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# YAKIMA TRIBAL ENROLLMENTS

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON INDIAN AFFAIRS  
OF THE  
COMMITTEE ON  
INTERIOR AND INSULAR AFFAIRS  
UNITED STATES SENATE  
NINETIETH CONGRESS

SECOND SESSION

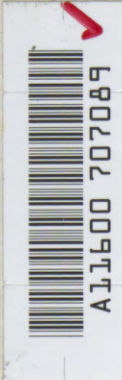
ON

**S. 1764**

TO REPEAL SECTION 7 OF THE ACT OF AUGUST 9, 1946

(60 STAT. 968)

MARCH 4, 1968



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

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1968

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11/8/13

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COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HENRY M. JACKSON, Washington, *Chairman*

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(II)



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## YAKIMA TRIBAL ENROLLMENTS

MONDAY, MARCH 4, 1968

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

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 3110, New Senate Office Building, Senator Clinton P. Anderson presiding.

Present: Senators Anderson, Fannin, and Hatfield.

Also present: James H. Gamble, professional staff member.

Senator ANDERSON. The subcommittee will come to order.

The purpose of the hearing this morning is to take testimony in connection with S. 1764, the bill introduced by Senators Morse and Hatfield to repeal section 7 of the Yakima Enrollment Act of 1946.

The Department of the Interior and the Bureau of the Budget have submitted favorable reports to the committee on the bill. S. 1764 and the reports will be made a part of the record at this point.

(The data referred to follows:)

[S. 1764, 90th Cong., first sess.]

A BILL To repeal section 7 of the Act of August 9, 1946 (60 Stat. 968)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of August 9, 1946 (60 Stat. 968), which limits inheritance or devise of restricted or trust property of deceased members of the Yakima Tribes to enrolled members of those tribes of one-fourth or more degree of Indian blood, is hereby repealed, but such repeal shall have no effect on the estates of Yakima Indians who died prior to this date.*

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., July 7, 1967.

HON. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR JACKSON: Your Committee has requested a report on S. 1764, a bill "To repeal section 7 of the Act of August 9, 1946 (60 Stat. 968)."

We recommend that the bill be enacted.

The bill repeals section 7 of the present law with respect to cases arising in the future. The repeal does not operate retroactively. The present law, which would be repealed, makes membership in a tribe a requirement for an heir or devisee to inherit trust or restricted allotments within the reservation. Generally, the right of inheritance is not restricted in such manner, but is governed by the laws of descent and distribution of the State in which such property is located. Although the tribe originally may have had good reasons for requesting the Congress to enact such legislation, it should be recognized that it works an injustice upon children who have less than one-fourth degree of Yakima Indian blood or who were born away from the reservation, and it also works an injustice

on the non-Yakima spouse who may have helped for years in the building and development of the estate of the deceased member.

The repeal of section 7 will leave in full force and effect the provisions of the Acts of February 8, 1887 (24 Stat. 388), as amended, and June 25, 1910 (36 Stat. 855), as amended, which authorizes the Secretary of the Interior to approve wills and determine the heirs of the Indians owning restricted property in accordance with the State laws of descent and distribution. The 1887 and 1910 Acts are now being applied to the estates of deceased Yakima Indians, except as limited by section 7 of the 1946 Act.

We believe that in fairness to heirs and devisees of a Yakima Indian, who in many instances are persons of Yakima Indian blood, a more liberal attitude should be taken toward their right to inherit. Repealing this section would be fair and just, and would permit carrying out the wishes of the husband or wife who holds such trust or restricted property, or the parent who may wish to see that his children are provided for. Therefore, we recommend its repeal on the ground that it is inequitable.

The following information is submitted with respect to the operation of section 7 in the past:

|   |     |
|---|-----|
| Number of Yakima estates determined since 1946 through June 30, 1966  | 794 |
| Enrolled Yakimas, including husbands, wives, children, grandchildren, and other relatives, excluded by reason of section 7 of 1946 Act from inheriting (not having required quantum of Yakima Indian blood) | 287 |
| Unenrolled heirs, including husbands, wives, children, etc., excluded from inheriting by reason of 1946 Act   | 494 |
| Unenrolled spouses limited to life estate in one-half of real property  | 83  |

There have been 69 cases, involving 146 tracts, where land has been conveyed inter vivos to children, spouses, etc., of Yakima allottees who would not be eligible to inherit due to the provisions of the present law. In these cases the grantor reserved life use of the estate.

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,

HARRY R. ANDERSON,  
*Assistant Secretary of the Interior.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., July 5, 1967.

HON. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on S. 1764, a bill "To repeal section 7 of the Act of August 9, 1946 (60 Stat. 968)."

The Bureau of the Budget would have no objection to the enactment of S. 1764.

Sincerely yours,

WILFRED H. ROMMEL,  
*Assistant Director for Legislative Reference.*

Senator ANDERSON. I understand there are several witnesses from the Yakima Tribe in the city who wish to be heard. If I do not call your name and you wish to speak on this legislation, I hope you will let me know for we want to make certain that everyone has an opportunity to express his views.

Our first witness will be the Honorable Robert L. Bennett, Commissioner of Indian Affairs.

STATEMENT OF ROBERT L. BENNETT, COMMISSIONER OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY ERMA WALZ, CHIEF, BRANCH OF TRAVEL OPERATIONS

Mr. BENNETT. Mr. Chairman and members of the subcommittee. My name is Robert L. Bennett, and I have with me Erma Walz, chief of the Branch of Travel Operations of our Washington office. I am glad to appear before this subcommittee to discuss the provisions of S. 1764.

The purpose of S. 1764 is to repeal section 7 of the act of August 9, 1946. That section provides that only enrolled members of the Yakima Tribe of one-quarter or more Yakima blood can inherit any trust or restricted property of a deceased member, if the property came to the deceased through membership in the tribe or if the property consists of an allotment on the reservation or the area ceded by the treaty of June 9, 1855. The only exception is that a surviving spouse may take a life interest in one-half of the trust of restricted lands.

This restriction on inheritance is unsound and often works a hardship on the family of a deceased member. It has been the cause of much ill feeling on the part of Indians belonging to other tribes. Persons of one-quarter or more Yakima blood can inherit land on their reservations, but they cannot inherit land at Yakima. It has also created dissention within the tribe itself, since many enrolled members do not have the required blood quantum. In about 800 Yakima estates probated between 1946 and 1966, over 780 persons who were heirs under the laws of the State of Washington were precluded from inheriting the land of the deceased because of section 7.

In order to avoid the harsh consequences of section 7, in 65 cases, involving 146 tracts, land has been conveyed *inter vivos* to children, spouses, and others who would not be eligible to inherit the land upon the death of the owner. In these cases the grantor has reserved a life estate in the property. It should not be necessary for Indians to have to use circuitous methods such as this to leave their property to members of their family.

Over the years various tribes such as the Umatilla and Warm Springs have had bills introduced which would establish reciprocity or retaliation for the unjust effects of section 7. This Department has opposed such legislation on the basis that it would merely compound an inequity. We still adhere to that view and recommend to this committee that S. 1764 be enacted.

Senator ANDERSON. This was amended in 1946?

Mr. BENNETT. Section 7 of the act, August 9, 1946.

And it is for the repeal of section 7, so that our heirs at law may inherit in the estates of the Yakima Tribe.

Senator ANDERSON. That is what the Yakima Tribe wants?

Mr. BENNETT. The Yakima tribal group asked that section 7, as enacted in 1946 to protect their lands, be not repealed. They thought that if heirs from other tribes or non-Indian heirs were allowed to inherit land on the reservation that they might sell this land or otherwise dispose of it and it would eventually, more or less, pass out of the Yakima tribal ownership or the ownership of Yakima tribal members. This is the reason why they wanted section 7 and opposed repeal-

ing it. However, there are several witnesses here from the Yakima Tribe this morning to testify on that.

Senator ANDERSON. Any questions, Senator Fannin?

Senator FANNIN. I have no questions, Mr. Chairman.

Senator ANDERSON. Senator Hatfield?

Senator HATFIELD. I would like to ask one question.

Is there a report from the Department of the Interior, Bureau of Indian Affairs, relating to the original act passed on August 9, 1946?

Mr. BENNETT. The Department made a report on this legislation. However, the report was not made to the Congress. It was made to the White House, after passage of the legislation—after it became a bill. And in this report the Department recommended the signature by the President. There was no report from the Department to the Congress during the consideration of this particular section.

Senator HATFIELD. Is that not a little unusual procedure?

Mr. BENNETT. Yes, sir; it is.

Senator HATFIELD. Do you know why there was no report made to the Congress relating to the original bill?

Mr. BENNETT. No, sir, I do not; other than the Yakima tribal members were working with some of the staff in the Department in the Bureau of Indian Affairs office in Chicago, and the liaison between the Congress and the tribal members and the Department was carried on here in Washington, and I do not know exactly why there was not a departmental report to the Congress.

Senator HATFIELD. Then, if I understand you correctly, the Congress, when it originally passed this section of the act, did not have the benefit of any study or any report as made by the Department?

Mr. BENNETT. There was no report by the Department to the Congress when it was under consideration.

Senator HATFIELD. Thank you. That is all, Mr. Chairman.

Senator ANDERSON. What would be the result of this bill, if enacted?

Mr. BENNETT. The result of this would be that the estates of the Yakima deceased tribal members would be probated through the usual probate laws governing Indian allotments and the responsibility would be with the Secretary of the Interior. In the probating of the estates, the heirs would be those as prescribed by State laws of the State of Washington, but the estates would be probated by examiners of inheritance under the authority of the Secretary of the Interior. This would mean that the Yakima tribal descendants would be probated in accordance with the laws of the State of Washington under the regulations of the Secretary of the Interior.

Senator ANDERSON. Do you have a report now on this bill?

Mr. BENNETT. We have a report which was filed with this committee on July 7, 1967.

Senator ANDERSON. Part of the story is that you are asking the Congress to repeal this. The Congress has the responsibility. Would this make the situation better or worse than it now is?

Mr. BENNETT. We take the position that, since the Yakima tribal members can inherit on other reservations, we support the position of the members of other tribes that they should likewise have the right to inherit on the Yakima Reservation. Several of the tribes have introduced bills to prevent them from inheriting, but we have opposed

this, feeling that the better procedure would be to repeal section 7 of the 1946 law.

Senator ANDERSON. You mean striking it entirely; do you not?

Mr. BENNETT. Yes, sir.

Senator ANDERSON. Has this been approved by the Secretary of the Interior?

Mr. BENNETT. Yes, sir; this is the Department's position.

Senator ANDERSON. Do you feel that this is protecting the Indians' rights better than originally?

Mr. BENNETT. This would put the Yakima Tribe in the same position as all of the rest of the tribes in connection with inheritance of allotted lands where the inheritance follows the State laws. This would be the only exception on allotted lands that there is in the United States.

Senator ANDERSON. Do you, yourself, have any interest in this?

Mr. BENNETT. No, sir.

Senator ANDERSON. Who proposed it originally?

Mr. BENNETT. This was introduced by Senator Morse for himself and Senator Hatfield, and we were asked to make a report on it, and we reported favorably on it.

Senator ANDERSON. Thank you very much. Are you going to remain a while?

Mr. BENNETT. Yes, sir.

Senator ANDERSON. Will the Yakima delegation come forward, please? Who is testifying?

Mr. James HOVIS. They all wish to testify, Mr. Chairman.

Senator ANDERSON. Will you identify yourself for the record?

#### STATEMENT OF ROBERT B. JIM, CHAIRMAN, YAKIMA TRIBAL COUNCIL

Mr. JIM. Mr. Chairman, my name is Robert B. Jim. I am the chairman of the Yakima Tribal Council, and I have with me three delegates, and the fourth one is on his way from the Willard Hotel. Mr. Eagle Seelatsee, Mr. Watson Totus, and Mr. George Umtuch are here. They are council members selected to testify in opposition to this bill.

