engaged in with them. We conducted a survey of their hospital operation and their health program up there for them and gave them certain advice regarding the future medical care problems on the reservation, including the fact that we felt their hospital—that they had been operating with tribal funds was an impractical and uneconomical operation, and that if they became a county we did not feel that that hospital could be economically operated for the benefit of this small group. We advised them to eliminate that from their planning for the future, and, rather, accept available facilities in adjacent counties for hospitalization, and the use of medical facilities and services that were available to them from surrounding counties rather than attempt to continue the operation of this hospital. The Menominees finally accepted that recommendation on the exhaustion of their capital funds and for the last 4 months we have been operating with the State of Wisconsin and with the local Shawano County through a cooperative venture, a medical care program for the Menominees, which we feel is an interim program between what is now taking place in the other rural Wisconsin counties and what had taken place before. I have some statistics on the utilization of this program for the past 4 months, and some cost figures on it, which might be of interest to you.

Senator CHURCH. Yes.

Dr. SHINNICK. Mr. Stevenson, in the interim, has had a survey conducted regarding the sanitation facilities. I would like to have him tell you about that.

Mr. STEVENSON. I might say that Public Law 86-121, which is known as the Indian Sanitation Facilities Act, was enacted on July 31, 1959. Shortly after that, Congress made available some money for emergency needs. Nothing of the pending termination of the Menominee Tribe, and also we were including in the subsequent budget which would become the 1961 fiscal year budget a small project to meet one of the their emergency needs for water supply, we had an engineering survey conducted by a consulting firm of both Neopit and Kashena and another small community of Suring, from the standpoint of water supply, waste disposal facilities and needs. This was completed in June 1960, and following this we took these reports, analyzed them, and presented them to the tribe with the idea in mind that this would outline what we had as three groups of projects,

those that were most urgently needed for corrective action, the second group we called for replacement, extension, certain additions and changes to meet State requirements, and then the third group which was really desirable from the standpoint of maintaining maximum balance and design of the system, although less urgently needed than the other two. We had in mind here that they would have, then, a long-range plan for work that needed to be done on the facilities. This included operating costs and so forth.

In fiscal year 1961 we are undertaking this first group of most urgent needs, totaling \$117,000. I might add that to that has been added an \$18,000 sewer system to serve a new school which is being built in Kashena, and this project is underway now. As a matter of fact, contract awards were just made, I think, last Friday. Basically, the totals for the second group ran \$548,000, from which we deduct this sewer that I just mentioned, and the third item of desirable improvements, which were \$292,000. So that the status we are in now is that the first or most urgent needs are being taken care of under this current project, to which the tribe, I might add, is contributing some \$20,000 to this. We expect to be able to do it within the total funds of the tribe and our own. Of course, the remaining amount we did not even try to tackle.

Senator CHURCH. Do you have some questions on this, Jim?

Mr. GAMBLE. Mr. Stevenson, can you give the committee some indication of what is involved in this \$550,000 proposal? That would be the second phase.

Mr. STEVENSON. The second phase; that is correct. I might say as background it was found that they were having difficulty with some of their water and sewer lines. For instance, in Neopit, where the granite is near the surface of the ground, the pipes were shallow. They were having freezing problems. Sometimes they did not have high enough sewers for homes that had basements. So they were also getting a plugging up of some of the lines. But this does include, in Neopit, replacement and additions to certain of the water distribution mains. The same thing is true in Kashena. In Kashena the sewer collection system had improvements in it and two lift stations had to be modified and changed, actually rebuilt. In Neopit there was also a water treatment plant that is about 30 years old, and needs remodeling and rehabilitation, with some additions to it. Also, the sewer system in Neopit, certain changes in the lower sewers that came from the homes. This is the total. I can give you the breakdown by groups, if you wish.

Senator CHURCH. In projecting this in three phases, is it the intention of the Department to pursue this to completion beyond the commitment that the Department has made in the first phase?

Mr. STEVENSON. No sir, it was not. Our intent initially was that we knew of the pending termination date. We wanted to try to meet the most urgent needs initially and we wanted to give the new community a blueprint for future action. So we felt that so far as our planning was concerned, it was solely to do this first phase which we now have underway.

Senator CHURCH. And what would the balance total for the other two phases in dollars?

Mr. STEVENSON. In dollars, for the second phase, again deducting this recent sewer addition, it would be a total of \$530,000, and the third phase, which we would say was some distance in future timing, is \$292,000.

Senator CHURCH. What does that embrace?

Mr. STEVENSON. The third phase involves certain watermain extensions to some very sparsely populated areas which, if they build up in population, they should extend to; closing of some watermain loops for improved hydraulics of the system; construction of elevated storage tank, an additional one; some sewers to areas that have relatively small populations now but if they grow would involve some extensions; also, there were some remodeling and additions to the sewage treatment plants, both in Neopit and in Kashena, which we did not feel were urgently needed because I think they can make some shifts in operation now which will give them reasonable service. However, if there is any moderate growth they will have to make these other changes. This is the third group that I mentioned.