Mr. George Umtuch is chairman of the Yakima General Council for the whole tribe. We are the delegates selected to oppose this, along with Mr. James B. Hovis, the tribal attorney, who will present the official statement.

Senator ANDERSON. I understand that the Yakima Indians are opposed to this bill?

Mr. JIM. Yes, sir.

Senator ANDERSON. This is the bill—

Mr. JIM. Relating to the Yakima Indians.

Senator ANDERSON. And they object to it?

Mr. JIM. The Yakima Indians object to it. We intend to submit evidence to the fact that we are opposed to this bill, S. 1764, because our tribe voted this way. This bill has been law for 22 years, so we have prepared oral testimony on this to support our prepared statement in opposition to S. 1764 in behalf of the Yakima Tribe.

I have one other delegate who is coming. He is vice president of the National Congress of American Indians and will be here about 10:30. So, if you want us to proceed, we will do so.

Senator ANDERSON. I think you should proceed. I am anxious to know why the Indians object, and why the Department likes it.

Mr. JIM. Yes, sir. Certainly, Senator Hatfield and Senator Fannin, we would want you to know that this is a privilege to appear before you today. We are the official delegation. I think it is only pertinent to note that two of our delegates, Mr. Seelatsee and Mr. Totus, were elected from our tribe, having been elected by acclamation of the whole tribe in a legal meeting.

We, of the Yakima Tribal Council, are selected here under authority of a resolution T-10-61, section 3(c) of this act. We are the standing delegates representing the Yakima Indian Tribes on all matters for a period of 2 years. We are under the additional authority of T-38-56, resolution of the Yakima Indian Tribe that was approved on the 26th of November, 1956. We are elected for a term of 4 years, and, as I have stated, we have brought the general council chairman who is more or less a lifetime appointee, Mr. Umtuch. He was selected as a delegate to oppose this bill.

We are descendants of a treaty made and ratified by the U.S. Senate, and we are the descendants of people who have been there 14,000 years, and we believe that this is an internal matter.

As we go along, I would like to introduce the witnesses.

First, Mr. Eagle Seelatsee.

Senator ANDERSON. Do you wish to have these people appear and testify?

Mr. JIM. Yes, Mr. Chairman. They are here.

Senator ANDERSON. I would like to know why this tribe opposes this bill?

Mr. JIM. We have a delegation here.

All of these witnesses that we intend to use will try to put across our point, why the actual act was made in the first place. We believe it was made to protect our lands from going out of trust. It is the intention to have these delegates read short statements in support of our position on this bill. We will start with Mr. Seelatsee.

Senator ANDERSON. What about this situation: The Indians say that they are opposed to it, and you say you favor it?

Mr. BENNETT. Yes, sir.

Senator ANDERSON. Why the conflict of opinion?

Mr. BENNETT. This is the Yakima Tribe. There are other tribes, however, who favor the bill.

Senator ANDERSON. What about this bill?

We have the Yakima Indians here who are opposing it.

Mr. BENNETT. This is in the interest of other tribes whose members would be entitled to inheritance on the land of the Yakima Reservation if section 7 were repealed.

At the present time, for example, if there was a member of the Warm Springs Tribe, a lady, who married a member of the Yakima Tribe and her husband died, she cannot inherit land on the Yakima Reservation, but if the reverse were true, if she would die, her Yakima husband can inherit land on the Warm Springs Reservation. This is the issue. The Yakima Tribe wishes section 7 to remain as it is, and the members of the other tribes in that area, who have many members who would otherwise inherit land on the Yakima Reservation, wish section 7 repealed.

Senator ANDERSON. How about the other people who can inherit in the reservation?

Mr. BENNETT. This is the position we take, because this was the situation on every reservation in the country except the Yakima Reservation on the inheritance of lodge lands.

Mr. JIM. The Osages have similar provisions.

Mr. BENNETT. This is on the mineral part, that is true.

Senator ANDERSON. I would like to have a statement from you as to why this is now being proposed when the Indians oppose it and as to what the results would be. Are you not the Commissioner?

Mr. BENNETT. Yes, sir. In our report, the departmental report, we have pointed out that the number of Yakima estates in 20 years, from 1946 to 1966, handled by the probate examiner of the Interior Department, was 794 terminated, and the enrolled Yakimas, including husbands and wives, children and grandchildren, and other relatives who were excluded from participating in the estates, because they did not have one-fourth Yakima blood, were 287. Unenrolled heirs, including husbands, wives, and children from other tribes who were excluded from inheritance were 494. So, this is a total of 681 heirs who were excluded from participating in Yakima tribal estates because, while they might have been on the Yakima tribal roll, they did not have the one-fourth Indian blood or they may have been non-Indians or members of other tribes.

Senator HATFIELD. Mr. Chairman, may I ask a question?

Senator ANDERSON. Certainly.

Senator HATFIELD. When these people are precluded from inheriting that then escheats back to whom?

Mr. BENNETT. It goes to the closest heir of the decedent; rather than being the wife or children, it might be a third or fourth cousin or some other relative.

Senator HATFIELD. But they are the ones who are still enrolled?

Mr. BENNETT. These are the ones still enrolled and of one-fourth blood.

Senator HATFIELD. So, the ones who stay around accumulate as opposed to those who leave the tribe or who leaves, let us say, the actual area and move elsewhere, such as Seattle or Tacoma, do not?

Mr. BENNETT. No, sir. Residence is not a requirement; it is the enrollment.

Senator HATFIELD. But if the father is Yakima, the child enrolled are living in Tacoma or Seattle, let us say, they are still Yakima Indians, and they can be disenfranchised or divested.

Mr. BENNETT. Not unless they are less than one-fourth blood.

Senator HATFIELD. That is right. Less than one-quarter blood are enrolled.

Mr. BENNETT. Yes, sir, that is correct.

Senator HATFIELD. But if the father is Yakima, the child enroller at Warm Springs would not be able to inherit?

Mr. BENNETT. That is correct.

Senator HATFIELD. But if it is the other way around, if the Warm Springs tribesman married a Yakima and lives on the Yakima Reservation and that person died, they could inherit from Warm Springs?

Mr. BENNETT. That is correct.

Senator HATFIELD. So, it is all one way, Mr. Chairman. The Yakima gets it all coming his way, but they do not give out to any others. I can see why they are opposed to change.

Senator ANDERSON. Will you please proceed?

Mr. JIM. We have Mr. Umtuch who will touch on that within his own family. We have the situation that some of his children are Yakimas and some are Warm Springs.

Senator HATFIELD. I would like to ask one further question: How was the vote within the Yakima Tribe? Was it unanimous in support of this position?

Mr. JIM. Mr. Umtuch, I believe, has that. It was 137 to 3, I think that was the vote. It has been running that way—147 to 3.

Senator ANDERSON. 147 to 3.

Mr. UMTUCH. 137 to 4.

Mr. JIM. That was 137 that were opposed to repeal. This was on December 14, 1967.

Senator HATFIELD. What was the total vote?

Mr. JIM. I do not know the total. He is prepared to submit those minutes.

Senator HATFIELD. Thank you.

Senator ANDERSON. The Yakima Tribe is overwhelmingly in opposition to the bill, and the Commissioner favors it.

Senator HATFIELD. It is all coming in their direction. I do not think that is amazing. I would be opposed to it if I were a Yakima.

#### STATEMENT OF EAGLE SEELATSEE, CHAIRMAN, YAKIMA ENROLLMENT COMMITTEE

Mr. SEELATSEE. Mr. Chairman and members of the subcommittee, my name is Eagle Seelatsee, and I am a member of the Yakima Tribe. This bill on the Yakimas has time and time again been before this committee and other committees to try to repeal the act of August 9, 1946. The people of the Yakima Nation have been living under the Enrollment Act since it became Public Law 706 on August 9, 1946.

There were reasons for proposing such an Enrollment Act. A survey was made by the tribe and it was recommended that the only solution to our problem was to seek legislation through Congress to govern enrollment with the Yakima Tribe. In the years from 1944 to 1946 the General Council and Tribal Council both held meetings and had discussions on the ownership of trust property on the Yakima Reservation changing to fee patent, being sold and, thereby, leaving Indian ownership. This was because many of those allotted on the Yakima Reservation were not of Yakima blood, consequently their first aim was to dispose of these lands in the fastest way possible, get the money and leave the reservation. There were even cases of non-Indian marrying into the Yakima Tribe and murdering his spouse for the sake of securing ownership of the property, only to get a fee patent on the property and sell it. It is the descendants of such allottees who are now proposing such bills to amend and/or repeal the Enrollment Act.

The majority of the members of the Yakima Tribe, through the action of the General Council, have voted to oppose any move to amend or repeal the Enrollment Act. The General Council has handed down

instructions to the Tribal Council and on to the delegates to Washington, D.C., to oppose any bill to amend or repeal the Enrollment Act. It is the belief of this majority that this is an internal matter and should be handled by the tribe itself. We believe that it is our business to know who should be enrolled with the Yakima Tribe to enjoy the rights guaranteed to us by the Treaty of June 9, 1855.

I have worked with this proposed legislation until it became Public Law 706, on our reservation, the Yakima Reservation.

The Bureau of Indian Affairs also worked with that, and the Secretary of the Interior's Office and their solicitors worked with us, and the representative from the Fourth District of our home State. It is a good law as far as the Yakimas are concerned.

I thank you.

Senator ANDERSON. Senator Fannin?

Senator FANNIN. Has this issue ever been submitted to the enrolled membership for expressions from them?

Mr. SEELATSEE. Yes, sir.

Senator FANNIN. When was that done?

Mr. SEELATSEE. That was in 1946, after the bill was drafted.

Senator FANNIN. And they voted in favor of the Enrollment Act at that time?

Mr. SEELATSEE. Yes.

Senator FANNIN. Do you recall, without trying to state specifically, how many there were for it? Was it a substantial number?

Mr. SEELATSEE. Yes, it was substantially in favor of the act.

Senator FANNIN. Would you state that they overwhelmingly endorsed it?

Mr. SEELATSEE. Yes.

Senator FANNIN. I presume that that action might be made available for the benefit of the committee.

That is the last time that this issue has been presented to the tribal membership, in 1946? Has it been presented since that time?

Mr. SEELATSEE. It has been presented a number of times, three or four times, and all proposed amendments were rejected overwhelmingly. The tribe voted all times to retain the act.

Senator FANNIN. To the overall membership, not just to the council?

Mr. SEELATSEE. Yes.

Senator FANNIN. Would you be able to respond to that?

Mr. JIM. Yes, I am sure that we could make the correspondence in regard to this available to the members of the committee, but the Yakima Tribe has continuously had this problem before it as Mr. Umtuch will tell you. This has been continuously before our tribe since, I think, 1949, before the General Council. The whole tribe meets once a year, in November, and the amendment has been overwhelmingly rejected by the majority that elected us. Mr. Seelatsee and Mr. Totus are the two elected by acclamation by these people, because that was part of their platform on which they were elected, to keep this act intact, because it is believed that if too much of these trust lands go by, there will be no reservation left for us to represent.

Senator FANNIN. Those are all of the questions I have.

Thank you.

Senator ANDERSON. Senator Hatfield, any questions?

Senator HATFIELD. Yes, Mr. Chairman.

If this is a sound principle for the Yakima Tribe, why is it not a sound principle for all the Indian tribes who want to protect their lands? Do you not think there are other tribes that have that same interest, that their lands are in that same position? You understand, **this is special legislation which only applies to the Yakima Indians?**

If this is good for the Yakimas, why should it not be equally applied to the other tribes interested in the same question?

Mr. JIM. We believe that these other tribes want this. The trust land is a special status land that is reserved by treaty. Not every other race is part of this treaty. We are treaty people, descendants of treaty signers.

Senator HATFIELD. The Yakimas are?

Mr. JIM. The Yakima treaty signers signed this and it was ratified by the Senate, and we want to retain that trust land as much as possible. We are prepared to show the allotments that explain that.

Senator HATFIELD. Are you the only Indian tribe that has this kind of treaty land?

Mr. JIM. No, others have it. The Osages have a similar inheritance provision, as Mr. Bennett said. But we believe that our timber is worth more than oil, that it is more valuable. Oil will run out.

Senator HATFIELD. What about Warm Springs?

Mr. JIM. They have indicated that they would like the same provision in their act to protect their reservation. I think that if you will review that, it is a problem that we are trying to show, because we are trying to solve the multiple heirship problem.

Senator HATFIELD. I happen to be a Senator from that State; the Warm Springs people are not asking for special legislation of that kind. They are asking to repeal the legislation, because they feel that this would be very, very bad for other Indian tribes who enact this type of legislation in retaliation to the Yakimas. They think that everyone will suffer as a result. That is why the Warm Springs people are represented here today, not as a tribe but as individuals within that tribe, to ask for the repeal of this section 7. They are not asking for the enactment of this or similar legislation.

Mr. JIM. We believe, as Mr. Seelatsee has said, that the Department of the Interior was aware of the proposals in 1945. They knew of the bill before 1946. As a matter of fact, the Indian agent at the Indian reservation advised the tribe to do this.

Senator ANDERSON. To do what?

Mr. JIM. To make an enrollment law, and this act was the result of it, in 1946. And this, with the help of the Solicitor's Office of the Interior Department.

Senator HATFIELD. We are not directly involved with the enrollment question. That is not the point here for discussion before us, really. We are not going to argue or quarrel with Indian tribes on their qualifications for enrollment. We are talking about the divestment of property. I have the idea that we have no right to divest the Indians of property, these heirships of \$100 or less, whether it is \$5 or \$1,000. It is the principle: We should not divest them of any right. I think that you are divesting people of property rights by the retention of section 7, because, as Mr. Bennett said, 780 persons were heirs under the State of Washington laws and were precluded from inherit-

ing the land of a deceased because of section 7. It is not a question of enrollment; it is a question of property inheritance. I do not think that is right.

Mr. HOVIS. I am James Hovis, the attorney for the Yakima Tribe. I might try to clarify some things for the Senator in regard to this matter.

#### STATEMENT OF JAMES HOVIS, ATTORNEY, THE YAKIMA TRIBE

Mr. HOVIS. Other tribes have introduced, or have requested, as has Warm Springs, a similar type of legislation.

Senator HATFIELD. They have not requested this.

Mr. HOVIS. This is the thing. They have requested their Congressmen to introduce it, and it has been introduced in the past. We thought it was an internal tribal matter for the tribes and if Warm Springs wanted to do it, let them do it. We did not oppose their bill. As a matter of fact, we believe in our hearts and in our own minds that this is the salvation for a lot of the multiple-heirship problems that we have. We think it would be a good thing for all tribes to have similar legislation. It would help solve a multiplicity of inheritances that are bugging every other tribe in the country. We have the best program, we think, in this regard, of any other tribe in the country, and we would suggest that we think it is an internal tribal matter. If they want to do it, that is their business, and we not only do not oppose it, we suggest such legislation for all tribes.

Senator HATFIELD. Let me clarify the record. I think it needs clarification here. I do not want to let it go on the record this way. Warm Springs at no time has proposed similar legislation. I think you are actually wrong when you indicate that. What Warm Springs has proposed is that proper legislation be enacted, and if the Yakimas persist in this type of legislation that there then be the type of legislation enacted that would permit, if you please, an action that is corollary to this, a reciprocity action—retaliation to put it bluntly—which would permit retaliation. But at no time have they proposed similar legislation to this.

Mr. HOVIS. This can be furnished for the record of the committee.

Senator ANDERSON. I wish that you would. Give your own statement and present it.

Mr. HOVIS. We will insert that in the record. But, again, we might say this is what Warm Springs wants to do. We did not oppose that bill, that legislation. We feel like this is an internal tribal matter. If Warm Springs wants to do something, wants a program, then that is their business. Basically, our objection to the amendment of section 7 has been, in a large part, dictated by the law of the State of Oregon. Inheritance in Oregon is much different than in Washington. In Oregon, you only get one-half interest. Under the State law in Washington, if you inherit you get the full one-half, and it is forever. This is in the case of distribution. Every different tribe has a different enrollment, a different distribution statute in the State, so that in a large sense, at least, if we go back to State law, then the Oregon law would be discriminating against the Yakima, not Warm Springs. The Oregon law would be discriminating against the Yakimas. If the committee wants to attack this program, we would like to see a uniform one.

Mr. JIM. Mr. Chairman, the next witness I have is Mr. Totus, who is the chairman of the Land and Legislative Committee and Law and Order Committee of the Yakima Reservation. He has for over 24 years represented the tribe. He was one of the members of the tribe when they made this law. He was elected in 1957 by acclamation, so he truly represents the people in our tribe.

Mr. Totus?

Senator ANDERSON. We will be pleased to hear from you now.

#### STATEMENT OF WATSON TOTUS, MEMBER, YAKIMA TRIBAL COUNCIL

Mr. TOTUS. Mr. Chairman and members of the subcommittee.

My name is Watson Totus, and I have been a member of the Yakima Tribal Council for 24 years. My father was a member of the same Council and a Chief of this tribe before me, as was my grandfather. All my life I have spent being interested in tribal affairs and doing the best that I can for my tribe.

I have followed this enrollment problem for many years. We got very disturbed about the problem some 25 years ago when it appeared that our land base was being broken up and tossed to the winds. We even found that there were many people that were marrying our women and our men just for the purpose of being able to inherit their allotment. We also found out, and were worried about the fact, that the allotments were being broken up into many, many interests. We have worked against this multiple heirship and the breakup of our land base in two ways.

First, we were advised and we counseled and talked and, with the aid of the Government, we thought that the best thing to do would be to provide that only Yakimas could inherit, and this was agreed upon by our people and by everybody so that section 7 of the Yakima Enrollment Act was enacted. This helped keep the land in the hands of the people that it came from—the members of the 14 bands and tribes.

Then, the next step that we took, in order to allow people who had been given land from the tribe and could not pass it on to their heirs, to sell it back to the tribe. Also to keep the land in larger parcels so that we would not have large administrative problems, we got our own land act. This act has allowed us to purchase from members who wished to sell, because they can't pass their land on or for other reasons, their interests in allotments or the full allotment itself. We think we have done a good job in this regard, and we have been complimented by everyone for our forward-looking ideas in this matter. We have spent a large amount of tribal funds trying to correct the problems created by the General Allotment Act.

Prior to the year 1967 we had purchased over \$4 million worth of land on our reservation to help solve the problem. In fiscal year 1967, we spent \$625,422 to purchase lands from 408 people. We are doing the same thing in fiscal year 1968, but I do not have those figures available right now, but it is well in excess of \$5 million total. In addition to these amounts, there have been sales between tribal members which also has helped that problem.

In 1966 there was almost \$100,000 in sales, while in 1967 there was about \$75,000. From this you can see that we are doing the very best

that we can to try to solve a problem within our own tribe. We feel that this is an internal tribal matter and one that we can best handle by ourselves. We have been complimented by everyone before as to what we are doing to try to be fair to everybody and yet settle the problem that everybody has. Other tribes have a lot more complicated situations than we have and it is one that has bothered Congress, the tribes, the Bureau of Indian Affairs and everyone. Everyone has told us that we are doing the best job, and we hope that Congress will let us continue with our plans and leave us alone in what we think is an internal tribal matter.

If this situation is as bad as some of these people say it is, I can assure you that the vote against this bill would be a lot stronger. As you can see, a very, very, very small minority—three, four people—are the people who are voting for amending the act.

The fact that we have been doing these things has cut down the administration costs, too, when it comes to the Realty Department at Toppenish. We want to continue to do this. We think it is important that expenses going toward administration be reduced as much as possible, whether it comes from gratuity funds or from tribal funds.

Senator ANDERSON. Any questions, Senator Fannin?

Senator FANNIN. I have no questions, Mr. Chairman.

Senator ANDERSON. Senator Hatfield, any questions?

Senator HATFIELD. No questions.

Senator ANDERSON. We thank you.

Who is next?

Mr. JIM. The next witness will be Mr. George Umtuch. He is chairman of the Yakima General Council. He is presently elected for the term. Also, we may state so you might know that he was one of the general councilmen when they made this act some years ago; also some of his children are enrolled in Warm Springs and some are in Yakima. I think that should be noted here.

Mr. Umtuch?

Senator ANDERSON. We will be pleased to hear from you now.

#### STATEMENT OF GEORGE UMTUCH, DELEGATE, YAKIMA TRIBE

Mr. UMTUCH. Mr. Chairman and members of the subcommittee.

I am George Umtuch, and I have been chairman of the General Council, which is open to every adult member 18 years old and up of the Yakima Nation, since 1950. I have held the office of vice chairman before this.

The Yakima Enrollment Act was the wish of the members of the Yakima General Council. The Yakima General Council still stands by the Yakima Enrollment Act and resists its amendment.

Just at the last General Council meeting, we took this up. We had listed for discussion the bill we are here to talk about, S. 1764. The General Council voted to oppose this bill, S. 1764, 137 against any amendment, 3 for S. 1764.

Everyone was given a right to talk—most of the time of the discussion was taken up by Mrs. Frailey, who talked for S. 1764. She only convinced two other people to vote for S. 1764. While this is the current vote, only last December, all other votes on the amendment of the Yakima Enrollment Act showed the same thing.

This act is good for my people, and I support it even though some of my own children are enrolled in Warm Springs and cannot inherit my trust allotment.

Since I am personally involved, you can see I am testifying true.

Senator ANDERSON. Did you say that you have some children in Warm Springs?

Mr. UMTUCH. Yes, I have two children enrolled in Warm Springs.

Senator ANDERSON. How would they feel about this? Do they favor this bill?

Mr. UMTUCH. I did not get your question.

Senator ANDERSON. I was just wondering how they felt about this, the children that you have in Warm Springs?

Mr. UMTUCH. It is my wife. She insists that two of the children be on her reservation, so that if there is any inheritance involved there, why, then, they could be responsible for her interests.

Senator ANDERSON. Thank you.

Any questions, Senator Hatfield?

Senator HATFIELD. I have no questions.

Senator ANDERSON. Does that complete your list of witnesses?

Mr. JIM. I will try to finish up.

Senator ANDERSON. I want to be sure that the other side has some time.

#### STATEMENT OF ROBERT JIM—Resumed

Mr. JIM. Mr. Chairman, I think it is only proper to note here that Mr. Smartowit is not here. He is one of our delegates. He intended to get here to oppose this. They are meeting today. So, he is tied up. We would like to have permission for him to submit a written statement to the committee.

Senator ANDERSON. Without objection, he may do so.

Mr. JIM. I have communications from the Pine Ridge Sioux Tribe of South Dakota, the Flathead Tribe in Montana, the Shoshone Bannock Tribe of Idaho, the Lumni Tribe of Washington, and the National Congress of American Indians who indicate opposition to this bill today.

I think that in order to take as little time as I can, I have written notes specifically on Public Law 706, enacted in 1946, the second session of Congress, H.R. 6165, the second session of the 79th Congress.

As Mr. Hatfield has said, in order to talk about inheritance, you have to talk about enrollment; so I have here with me a copy of this law, the law that we are talking about. And the reason that there was a problem of people hollering for inheritance on the reservation is that there were erroneous allotments made by the 1887 Allotment Act. There were 333 allotments that I have listed here that were made to non-Yakimas on the Yakima Indian Reservation and there were 531 descendants of those people who were allowed to be enrolled by section 1(a) and section 1(c) of Public Law 706. These people were allotted on the Yakima Indian Reservation land, and then they were allowed to be enrolled, those 333 allottees, and then 531 of their descendants who have less than one-fourth or no degree of Yakima in their blood who were allowed to be enrolled. This is why we have inheritance difficulties.

In 1949, when they were discussing this in the General Council, the point was brought up that this disinheritance law was made to keep Yakima trust lands in Yakima inheritance to the Yakima members and to keep it for enrolled Yakima Indians. I would quote as a list of the allotments that were made to non-Yakimas. There are 333 here. And alongside of this, without numbers, there are their descendants, and it gives their degrees of blood that are non-Yakimas, and it gives the section that they are enrolled under.