Senator CHURCH. The third phase really involves projected needs that are not presently required?

Mr. STEVENSON. Yes, sir.

Senator CHURCH. Mr. Gamble, have you further questions?

Mr. GAMBLE. Mr. Chairman, I would be interested in knowing from these gentlemen whether or not this particular community and the facilities which are now there are substantially worse, the same as or better than other communities of about the same population in the State of Wisconsin.

Mr. STEVENSON. I would say in general they would be considered worse. Some of the items listed in this second group that I mentioned probably are items that other communities in Wisconsin would also have. But certainly all of the items in the first group that we are undertaking now are critically needed and I would say a substantial proportion of those in the second group also would be needed. A few of those in the second group perhaps are also items present in other communities.

Mr. GAMBLE. If the Congress did not provide any special money or authority for the HEW to go in and do this for these particular Indians, would this new county, or under the new county, would they be eligible for certain kinds of Federal aid for this particular sanitation purpose, under the other programs that you have?

Mr. STEVENSON. They would be eligible under the water pollution control activities for assistance for the improvements to their treatment facilities or intercepting sewerage facilities to the treatment plant, provided that they are included in the State plan for the State of Wisconsin.

Mr. GAMBLE. It would be up to the State to do that?

Mr. STEVENSON. Yes, sir. The State has a plan of needed sewerage improvements. This is sewerage treatment or the collection of sewerage to get it to a sewerage treatment plant. This would not, however, apply to the collection system, the lateral sewers, nor would it apply at all to the water system.

Mr. GAMBLE. What were the figures you referred to?

Dr. SHINNICK. We related to the budget what the Menominees have suggested pertaining to the new county. We have reviewed it in that

light, item by item. I can review for you formulating of what we have determined, against the actual experience that we have experienced in these 4 months, if you would like me to do so.

Senator CHURCH. Very well.

Do you have a copy of that?

Dr. SHINNICK. I believe Mr. Gamble has a copy of these. If not, I will see that he gets them.

We studied the problem of tuberculosis care on the Menominee Reservation. In January 1960, when we went up there to work with the group, they just brought on a new public health nurse. The tribe had been without the services of a public health nurse for some time. The first project undertaken by mutual consent with the State and the Green Bay Health District was a tuberculosis casefinding survey, to bring them up to date on their tuberculosis problem. This was quite an extensive survey and it turned up a large index of suspects, old cases, and some new ones. These cases had been handled during this past calendar year of 1960. As a result, there was quite a high expenditure of funds on that reservation by the State because these patients were considered State-at-large cases for tuberculosis. We have looked over the experience and the number of cases hospitalized and made a projection for the next year of what they would need for State sanitarium care, at the matching rate that the county would have to provide the State to keep the patients hospitalized. We projected for the next 8 months an average daily patient load in the State sanitarium of 15, and for the following 4 months, to complete the year, an average estimated load of 10. We project a cost at going rates now of \$55,000, which will be necessary to reimburse the State for costs previously assumed by the State for the care of tuberculosis. We would anticipate in the second year that this level of 10 would probably be a fair projection at a cost of \$37,500.

Senator CHURCH. How does that compare to their figures?

Dr. SHINNICK. They had a figure originally of \$75,000. As I look at it, it was a valid figure back in November or December when it was given on the basis of the fact that they did have 20 patients hospitalized at that time. In January and February the latest figures show that they are down to 15 average daily patient load. So this is an upgrading of that projection. That is what it amounts to, at about \$55,000. Incidentally, with the planning, there is planning in the budget for a public health nurse at a cost of \$7,000, which we highly recommend, in order that their preventive program can be kept up to date and they wouldn't get into a hole similar to what they have done on tuberculosis.

We also have recommended to the tribe in the past that they continue the position of a sanitarian aid at a cost of \$7,000. This item is not covered in their county project at this time. We have no comment on an item they have in there of \$9,000 for garbage and refuse collection. We did not cost that time out for them. They have an added figure in their public health and sanitation budget for vital statistics and clerical services of approximately \$5,000. This gives a total budget for health and sanitation under the county setup of \$83,000. As we see it, this is about the solid project for health and sanitation. We start with an item of 75 for tuberculosis.

Senator CHURCH. Their figure for the county was \$86,825 total.

Dr. SHINNICK. The first item was \$75,000. Our projection for that is \$55,000. The second figure is the public health nurse, which we concur in. We interjected a \$7,000 item for sanitarian aid that they have not budgeted. That is the next item. They provide no funds for it. The \$9,000 for garbage and rubbish item we did not make a comment on. Then the last item is \$5,000 for vital statistics, disease prevention, and clerical force.

Senator CHURCH. They had budgeted \$4,825.

Dr. SHINNICK. Yes. It is an \$83,000 total figure.

Senator CHURCH. That is as compared to their figure, adding county and town together, of \$95,825.

Dr. SHINNICK. I think our difference lies mainly in the decrease in tuberculosis amount and the increase for the sanitarian aid.