Senator ANDERSON. Who made that list?

Mr. JIM. This list was made by the Bureau of Indian Affairs, from the allotment records at the Yakima Indian Agency.

So, the problem is, to go back: It begins with the allotments that were made to non-Yakima Indians in the 1887 act. Then, consequently, when the Yakima Indians—when these gentlemen were present who are delegates here—were making the enrollment law, they allowed those people with allotments and those people had no degree of Indian blood, by sections 1(a) and 1(c)(1) under this act, to be enrolled. Now, it is their descendants who got Yakima Indian land, and then not only got Yakima Indian land but a share of the per capita payments and dividends that were put on deposit in the Treasury of the United States for the Yakima Indians, to the tune of \$1,121,870, from 1954 to 1961. And then they shared in the settlement fund to the tune of \$2,668,000, which came to a total of \$3,746,250, besides the per capita payment that they averaged from 1954 to 1961 of \$770 each which would be \$770 times 800 which came out to \$616,000.

Now, they have shared in this. They have been entitled to this, although they have no degree or less than one-fourth of Indian blood, to be a member of the tribe. Have they not shared enough in trust lands?

This is a quotation from the allotment records to show how they shared unjustly.

But those people gladly have taken the allotments—these people that were non-Yakimas, they would gladly become enrolled—they hardly had any or no degree of Yakima Indian blood, but when there is a measure, Public Law 706, to correct this section 7, to keep this trust land to some extent in the Yakima Tribe's hands, so that we will not be terminated from inheriting all of this land out to everybody. This was treaty land, a million acres, of Indian reservation land. Now, I think that this is something that should be noted here. I will submit this for the record.

If you would like to have this information, I have a copy of it here that I would like to submit.

Senator ANDERSON. We will put it in the files of the committee and make it available to our staff and interested Senators.

Mr. JIM. Fine, I would like to submit that.

(The information referred to will be found in the files of the subcommittee.)

Mr. JIM. The law that we are actually talking about, you cannot understand about it, but section 7 relates to enrollment. Section 1(a) declares allottees must be enrolled and 1(c) says that those people who are descendants shall be enrolled also. I think that is one of the things that must be considered here.

This law and its administration is under the direct supervision of the Secretary of the Interior. There was numerous correspondence di-

recting how the Yakima tribes should abide by the law. We are doing this. We have just met in January to make an addition. Even when the Yakima Indian Tribes do not enroll someone, for instance, the Secretary has added such examples as Eugene Lewis Huff, application No. 440, no degree of Indian blood at all, he was enrolled; Howard Lyle Huff, application 5147. I brought along these examples to show that which happens. This is under the supervision of the Bureau of Indian Affairs approved by the Secretary. They place the people on the rolls under this act, under 1(c), which requires that they have no degree of Indian blood, and they had no degree of Indian blood. There was no question about that. And then there is Guy Sanford Harrington, application No. 5071.

There have been many statements made that members have to return. As Senator Hatfield said to me, if you are in Tacoma or in Seattle or some place else, you have to do that, but I brought certified examples from Charles Spencer, the superintendent of the Indian agency, to the effect that no member is discriminated against from being enrolled, which is one of the requirements to inherit. We have enrolled them from Kodiak, Alaska; Minnesota, Rhode Island, Florida, New Mexico, Texas, North Carolina, Kansas, and Utah. So this application of this law by the Indians is something that is under the supervision of the Bureau of Indian Affairs.

The other thing is: Why is this legislation against the Yakima Indian Tribe? The Osages have similar provisions. Why did they not say, "all Indians"?

The Osages have a discriminatory clause in theirs. We think our timber is much more valuable than their oil. Oil will run out someday. Timber will keep on growing.

Senator ANDERSON. Can a person be eliminated from his rights in the Osage Tribe?

Mr. JIM. I am not sure about that, but in the 1946 act we had an Osage Indian called Mr. Bennett, who was an attorney, to help us draft this, and he patterned section 7 after the Osage Act. This is where it is derived from. So, I do not know the complications of the Osage Act.

I brought this up to show that the application of this law on enrollment depends upon inheritance. One part without the other would destroy our whole act, and it would lead to termination. This is a file of the minutes and the additions to the Yakima Enrollment Act since 1942. It shows that they have been enrolled from Alaska to Florida. There have enrolled 633 from 1964 to 1967 and we have rejected 142. You could look through these and find out, if you wanted to, that the only rejections are probably the ones that have less than one-quarter blood. There has to be a cut-off someplace.

Senator ANDERSON. I wish you would leave this material here. Mr. Gamble will give you a receipt for it, and will return it if you want it back again.

Mr. JIM. I will leave it for your files. I have additional copies.

Senator ANDERSON. Thank you. It will be made a part of the files of the subcommittee.

(The information referred to will be found in the files of the subcommittee.)

Mr. JIM. You have heard delegates here who were there when the Enrollment Act was made. They have testified to the fact that the

Bureau of Indian Affairs knew about, or was making some communication on, this; and after the law was made, they did so immediately, but more than anything else, I believe they made a statement that this came from the Yakima Indian General Council. There have been no less than six or seven votes on this in general council since then, and they have all opposed the amendment of this act. My people are not educated. They believe that if you get too much land inherited out, that there will be a termination to it, because this was treaty land, to begin with, given to these people who were non-Yakimas.

This comes and goes without saying, Mr. Totus and Mr. Seelatsee have been with us for many more years. One was there, before I knew that there was a tribal identity, although I lived there. They were, in effect, saying that this is an act of the general council, and we are the ones that built this up from nothing to something that means something.

Now, everybody wants to get in as members on the value of the timber, the farmland that we have developed through our leasing situation and in the cutting of the timber. They all want to get onto this. We Indians are a minority. Where were our rights when the 1887 Allotment Act came in? This is just a corrective measure.

I think that Mr. Totus has also brought out the fact that in this section 7, as it is applied today, that there is something like 146 that were made "inter vivos", and this is Mr. Anderson's letter of July 7, 1967, showing that the authority under section 7 of this act through the Bureau of Indian Affairs, they are now transferring their lands either in patent and fee, gifted, or inter vivos to other members who would not be qualified under the act to inherit.

The Washington State Sports Council that is generally opposed to the Indians in 1960, in voting on H.R. 1176, unanimously opposed any amendment to the Yakima Enrollment Act after we explained this, because they said that this is the only tribe that says who is an Indian, by having this one-quarter degree cutoff, and, therefore, know which members are entitled to hunting and fishing rights. They supported us in this.

We do not say that the allotment act was just in allotting our land away, but we say that we are trying to solve the multiple heirship proposition. We come with the support of our tribes almost unanimously except for maybe one-half of 1 percent, and we respectfully request that the Congress and the Senate of the United States gives us the dignity to determine our own future. We feel that the other people have shared enough in our reservation lands, and we believe that we should be left alone, that this is an internal matter. It has worked for us for 22 years. If it did not, our people would tell us and not elect us.

We will answer any questions we may.

We would like to say that we will stay here and answer all questions if you have any during this hearing or after, because this is of No. 1 importance to us. We believe this is either termination or not termination, because the land base is the only thing to help these people who stay on the reservation who are uneducated and who cannot go someplace else. This is our country. We have no other place to go. We respectfully would like to keep this law intact, as we believe that Congress intended it to be 22 years ago.

Thank you very much for your time.

Senator ANDERSON. Some people are going to be curious as to how you expunge the minority interests, these people who are not full-blooded who have the idea that they are a part of it, and then you terminate them in their inheritance. I do not know whether you can do it. Are you not terminating it by this?

You say "one-fourth or more." Somebody has one-eighth. Where do you put that individual?

Mr. JIM. If a parent has trust land allotments and he has a child that is one-eighth and cannot inherit the land—he is less than one-quarter—then there are various methods of transferring that. He can get patent fee or he can be gifted it—several ways.

Senator ANDERSON. If he dies and his descendants have only an eighth interest, they are eliminated, are they not?

Mr. JIM. Yes, because of their degree of blood. This is a cutoff.

Senator ANDERSON. You have some problems.

Senator Hatfield?

Senator HATFIELD. I think the point is well taken, Mr. Chairman. He would have to be with less blood. Let us say that we have a case of a Yakima woman who marries a Umatillo, and they have children and they are enrolled other than at Yakima. They are similarly denied. They cannot inherit if they are not one-quarter.

Mr. JIM. That was answered before when it was stated it was a choice of the parents generally, and in a case like that where they wanted to be enrolled.

Senator HATFIELD. But the point is that they are deemed to be out of the inheritance, even if they are one-half Yakima if they are not enrolled there. A child of a Yakima parent and a Umatilla parent is one-half Yakima but if it is not enrolled a Yakima, that child is denied inheritance at Yakima.

Mr. JIM. He is denied inheritance, but his parents can give to him the land so he can patent it, and that son and daughter can inherit it then. There is a departmental authority for that, and they use it now. It has been shown that there are some such cases. In 96 cases they have done this.

Senator HATFIELD. Otherwise, that escheats back to the tribe.

Mr. JIM. It escheats back to the nearest relative.

Senator HATFIELD. In other words, it could be a cousin, a third cousin, inheriting, but the child could not inherit.

Mr. JIM. If the parent dies without making preparation for it.

Senator HATFIELD. If a child of a Yakima and a Umatilla, who would be one half Yakima—his own daughter or his own son, would not inherit absent the circuitous route introduced to try to circumvent the law, and any property would go to a third cousin and deny the child of that parent.

Mr. JIM. Yes, but generally you will find if a person, like Mr. Totus said there, who knows exactly where his land is, wants it to go to one person, he can change it over to that person, to that Umatilla or to that child.

Senator ANDERSON. We will have to have some study on that. I am sure the Commissioner, himself, recognizes the problem.

Mr. JIM. Thank you.

Mr. Hovis will present our official statement.

Senator ANDERSON. Thank you. Go ahead.

STATEMENT OF JAMES HOVIS, ATTORNEY, THE YAKIMA TRIBE—  
Resumed

Mr. HOVIS. Mr. Chairman and members of the subcommittee. I think that our general statement will answer some of the questions that have come up.

First, in regard to the answer to the general question that was brought up a moment ago, people like Mr. Umtuch at Warm Springs, they make provisions so that the kids who are Yakimas, that is, his two children who are Yakimas, will inherit his interests, and his children who are Warm Springs will inherit his wife's interests in Warm Springs. This, you see, is of benefit to both sides, because it helps maintain the interest in the allotments within the members of the reservation so that there is a mutuality of interest among tribal members.

Now, generally speaking, it has been pointed out here that the Yakima Tribe vigorously is opposed to S. 1764. To give you a few outlines of the reasons they are:

First, the Yakima Enrollment Act is a compromise that suited and suits the wishes of the Yakima Tribe and an amendment of one section not considering these wishes and the compromise aspect of the act is unfair.

Now, Warm Springs, for example, has an enrollment act that is a little bit more restrictive. They stepped the membership down. They did not have the enrollment problems that we had. So, you see that their membership, although they have the very fine and wonderful reservation and their per capita payments are much larger than ours, their enrollment is much less than what ours is. So, they have handled their problems.

The Yakima Tribe has handled the problems by letting everybody be allowed in it, but providing that the land go back to the people that it came from. That takes care of those.

No. 1, I think it should be made clear that section 7 does not control the descent and distribution of any allotment or interests other than those held by members of the Yakima Tribe. In other words, if there are people who are on the reservation who have an allotment on the Yakima Reservation, section 7 does not apply to those people. It only applies to people who maintain their membership in the Yakima Nation. So, we see these people who are objecting are the people who want the best of everything, who want to be members of the Yakima Tribe and yet control of the distribution of their property goes but at any time they want to give up their enrollment in the Yakima Reservation or the Yakima Nation, then this section 7 does not appeal to the person who is in Warm Springs or Umatilla, if he has the allotment under the reservation; it does not apply to him. It may apply to various others.

We feel that the descent and distribution is an internal matter, and it is the position of the Yakima Tribe, and we have no objection to any tribe passing similar restrictions on descent or distribution—you can call it retaliatory, if you wish, we think it is their business, we do not think it is retaliatory—that if that is the way that they want to manage their reservations, we have no objection to their having similar provisions to section 7.

—Also, as you see, there is a lot to be said about fathers and mothers and husbands and children and the like not being allowed to inherit. The person who holds the allotment, if he wants to make any interlegal or lifetime disposition of his land, he can do it. He can give it to any of his children and reserve a lifetime right for himself.

Senator ANDERSON. Can he give it to some outside person?

Mr. HOVIS. It has to be an Indian before he can make a lifetime disposition in trust. He can get a patented fee and make a lifetime designation.

Senator ANDERSON. How close a tie must there be—one-sixteenth; is that sufficient?

Mr. HOVIS. As long as this person that he makes this lifetime transfer to is a member of any other tribe, it is permissible under the present regulations, as I understand it. He could not make one to someone who is not a member of another tribe, but it is possible to make it in trust to any other Indian.

We think that the Yakima enrollment tends to go to the heirship problem, where a member with four children has interest in four allotments, the tendency is to deed the interests in separate allotments to each child, and the like. If the land passes by descent or devise under the act, there tends to be a consolidation of large interests and fewer persons involved. Otherwise, as to the disposition of their property, these four children would have one-fourth interest, and this is a problem that I think involves or is bothering us all.

Rules of descent and distribution vary from tribe to tribe and from State to State. If the Yakima law is unfair why not pass an act that provides uniform rules as to descent and distribution for every tribe?

Also we agree that S. 1764 is discriminatory. The Osage Tribe has a similar provision as to mineral interests, but no action is taken by the bill in that regard.

Senator ANDERSON. You have to have some rule, though, to make a sound case for it. You cannot say that they cannot deed it to cousins, and so forth. Can we pass a Federal statute for the inheritance of this property?

Mr. HOVIS. I believe that Congress has that power.

In other words, if Congress has provided, as they have now, for allotments, the descent and distribution of the allotments is taken care of by State law which varies from State to State. They could pass a law and say that all of the allotments go to the wife, go to the children—any way that Congress would decide. They could say that the allotments could go to the children and could go to the wives half and half. The Congress could make any law that it feels is fair.

We are discriminated against under the Oregon State law. A wife is discriminated against under the Oregon law because she only gets one-half interest in the property while the husband from Oregon is married to her and he gets the same amount under section 7, that is. But if he went under the State law, he would get the whole thing.

The Federal Government, by virtue of the General Allotment Act, gave tribal lands by allotment to individuals not necessarily Yakimas, without tribal consent. Should not the tribe in fairness be able to control the descent and distribution at this time?

I think that I can probably summarize this statement better.

Senator HATFIELD (presiding). Without objection, your entire statement will be placed in the record at the conclusion of your remarks.

Mr. Hovis. The Yakima Tribe has been opposed as you know, to this bill. This act was formulated as to the Yakima Tribe. It was initiated with reference to the tribe.

If we could explain a little bit about the general council.

Every member, Senator, above the age of 18 years, both men and women, has the right to attend and vote, and they vote upon all matters brought before the council. This is unlimited as such. A quorum of 250 members is required to start the council, and, thereafter, 175 must remain in attendance. The vote of the majority present settles all matters brought before the council, excepting that a two-thirds vote is required to repeal or amend rules of procedures, acts, resolutions, ordinances, and tribal codes.

The Yakima Tribe also has a tribal council composed of 15 members. And most of the business has been delegated to this tribal council. That is a basic governing body.

Before the year 1945, the general council had directed certain of its members to investigate the matter of the enrollment and the proper method of doing so. The appointed for this purpose reported its findings to the Yakima General Council on February 20, 1945, and by an overwhelming majority the general council voted to secure legislation by Congress authorizing enrollment of the members of the Yakima Tribe, rather than to make an enrollment under the regulations of the Interior Department. At this council meeting a resolution was adopted to include members not only living on the Yakima Reservation proper but those who had secured public domain allotments within the area ceded to the United States under the treaty of June 9, 1855.

On February 21, 1945, the general council approved a motion directing the tribal council to draft the desired legislation. The tribal council prepared several drafts and submitted them to the general council on March 6, 1946. The general council rejected the draft submitted, and after considerable debate selected a committee of the general council to assist the Yakima Tribal Council in preparing a draft in accordance with the specific directions of the general council. At this meeting a motion was approved establishing the minimum degree of blood requisite for the inheritance of trust interests at one-fourth to cover the general aspects of this act.

This draft, prepared by this committee and the Yakima Tribal Council in accordance with the wishes of the general council, was brought first to Chicago to the Indian Affairs Bureau and back here in Washington to the Solicitor's Office in the Department of the Interior and was introduced by Congressman Holmes of our district, and it became the law that we have here now.

The Yakima Tribe, every time the amendment has come up, has rejected the amendment overwhelmingly. As was pointed out here, last December the vote was 137 to 3, and the previous council action brought forth a vote which was 174 for rejection and four against rejection.

Prior to the General Allotment Act heirs to allotments were determined in accordance with tribal custom. Subsequently, the General Allotment Act—as were several special allotment acts—was determined by what the State law was in the various States.

There are some tribes under it that made provisions about descent and distribution in their constitution. So there are varying ways.

Everybody inherits differently. It differs from tribe to tribe. It also differs from State to State. For example, since it is most appropriate, I would like to describe the difference between the laws of Oregon and Washington.

In Washington, under the Washington State law, were it not for section 7 a wife would inherit an allotment, at least the interest in that allotment, in fee. However, because of section 7, if she is not a one-fourth Yakima she inherits the life's estate in one-half of it.

In Oregon, the wife, under State law, inherits a life estate in one-half of the real property.

So, you see a Warm Springs member from this Oregon Tribe, who is married to a Yakima member, are both in the same position, no matter who the survivor is, they take the same by descent and distribution. This is not true the other way around.

We were talking about retaliation a few minutes ago. This, basically, is one reason why the Yakimas are for section 7, because they feel that this is one of the guidelines. They feel that they were being discriminated against by the Oregon State law. We feel this way, Senator: that if the present rules of distribution and descent are unfair in this section 7, we would suggest that there be a uniform law regulating all Indian inheritance so that it would be uniform from State to State, because, otherwise, we place Congress in an unusual position.

Let us suppose that section 7 is repealed. Then, if section 7 is repealed, we feel that we are being discriminated against, the Yakima members, under the State of Oregon law and that we would just be back asking the Congress to do something about it, to make things even again. So, it just goes back and forth.

If this committee feels that this problem is a valid one and that section 7 is unfair, I would suggest that the better answer would be to make a uniform inheritance law for everyone.

There is another way that they can take care of it. They can have a similar provision to ours. We think that this is their own matter.

A third way to do it, if they feel that this is unfair, is to ask for relief, and they can say: "Look, the Yakimas are unfair to us. Make sure that you draw up a will so that your property doesn't go to the Yakimas; be sure that it goes to Warm Springs."

There are other ways that they can take care of this matter without interfering with what we feel is an internal tribal matter. What they do with their reservation is their business, and we would appreciate the same courtesy.

The big problem, Mr. Chairman, that all the tribes have is that we certainly do not appreciate being in the position of not getting along with our neighboring tribes, because we have had good relationships with Warm Springs and many of these other neighboring tribes, a lot of intermarriage, a lot of friendships between them. But the big problem with section 7 right now is the problem of treaties by the inheritance of these trusteeships by non-Indians where there is a non-restricted interest in the allotment like, for example, an un-Indian. If I would own an interest in an allotment, my consent can be obtained and must be obtained before anything can be done about that allotment. You can see the danger of this in timber allotments, grazing allotments, and even irrigation allotments. If I wanted to be hard nosed

about it, where it comes to a right-of-way going in for timber, even though I have a small minority interest, I am the one that they have to deal with, and it creates a considerable problem. These are not problems that are dreamed up; these are problems that all tribes have to live with all the time. This is the reason that we suggest that some of these other tribes give consideration to attacking this problem the same way that we have. It may not be as bad a problem on some of these other reservations, because they have restricted their membership more than we have. Perhaps that was a better way of handling it at the beginning, but you see we have been handling this the other way 21 years. Now, if we have to go back, and if we are forced by the Congress to go back, and handle it another way, then we have gotten the worst of the two, and we will have a lot confusion.

We realize that section 7 is a restriction to some for the good of the entire tribe in the management of reservation property. We realize that.

Here is the rationale: This property was reserved by treaty between the United States and these people. These people are the ones that can inherit, the Yakimas, the members of the Yakima Tribe. These are the people that reserved this land. The U.S. Government, through the General Allotment Act, without the consent of the Indians, came in and split this up and gave it, as has been testified to, to people who were not Yakimas. And we feel as if the Yakimas, the people who are Yakimas, have the right to get their property back, because they have had the use of this all of this time—these other people.

We also feel that there are people who are being bothered by this. There is an adequate escape route for them. One, they can make a lifetime distribution of this property to whomever they want to, reserving a life estate. They can get a patent-in-fee, or they can deed their property, et cetera.

We believe that the Secretary's report that was filed does not give a true picture about the large number of estates that they are talking about as being involved in this, because they list all of the heirs and the like, which distorts the picture. Also, in the Secretary's report, they do not point out that there are other limitations on the inheritance existing on other reservations. They say that generally there are no restrictions on other reservations. They make that statement without providing the committee with the true picture.

There are other problems on other reservations, yet this is a problem. This is a problem calling for uniformity everywhere.

If there are any questions, I will be glad to answer them.

(The statement referred to follows:)

#### STATEMENT OF YAKIMA TRIBE

##### GENERAL STATEMENT

The Yakima Tribe of the State of Washington is opposed to the Amendment of Public Law 706, 79th Congress, which is an Act to provide for the preparation of a membership roll of the Indians of the Yakima Reservation and for other purposes. The Yakima Tribe does object to the passage of S. 1764 or to any bill that would repeal or amend said Public Law 706, 79th Congress, commonly called the "Yakima Enrollment Act."

## OUTLINE OF REASONS FOR POSITION

The Yakima Tribe has continued to oppose any amendment to the Yakima Enrollment Act for various reasons. These reasons are set out in outline form for the benefit of the reader of this statement though not necessarily discussed in this order in a more complete discussion that follows:

*a.* The Yakima Enrollment Act is a compromise that suited and suits the wishes of the Yakima Tribe and an amendment of one section not considering these wishes and the compromise aspect of the Act is unfair.

*b.* The Yakima Enrollment Act, as part of this tribal compromise, allowed those not of the blood of the Yakimas (i.e. those allotted by the United States) to be members in return for the restrictions on descent and distribution set out in Section 7.

*c.* Section 7 does not control the descent and distribution of any allotment or interests other than those held by members of the Yakima tribe. Any person can give up his membership and Section 7 will have no effect on the descent or distribution. However, there are those that want the best of everything. They want to be enrolled, even though they are not of the blood of the bands and tribes that reserved the reservation, because they were allotted, and then they wish their allotment to be unrestricted as agreed as far as descent and distribution is concerned.

*d.* Descent and distribution is an internal tribal matter. The Yakima Tribe has no objection to any other tribe passing similar restrictions on descent and distribution.

*e.* Members can make lifetime or inter vivos transfer of their land. Deed to selected grantee with life estate reserved is the common method.

*f.* Yakima Enrollment Act tends to limit multiple heirship problems. For example, where a member with four children has interests in four allotments the tendency is to deed the interest in separate allotments to each child reserving a life estate in each to grantor and spouse. If the land passes by descent or devise under the act, there tends to be a consolidation of larger interests and fewer persons involved.

*g.* Rules of descent and distribution varies from tribe to tribe and from State to State. If the Yakima Act is unfair then why not an Act that provides uniform rules as to descent and distribution for every tribe.

*h.* S. 1764 is discriminatory. The Osage tribe has a similar provision as to the mineral interests of Osage allottees.