Our second consideration then, Mr. Chairman, was in relation to welfare. If you will look at the item on welfare—

Senator CHURCH. Let me get your total figure there.

Dr. SHINNICK. \$83,000.

Our second consideration in this budget was in the area of welfare, inasmuch as you will notice in the first piece it does not concern itself with medical care of the indigent at all, but merely is in the way of preventive services and public health, we looked under their public welfare budget on page 6, looking for elements regarding medical care. It might be appropriate for me to tell you at this moment why we were concerned about it and what we had been doing in this interim period.

Since January 1, when travel funds ran out, the Division of Indian Health has extended its program to include the Menominee Reservation, and we established a health clinic on the reservation, which replaced the clinic operation that they had had previously as an interim measure. We did not go into the element of hospitalization, but working with the State we had the State interject its Indian Relief Act program which provided funds for medical care of needy Indians in Wisconsin. So we worked cooperatively with the Shawano County Welfare Department and the State welfare department, and operated an ambulatory medical care program on the reservation, with a doctor, nurse, some screeners, a clerical force in attendance on the reservation, 40 hours a week. Our experience in providing that type of service showed the following per month, the average: We provided 313 health visits each month, 792 average general medical care visits; we filed 694 prescriptions for them; had 26 X-rays per month and 22 laboratory tests performed in our health clinic. In addition, under the county and State program, these people were provided hospitalization on emergencies, and emergency medical care outside of the reservation under the standards applicable in the State of Wisconsin to its sight sense regarding indigency and medical indigency. So these people for that element would have the type of program that would go on in rural Wisconsin; that is, for the hospitalization and emergency medical care. The county figures of experience for that first 3 months indicates a cost to them of \$6,500 for the first 3 months. Those figures were reported to us by Shawano County as the actual cost for emergency operations for this group, a cost which would have to be assumed by the new Menominee County because the same standards were being applied as would be applied in the future. This gives us some index of what the emergency hospital

demands are after the new county would be formed. Added to that there is an element, if you will notice, Mr. Chairman, of State hospitalization in Wisconsin. That refers to the use of the State hospital in Madison (Wis.) General Hospital, where complex patients can be referred.

Senator CHURCH. Under what item of that budget would the first figure you related appear, the experience figure?

Dr. SHINNICK. It would fall in relation to what they call general relief. These people would be medically indigent and indigent people.

Senator CHURCH. And they have budgeted \$35,970?

Dr. SHINNICK. The total, you see, when we show an annual experience for hospitalization alone for the indigents of \$30,000, plus the costs of our medical care clinic on the reservation. We do not feel that the funds are adequate in this budget to cover that element.

Senator CHURCH. What figure have you computed as a realistic figure?

Dr. SHINNICK. As a realistic figure we have projected—

Senator CHURCH. On general relief.

Dr. SHINNICK. For general relief care about an \$88,000 figure. That includes the State hospitalization, the third element. We projected out the figure for the cost of emergency hospitalization at \$30,000 for the year, and for the ambulatory medical care services similar to what had been given in our clinic about \$50,000 a year. We feel their figure for State hospitalization should be \$8,000. We project that on actual experience in the first quarter.

Senator CHURCH. All right. What about the other items in the budget? You don't make comment on the other items that they have in their public welfare?

Dr. SHINNICK. No, sir. Our concern in the welfare budget was mainly that related to medical care.

Senator CHURCH. Can you give me your total figure as compared to theirs on those particular items? They have a \$35,970 estimated, plus \$7,500.

Dr. SHINNICK. This \$35,900 covers all their general relief and should not be interpreted as just medical care, you see.

Senator CHURCH. They come up with \$43,470 figure and you come up with—

Dr. SHINNICK. I come up with an \$88,000 figure. But this \$35,900 under general relief is not all medical care.

Senator CHURCH. And your figure is just medical care?

Dr. SHINNICK. Mine is medical care for the medically indigent and the indigent persons. It is a projection on the first 3 months' experience.

Senator CHURCH. What other figures do you have?

Dr. SHINNICK. Those are the main figures that I think you are interested in as to the costs. I might say that in making my figure for ambulatory medical care \$50,000, it is priced at welfare rates in the county rather than our actual costs which were, of course, cheaper, as we gave it directly. But I used standard figures to project at county welfare rates. The services that were actually provided, I projected at the standard rates. So this was not a projection of our actual cost, but based upon the amount of service we gave times the going rates.

Senator CHURCH. Have you any further questions, Mr. Gamble?

Mr. GAMBLE. No, Mr. Chairman.

Senator CHURCH. Thank you very much, gentlemen.

Dr. SHINNICK. Thank you.

Mr. STEVENSON. Thank you.

Senator CHURCH. That concludes the final witnesses that we have listed on the Menominee matter.

If there is no further witness to be heard, the hearing on the Menominee matter will be closed.

(Whereupon, the subcommittee adjourned at 3:35 p.m.)

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