*i.* The inheritance by non-Indians of trust lands creates administrative problems in partition, leasing and management of trust property.

*j.* The Federal Government, by virtue of the General Allotment Act, gave tribal lands by allotment to individuals not necessarily Yakimas, without tribal consent. Should not the tribe in fairness be able to control the descent and distribution at this time.

## HISTORY AND GENERAL BACKGROUND

The Yakima Tribe of the State of Washington is and has been opposed to amendment of its Yakima Enrollment Act.

This opposition is an existing one and has been the continued position of the Yakima Tribe. The Yakima General Council and the Yakima Tribal Council have in the past rejected any attempts to amend or repeal said Act. This Act, as enacted, was an Act formulated to respect all the wishes of the Yakima Tribe, and H.R. 6165, which became the Act of August 9, 1946, was initiated by the Yakima Tribe acting through the recognized governing bodies of the tribe.

Let us digress a moment to explain the government of the Yakima General Council, and the second the Yakima Tribal Council.

The general council meets once a year, or sooner on special occasions, upon 30 days notice to all members of the tribe. Every member above the age of 18, both men and women, has a right to attend, express his views, and vote upon all matters brought before the Council. There is unlimited debate on all questions. A quorum of 250 members is required. Once a quorum is present business proceeds as long as there are 175 members present to transact business, and vote of the majority present settles all matters brought before the council, with the exception that a two-thirds vote is required to repeal or amend rules of procedures, acts, resolutions, ordinances, and tribal codes.

The Yakima Tribe also has a tribal council composed of 14 members. The tribal council members are elected by the Yakima General Council for a term of 4 years. The tribal council meets once a month, or sooner, at the Yakima Agency and handles all the matters of the tribe; and by general council resolution dated

February 18, 1944, and ratified by resolution T-38-56, dated December 6, 1955, has authority to transact all tribal business with the exception of business that by its nature it wishes to refer to the general council, or that the general council wishes to discuss. The Yakima Tribal Council are the elected representatives of the Yakima Tribe.

With this understanding of the government of the Yakima Tribe we will continue the narrative of the history of the Yakima Enrollment Act.

Before the year 1945 the Yakima General Council had directed certain of its members to investigate the possibility of securing enrollment of the members of the tribe and the proper method of doing so. The committee appointed for this purpose reported its findings to the Yakima General Council on February 20, 1945. By an overwhelming majority the general council voted to secure legislation by Congress authorizing enrollment of the members of the Yakima Tribe, rather than to make an enrollment under the regulations of the Interior Department. At this council a resolution was adopted to include members not only living on the Yakima Reservation proper, but also those who had secured public domain allotments within the area ceded to the United States under the Treaty of June 9, 1855.

On February 21, 1945, the general council approved a motion directing the tribal council to draft the desired legislation. The tribal council prepared several drafts and submitted them to the general council held on March 6, 1946. The general council rejected the drafts submitted and after considerable debate selected a committee of the general council to assist the Yakima Tribal Council in preparing a draft in accordance with the specific directions of the general council. At this council a motion was approved establishing the minimum degree of blood requisite for the inheritance of trust interests at one-fourth or more of the blood of the 14 tribes which constitute the Yakima Nation.

This draft, prepared by this committee and the Yakima Tribal Council in accordance with the wishes of the general council, was embodied in H.R. 6165, 79th Congress, 2nd Session, and was introduced by Congressman Hal Holmes, of the State of Washington. This bill, enacted into law by Congress and approved August 9, 1946, represented the will of the great majority of the Yakima Tribe and still does.

The Yakima Tribe has, every time the amendment of this Yakima Enrollment Act comes up, rejected overwhelmingly any amendment thereto. The records of your committee will show such action. The Yakima Tribal Council has been unanimous in its objection to the amendment of the Yakima Enrollment Act. Previously the general council on a predecessor bill voted 174 for rejection to 4 against rejection. The Yakima General Council in December of last year rejected S-1736 by a vote of 137 to 3.

#### DESCENT AND DISTRIBUTION TRIBAL MATTER

Prior to the General Allotment Act heirs to allotments were determined in accordance with tribal custom. Subsequently, the General Allotment Act, like several special allotment acts, modified this rule and substituted State law as a standard for the determination of heirs. An important and unhappy consequence of this shift has been the multiplication of the number of heirs in some instances and the subdivision of interests in dead allotments. Section 7 of the Yakima Enrollment Act was enacted to specifically correct this problem. Many IRA tribes, then with the counsel of the Bureau of Indian Affairs, placed a similar restriction in their constitution and others have specific acts limiting who may inherit. Where there are no such limitations State law continues to control. Here again this causes estates to pass differently as State laws of descent and distribution vary from State to State. For example since it is most appropriate we would like to discuss the difference between the laws of Oregon and Washington. In Washington under State Law, were it not for Section 7 a wife would inherit an allotment. However, because of Section 7 if she is not one-fourth Yakima she inherits a life estate, in one-half of the real property. In Oregon the wife, under State Law, inherits a life estate in one-half the real property. So you see that where a Warm Springs member from this Oregon Tribe is married to a Yakima member they are both in the same position. No matter who the survivor is they take the same by descent and distribution. This was an additional reason for the enactment of Section 7. We cannot but wonder, in the advocacy of S-1764, of why the Yakimas are being singled out. If Congress feels that present rules of descent and distribution are unfair and that this is a matter that warrants its attention, then we suggest that the only solution that would be fair would be a uniform

law regulating descent and distribution on all reservations. Such an Act would supersede present rules regardless of whether they are founded in specific Federal Acts, State Law, or Constitutions and customs of the various tribes.

#### MANAGEMENT PROBLEMS

The Yakima Tribe is concerned about the effect of non-restricted interests commingled with trust interests in the management of their land, timber and grazing programs. This would be the result of the enactment of S-1764. Some examples of the effect of having non-restricted interests commingled with trust interests are:

1. 531AM 4.3.1C provides consent of all non-restricted interests must be obtained before a timber sale of an allotment may be made. This has resulted in the past in the frustration of the wishes of the great majority interest because of unrestricted interests in an allotment. Sometimes this has been because of cussedness on the part of said minority owner, but in most cases it has been because the owner can't be located or determined. Many of these minute interests are not probated because of the cost involved.

2. The same problem exists in regards to rights-of-way for logging roads. Not only does this hamper the harvesting of the allotment, but may frustrate the sale of the entire unit of the location of the allotment is inopportune.

3. Grazing units are not susceptible to individual leasing. If an owner of a non-restricted interest happens to make it impossible to lease a key tract containing a waterhole for example, it can frustrate the wishes of the owners of the remainder of said grazing tract.

4. There would be great difficulty in ascertaining ownership. Since many of the interests are small there would be little probate of these interests. Therefore, confusion would result in trying to ascertain ownership. Also, it would mean that prospective lessees would have to go two places; i.e., the agency and the county auditor, to ascertain ownership. The bother involved would cause delay and nonuse of some of these allotments.

5. Where nontrust interest are purchased by the Yakima Tribe for heirship consolidation purposes or under our comprehensive land management plan, part of the interests would be held in trust while the remainder would be held in fee under existing legislation. We cannot purchase fee lands and hold them in trust existing legislation. Many tribes in this area cannot purchase fee lands at all.

We realize that Section 7 is a restriction to some for the good of the entire tribe in the management of reservation property. This is justified, we believe, because the allottees were given these allotments from the tribal lands, without charge, and also as tribal members they share in the benefits of an adequate management program.

We repeat this Section need not cause a hardship to anyone who wishes to have this property pass to non-Yakimas. The allottee may, if he wishes, resign from membership in the tribe and Section 7 will not effect his testamentary disposition of his property. Most members of course prefer to remain members and enjoy the benefits of membership in the tribe. Those who want to retain membership and still pass their property to other than Yakima members do so by (1) obtaining a patent in fee, (2) deeding their property or interest with no reservation of interest, or (3) deeding their property or interest and reserving a life estate.

#### SECRETARY'S REPORT NOT TRUE PICTURE

The Secretary's report dated July 7, 1967, does not point out to the committee that there are other limitations on inheritance existing on other reservations. By the use of the word "generally" they manage to make a true statement without indicating the other existing restrictions on other reservations. The Secretary's report does not indicate the many variables that exist in inheritance, from reservation to reservation and from State to State.

Secondly, by listing collateral heirs with children and spouse of deceased the report gives the impression that this is a gigantic problem, when in fact Section 7 has been controlling in the neighborhood of only 90 estates in 21 years. Since *inter vivos* conveyances have become popular the incidents of estates in which Section 7 is controlling is minimal.

Senator HATFIELD. Thank you very much.  
Are there any other comments that you wish to make, Mr. Jim?

Mr. JIM. I think that we have left out a prepared statement, Mr. Chairman. I would appreciate your taking the time, and we will be glad to answer any questions at anytime. It is of No. 1 importance here.

We oppose this act wholeheartedly; we have tried to represent the feeling of the people in full.

Thank you very much.

Senator HATFIELD. Thank you.

You may be interested to know that we will conclude this testimony at noon, and then we will reconvene at 2 o'clock this afternoon.

The Chairman, Mr. McGovern will hear the continued testimony at 2 o'clock. So, you will be welcome to say anything further at that time. I will not be able to be back at 2 o'clock.

Mr. JIM. Mr. Umtuch has some statements he would like to present.

Senator HATFIELD. I think Senator Anderson said they would be made a part of the files. We will check.

We will now recess until 2 o'clock this afternoon.

(Whereupon, at 12 m., a recess was taken until 2 p.m., this same day.)

#### AFTERNOON SESSION

Senator McGOVERN (presiding). Mr. Panner, I want to apologize for being late. It looks like we are going to have a series of live quorums this afternoon, and we may be harassed here a little bit; but we will start, in any event.

Mr. PANNER. I did not testify.

Senator McGOVERN. You did not get on at all?

Mr. PANNER. The Commissioner was on for about 10 minutes and then the Yakimas were on for the rest of the morning.

Senator McGOVERN. I see.

#### STATEMENT OF OWEN M. PANNER, ATTORNEY, CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON; ACCOMPANIED BY OLNEY PATT, CHAIRMAN, TRIBAL COUNCIL; AND VERNON JACKSON, GENERAL MANAGER

Mr. PANNER. Senator, I have furnished a written statement to the committee, and in the interests of getting to the point, we will depart completely from that because we realize you have a difficult schedule.

I have with me here today Mr. Olney Patt, who is the chairman of the tribal council, and Mr. Vernon Jackson, who is the general manager. The chairman would like to say just a few words, and then turn it back to Vernon Jackson.

Mr. PATT. Senator, we are appearing here on the so-called Yakima Enrollment Act. Members of the Yakima delegation, among whom are my close friends, very good friends, and being a responsible group such as they are, I would imagine that this weighs rather heavily on their conscience at times. Deep down I think they would like to effect a change in the Enrollment Act themselves. I think they have accomplished their desired results, according to their statements, when they initiated this act for the purpose of keeping their land intact. It would appear to us that the act has been effective. I think they have accomplished their desired results.

I think it is of very little importance insofar as inheritance of property on other reservations is concerned. I do not think it means too much to them. So with that I would like to turn it back to our attorney.

Mr. PANNER. Thank you, Olney.

Senator, the Yakima Inheritance Act, section 7, provides, briefly, that no one who is not a member of the Yakima Tribe and who does not have 25 percent or more of the blood of the Yakima tribal members can inherit trust property on the Yakima Reservation, either real or personal property. This act was passed in 1946, and there was a good bit of comment about it this morning by the Yakimas.

I am not sure whether a vote of the Yakima people was taken before the act was passed. I do know there were some general council meetings in which it was shown the tribe favored the bill.

As it was pointed out here this morning, the Interior Department made no report until after the Congress had passed the bill. We are not sure exactly why, but they did recommend it after it had passed. They recommended that the President sign it.

Now some 20 years have indicated the drastic consequences of this section 7, in particular. It is bordering on unconstitutional. I think probably Congress had the power and the regulation of Indian affairs to do it, but it works a terrible injustice on not only other tribes but on individual Yakimas.

There was mentioned here this morning by the Yakima delegation that the Yakima Tribe has repeatedly supported the continuation of this act, but these are at general council meetings, at meetings on the reservation where the presentation has been made that this will result in termination to the Yakima Tribe or some drastic consequences to the Yakima Tribe if this is changed.

Every other tribe that I know of has the same situation that we are asking you to put the Yakimas in. That is, if you repeal section 7, they will be in the same position that the Warm Springs, Umatillas, all of the other Northwest tribes are in.

For years we have introduced reciprocity legislation, one type of legislation or another, in an attempt to correct this situation. What happens is that a Yakima family, where the wife is Yakima, and the husband is a Warm Springs, have children. Some of them may be Yakima children and some of them Warm Springs because, as you know, enrollment depends on their residence at the time the child was born, so that when a Yakima member dies the Yakima children inherit all of their parents' property on the Yakima Reservation, and his share of the property on the Warm Springs Reservation, for example.

Mr. Jackson will mention some of these specific examples, and I might add to that, as far as I know, I am quite sure, that there has never been a vote of all of the members at any kind of a general election other than a general council meeting on the reservation.

We have attached to our statement four written statements by Yakima members who are opposed to this provision of the act. These are four that we picked up at the Warm Springs Agency. They have signed letters, and the letters are in there for the record. In addition to that, I have a copy of a letter, the original of which was sent to

the committee from Malcolm McCleod, who represents a number of the Western Washington tribes, opposing it.

Bob Dellwo will follow me here, representing some other tribes. Basically we cannot expect big delegations because these do not affect tribes. These affect individuals, and they simply cannot get back here.

In past years the Yakima Independent Indian Association has testified in favor of the repeal of this section, and in 1960 the House of Representatives passed this same repeal of section 7 that we are asking the Senate to pass now.

Senator Hatfield this morning received a telegram from the Yakima Independent Indian Association again urging the repeal of this section 7. So there are many Yakimas who favor repeal. What it does, it prevents a Yakima member from leaving his property to his children and frequently third cousins or fourth cousins obtain the property when the children are disinherited as a result of this act.

Now, there was some testimony here by the Yakimas—

Senator MCGOVERN. Would the same thing apply to a wife or a husband?

Mr. PANNER. Yes. A Warm Springs wife who is married to a Yakima man may have worked all of her life accumulating or improving this trust property, and then find that because she is not a Yakima member she is disinherited except for a courtesy right that they give her, that is, the use of half of the property for her lifetime.

Senator MCGOVERN. I see.

Mr. PANNER. Mr. Hovis mentioned this morning, that it should be clear for the record, that State laws differ, and he mentioned that in the State of Oregon, the dower and courtesy rights were different than in the State of Washington. That is true. But that only applies in the absence of a will and it does not affect children. In other words, none of the State laws disinherit children of a person when the parent dies, but this act, in effect, disinherits children, wives, cousins, anyone who is not a Yakima member, and it frequently will result in escheating the property to the Yakima Tribe.

The Interior Department has set forth some good statistics in their report to the committee. They have pointed out that, in almost 800 cases since this bill was passed, both enrolled Yakimas and non-Yakimas have been disinherited as a result of this.

The Yakimas say this is an internal matter. Well, it is not an internal matter. We love the Yakimas. We work with them frequently. We think they are a fine tribe. But in this they are being selfish, and it is not an internal matter. As Chairman Aspinall mentioned when we testified last month over in the House, the Yakimas simply want to inherit on the other reservations but not permit inheritance on their reservation.

Their motives, in passing this originally and in Congress passing it, were good. That was to preserve the land base, and a strong argument is made by them that this "helps us preserve our land base." Yes, it does. But we have that same problem at Warm Springs, a very comparable tribe, and we tried to solve that by having the tribe purchase back interests of non-Indian owners. Just to disinherit them is terribly unfair, and it creates problems that a practicing lawyer such as Bob Dellwo and I simply cannot explain. When you have one child, brother and sister, one child a Yakima and one a Warm Springs, the

Yakima inherits all of the property at Yakima and half of the property at Warm Springs, so some horrible results are worked by reason of this.

We actually now have in effect a uniform law except for this statute.

There has been some mention here that the Osage Tribe down in Oklahoma may have some comparable provision with respect to mineral rights. I do not know about that. I have never heard of it, but we do know that in the northwest area there is nothing like it, there is no other tribe that has anything like it. It is basically unfair and the Bureau has supported repeal of it for 10 years that I know of.

Consistently the Yakimas have made good presentations and claimed and created enough confusion to indicate that this is an internal matter. It is not an internal matter any longer. We feel that all of the tribes should have the same situation, and the Yakimas have at least as much and probably more resources than most of the tribes to protect their land base.

This situation got so bad that in 1965 the Oregon Legislature passed a joint resolution unanimously urging the Congress either to enact a reciprocity bill, which is not the answer, or to repeal this section 7.

Mr. Umptuch, who has testified here this morning, said he feels he is honest and fair in testifying for this Yakima bill because he has Warm Springs children. But the fact is that Mr. Umptuch can, because of his knowledge of the subject, through a device of deeding it to his Warm Springs children and reserving a life estate, overcome the effects of this act. But he is a little more aware of this than the great majority of the 5,000 Yakimas.

The rest of them, as we know, just do not do these things. It costs money. It is hard to go ahead and deed away your property ahead of time and then take a chance of maybe having to get your children to sign it back if you ever need it. So this is not the answer and the answer is simply, I think, the elimination of this section 7.

We will be happy to answer any questions. Mr. Jackson has a few specific examples that he would like to give you.

Thank you, Senator.

Senator McGOVERN. Thank you very much, Mr. Panner.

(The statement referred to follows:)

STATEMENT OF THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION  
OF OREGON

INTRODUCTORY

The Confederated Tribes of the Warm Springs Reservation of Oregon is a Federal Corporation chartered under the Wheeler-Howard Act (48 Stat. 984) of June 18, 1934, as amended (49 Stat. 378) on June 15, 1935. The tribe has approximately 2,000 members. The reservation covers 564,210 acres and is located in Middle Oregon.

Like most reservations, the Warm Springs reservation has problems with fractionated interests and multiple ownership of allotted lands. There are over 700 tracts of land which are individually held involving over 4,000 separate ownerships. Over the past 15 years, the tribe has spent more than a million dollars of its money in an effort to eliminate these fractionated interests in allotted lands. An additional 125,000 dollars will be spent in 1968 for this purpose. A substantial amount of the monies so spent has been paid to members of the Yakima Tribe for their interests in lands at Warm Springs.

By the provisions of Section 7 of the Yakima Enrollment Act, only enrolled members of the Yakima tribes of one-fourth or more blood of such tribes can inherit the interest of a deceased Yakima member in trust property. The only exception is that the surviving spouse may be entitled to a one-half interest in the property for life. This is the limit the spouse can inherit no matter what contribution he or she may have made to the family assets.

Members of the Yakima tribe continue to inherit trust property at other reservations but the members of the tribes having such other reservations cannot inherit at Yakima.

This Section 7 of the Yakima Act was apparently intended to aid the Yakima tribe in preserving its land base for Yakima tribal members. While Section 7 undoubtedly helps in this regard, it has a drastic, punitive, effect on not only the members of other tribes but on the Yakima member also. Since a person may not belong to more than one tribe and since membership is frequently determined by the residence of the parents at the time of birth, many families have some children who belong to the Yakima tribe and some who belong to the other tribes. Parents who are Yakima members are denied the right to leave their non-Yakima children any of their property. They may deed the real property to the non-Yakima children before their death, but this is cumbersome, expensive, and has many disadvantages. A deed is not effective with respect to personal property or money. The result is the disinheritance of many children, while their brothers and sisters may receive substantial assets even though this is not intended by the parents.

The statistics included in the Department's Report and the examples cited in the letters from the Superintendent at Warm Springs which are attached to this statement establish that these situations are occurring regularly and with drastic consequences.

Let's look at Example No. 1 on the letter of January 23, 1968. Imagine trying to explain to the two sons of Daisy Heath Clydehawks why they received nothing from their mother's estate and their 4 cousins inherited all of their mother's property. What's worse, there was nothing Daisy could have done about it unless she had been willing to part with the ownership of the property before her death. Lawyers reluctantly advise people to transfer their property to their children before death, even with a life estate reserved because a change in circumstances may require a sale or mortgage of the property.

It's been necessary to make such explanations regularly since this Act was passed in 1946. For at least the last 9 years that I am aware of, the members and representatives of the Warm Springs, Umatilla and Nez Perce Tribes have been struggling to either eliminate Section 7 or to get a reciprocity bill passed, without success.

In 1960 the House passed a similar bill, H.R. 1176, but the bill did not pass the Senate. The injustices that have occurred since 1960 now demonstrate that Section 7 should be repealed.

We are not opposing the Yakimas in their attempts to regulate their internal affairs but when the regulations so unfairly affects not only the members of other tribes but individual members of the Yakima Tribe as well, it ceases to become an internal affair. As shown in the departmental report, almost 300 Yakima members have ben disinherited because they did not meet the blood requirements of Section 7. It is one thing to establish the blood requirements necessary to become a member of the tribe and quite another to establish blood requirements to take property away from the rightful heirs.

Almost 600 members of other tribes have had their property taken away from them because of Section 7.

In past years, individual Yakimas not connected with the tribal government have testified before the Congress in favor of the repeal of Section 7. I'm sure if it had been practical to give notice to all the individual members and if they'd had funds available, some individual Yakimas would be here testifying today.

The situation became so bad, that in 1965, the Oregon Legislative passed Senate Joint Memorial No. 8 urging the Congress to repeal Section 7 of the Yakima Act, or in the alternative that a reciprocity act be passed.

#### CONCLUSION

The Yakimas have the same basic problems with fractionated interests and multiple ownerships that the Warm Springs Tribe and other tribes have. These problems can't be solved by such an unfair provision as Section 7. Section 7 ac-

tually results in confiscation of property without compensation since, if there are no heirs eligible under its provisions, the property escheats to the Yakima Tribe, even though decedent left children surviving.

I am authorized by the tribal attorneys for the Umatilla and the Nez Perce Tribes to say that they will file statements supporting S. 1764. We respectfully urge its adoption and thank you gentlemen, for the opportunity to appear before you.

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS, WARM SPRINGS AGENCY,  
Warm Springs, Oreg., January 23, 1968.

Mr. VERNON JACKSON,  
General Manager, Confederated Tribes of the Warm Springs Reservation of  
Oregon, Warm Springs, Oreg.

DEAR Mr. JACKSON: We are advised you are planning to be in Washington, D.C. January 24 and 25 to attend the Sub-Committee Hearing on H.R. 7178 entitled "A Bill to amend the Act of August 9, 1946 (60 Stat. 968), providing for the preparation of a membership roll of the Indians of the Yakima Reservation."

A review of the Warm Springs probate records indicate examples can be recited of extreme cases of the Yakima heirship involvement between the Yakima and Warm Springs enrollees. However, we feel it advisable to recite only a few of the day to day typical cases wherein direct blood descendants have not or will not inherit Yakima trust interests in real property under the present 1946 law. On the Warm Springs Reservation side, however, the "heirs at law" or the "natural heirs" will inherit in the Warm Springs trust individual ownerships.

Over the past 15 years, the Warm Springs Tribes have spent more than one million dollars of Tribal moneys to eliminate non-Warm Springs ownership in the allotted lands. An additional \$125,000 will be spent by the Tribes in 1968 for this purpose. A large percentage of the above acquisition moneys has been directed toward Yakima interest in the individually owned land. Transactions between individuals to eliminate Yakima interests in Warm Springs lands will increase the total several thousand dollars more.

The Warm Springs Reservation has more than 700 individually owned trust allotments or tracts with individual interest therein totalling over 4,000. A large percentage of these individual interests are owned by members of the Yakima Tribe. The ownership problem in itself presents many problems in the development and management of reservation resources. As we all know, this is multiplied several times by multiple, diverse ownerships.

The above is recited as a small portion of the over-all problem presented by heirship ownership and the Yakima Act of 1946 and is intended as background for the following discussions.

The Warm Springs Reservation contains 564,210 acres, more or less. The Yakima Reservation contains 2,117,225 acres, more or less. The Yakima Reservation is roughly 3½ times the size of the Warm Springs Reservation, both in area and membership. The Act of 1946 was an attempt by the Yakima Tribe to contain their Yakima trust lands in Yakima ownerships without regard to the rights of an interest owner to pass title to the natural heir or heirs at law. In operation, the Act may have some containment effect for the Yakima Tribe in holding a constricted enrollment and land ownership base. It does so, without regard to the non-qualified heir and without regard to the depleting effect on trust land ownership held by other tribes. Further, it denies the legal and natural heirs the right to own property under the natural laws of descent.

To legally avoid the Act of 1946, several methods of transferring ownerships have been used by some owners of Yakima trust interests in the past few years. The effects of these actions have been minimum to the entire problem. The actions are costly and time consuming—costly to the Tribes and to the Bureau. Too, a majority of the Yakima owners are past middle age, are elderly and uneducated in property title transfers. This means that in a majority of heirship cases, no action has been taken by the trust property interest holder to transfer title to property during his lifetime to the natural heirs. A good example is a gift conveyance of property reserving the life estate to the grantor. As stated above, such title actions are time consuming and create additional costs.

With your permission and without prejudice and conflict of interest, we will recite an example of the above within your own family. Mrs. Georgiana Jackson, your mother, is an enrolled member of the Yakima Tribes. Your father, Charles

Jackson, is an enrolled member of the Warm Springs Tribes. Your mother had four children, one enrolled at Yakima and the other three at Warm Springs. She has extensive Yakima property holdings, some at Warm Springs. In the absence of any title transfers during her lifetime and regardless of a will, the Yakima property will all descend to the one Yakima heir, the Warm Springs property to all four children. If she leaves a will, the will can only be operative in so far as the Warm Springs properties are concerned. Since there are vast differences in property values, the Yakima heirs' inheritance will far exceed the value of the Warm Springs properties, thus creating a gross inequity.

The following examples taken at random from the Warm Springs files set forth clearly some of the inequities we have discussed, see attachment.

*Example 1.*—The Warm Springs heirs inherit trust property valued at \$420 (the Warm Springs heirs are also heirs at law, or natural heirs). The Yakima heirs (in 5th degree) inherit lands valued at \$3,270.

*Example 2.*—The Warm Springs heirs inherit trust property valued at \$60.00 (the Warm Springs heirs are also heirs at law, or natural heirs). The Yakima heirs inherit lands valued at \$15,106.66.

*Example 3.*—The Warm Springs heirs inherit trust property valued at \$1,224.83 (the Warm Springs heirs are also heirs at law, or natural heirs). The Yakima heir (in 5th degree) inherit lands valued at \$15,182.47. The operation of the Act omits five Warm Springs heirs and leaves the Yakima property all to one Yakima heir in the 5th degree.

From the examples, one can readily see the inequities discussed herein above. The acreages of land are not shown.

Many legal minds advise that the Yakima Act of August 9, 1946 (60 Stat. 968) has proven to be unconstitutional in its operation. Amendatory action has been and is seriously needed.

Sincerely yours,

\_\_\_\_\_  
Superintendent.

[Attachment]

Example 1.—Alice Scott (Daisy Heath Clydehawks), Yakima Allottee No. 1539

Heirs at law :

|                                      |      |
|--------------------------------------|------|
| Walter Heath, Warm Springs unal..... | Son. |
| Roy Heath, Warm Springs unal.....    | Do.  |

Value of Warm Springs property : \$420.

Heirs to Yakima property : (Probate No. 9164-60)—

|  |      |
|--|------|
| Louis (Louie) Sweowat, first cousin (5th degree).....  | 1/4. |
| Gilbert Sweowat, first cousin (5th degree).....        | 1/4. |
| Johnson (John) Sweowat, first cousin (5th degree)..... | 1/4. |
| Lillian S. Sawyahllil, first cousin (5th degree).....  | 1/4. |

Value of Yakima property : \$3,270.

Example 2.—Hattie Mosstocken (Hattie Charley, Hattie Yallup or Hattie Wolfe), Yakima Allottee No. 4448

Heirs at law :

|                                       |                |
|---------------------------------------|----------------|
| Agnes Yallup Heath, Yakima Unal.....  | Daughter.      |
| Lucy Wolfe, Warm Springs Unal.....    | Do.            |
| Eva Wolfe Ike, Warm Springs Unal..... | Do.            |
| Matilda Wolfe, Warm Springs Unal..... | Do.            |
| Esther Wolfe, Warm Springs Unal.....  | Do.            |
| James Wolfe, Warm Springs Unal.....   | Son.           |
| William Begay, Yakima Unal.....       | Grandson.      |
| Helen Begay, Yakima Unal.....         | Granddaughter. |

Value of Warm Springs property : \$60.

Heirs to Yakima Property : (Probate No. 2729-58)—

|                                   |      |
|-----------------------------------|------|
| Agnes Yallup Heath, daughter..... | 2/4. |
| William Begay, grandson.....      | 1/4. |
| Helen Begay, granddaughter.....   | 1/4. |

Value of Yakima property : \$15,106.66.

Example 3.—Agnes Teaius (Agnes Clydehawks Scott) Yakima Allottee No. 4551

Heirs at law :

|  |           |
|--|-----------|
| Melvin Clydehawks Scott, Warm Springs Unal.....  | Son.      |
| Ardis Clydehawks Scott, Warm Springs Unal.....   | Daughter. |
| Leander Clydehawks Scott, Warm Springs Unal..... | Son.      |
| Dan Clydehawks Scott, Warm Springs Unal.....     | Do.       |
| Della Clydehawks Scott, Warm Springs Unal.....   | Daughter. |
| Value of Warm Springs property : \$1,224.83.     |           |

Heirs to Yakima property : (Probate Nos. 5431-50 and 8700-54)—

|   |      |
|---|------|
| Sallie Hashneth, cousin (5th degree)..... | All. |
| Value of Yakima property : \$15,182.47.   |      |

In the above examples the owners are attempting by one legal means or another to correct the inequities during their lifetimes. A Last Will and Testament of properties is not sufficient and is not operative to all heirs under the law. The only processes left open are sales and gift deeds to owner's heirs made during the owner's lifetimes.

The examples recited herein are but samples of the problem and can be multiplied many times.

The operation and effect of the Yakima Act is deemed unconstitutional by many.

Sincerely yours,

\_\_\_\_\_  
Superintendent.

POST OFFICE BOX 385,  
Warm Springs, Oreg.

MR. VERNON JACKSON,  
Executive Director, Confederated Tribes of Warm Springs,  
Warm Springs, Oreg.

DEAR MR. JACKSON: I am furnishing you with the following information for whatever use it may be to you.

I am a  $\frac{1}{4}$  degree enrolled Yakima Indian. My children are not eligible for enrollment with the Yakima Tribe because they are  $\frac{1}{8}$  degree Yakima. Under the present Yakima Inheritance law my children are not able to inherit any of the Indian trust property which I own. And in this day if you do not own property, you do not own anything because in the years to come this is the only asset that will continue to increase in value whether it is "Indian" or not.

Secondly, under their election laws no one can say anything about tribal business unless they are personally present to make a voice vote. In other words there is no such thing as an absentee ballot.

These two things discriminate against members of a minority group and this is contra to national present day policy. Remedial action, such as the repeal of the inheritance act and allowance for absentee ballots, is necessary.

Very truly yours,

Mrs. RUBY DEAN LENO.

*To Whom It Might Concern:*

My name is Hazel Queahpama Tewee, I am of  $\frac{1}{4}$  Indian blood, I am enrolled at Yakima Agency, 61 years of age and have six children all enrolled at Warm Springs Agency. I hold trust interests at the Yakima reservation.

I have been told that under the 1946 Yakima Inheritance Act, my children, who are members of the Warm Springs Tribe, cannot inherit any of my Yakima trust property. This I do not like, it is not fair to my own children. Children of a Yakima parent should be allowed to inherit trust property at Yakima or wherever the property is located. The law is not fair, it should be changed to permit our children to have our trust property when we pass on.

HAZEL QUEAHPAMA TEWEE.

*To Whom It Might Concern:*

My name is Dorothy Quaempts Ike Cassaway, 48 years of age, an enrolled Yakima Indian of  $\frac{1}{4}$  degree Indian blood and own interest in 21 allotments or tracts of land. I am the mother of five children, four are enrolled at Warm Springs and one at Yakima. The Warm Springs children under the existing Yakima law cannot inherit at Yakima, only the child enrolled at Yakima can inherit there. In the event of death, I want to distribute my property fairly

among my children. To do so under the Yakima law, I will be required to deed the property I wish to leave to my Warm Springs enrolled heirs during my lifetime. This is a costly, time consuming process requiring the making of separate deeds at the cost of surveys and conveyance costs of approximately \$75 per deed. The law should permit me to make a will disposing of all my property in one instrument.

The Yakima inheritance law should be corrected to allow children of a Yakima parent or natural heirs to inherit from their Yakima father, mother or husband or wife.

DOROTHY QUAEMPTS IKE CASSAWAY.

*To Whom It Might Concern:*

My name is Irene Quaempts Queahpama Hernandez, 59 years old, an enrolled Yakima of  $\frac{1}{4}$  degree Indian blood, have six children and hold interests in trust interests at Warm Springs Reservation. I also hold trust interests and rights at the Yakima Reservation. Under the present Yakima inheritance laws, none of my children will inherit any of my Yakima trust property or interests in event of my death. The Yakima interest will pass on to Yakima enrolled cousins.

This is an unfair law. It denies my children the right to inherit property and assets I have saved for them over the years. If I deed the property to them now, it will take money I cannot spare to pay the costs of conveyance and surveys; if I happen to suddenly die, they will not inherit. What should I do? The present law is unjust.

IRENE QUAEMPTS QUEAHPAMA HERNANDEZ.

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS, WARM SPRINGS AGENCY,  
WARM SPRINGS, OREG.,  
March 1, 1968.

Mr. VERNON JACKSON,  
*General Manager, Confederated Tribes of the Warm Springs Reservation of Oregon, Warm Springs, Oreg.*

DEAR MR. JACKSON: In reply to your request for information and examples to be used at the hearing to be held March 4, 1968 by the Interior and Interior Affairs Sub-committee on Indian Affairs on 1764 to repeal Section 7 of the Yakima Inheritance Enrollment Act of 1946; there appears to be little additional information that would add to the information supplied in Agency letter of January 23, 1968 and May 4, 1967 with examples recited therein, except for the enclosed statements by Yakima allottees and enrollees two exhibits of ownership breakdowns and some additional comments.

The examples recited in the January 23, 1968 and May 4, 1967 letters are good illustrative examples and not extreme examples reflecting the problem. House Hearings on N.R. 7653, a related bill on January 24 and 25, 1968 has resulted in much discussion by concerned Indian people, the Warm Springs Tribal Council and others who are or will be directly involved. Statements have been handed in by four enrolled Yakima owners of trust interests, copies of which are attached; and two examples graphically showing: (1) internal (within the Yakima Reservation) results of the operation of the 1946 Yakima Act and (2) a current Warm Springs Tribal land acquisition case reflecting involvement in multiple ownership plus the trust, fee and enrollment status of the owners.

There yet remains after nearly 12 years of effect under the law, a large number of Yakimas who are not familiar with force of limitations under Section 7 of the law until the realistic facts are brought home to them through probate action or testamentary preparation. Then it is either too late to take curative action or they find that they are faced with time consuming, expensive procedures. A gift conveyance from owner to grantee will average roughly, \$75 per transaction depending upon the values of the Yakima property and documentation necessary. The Yakima Tribes finance a part of the Yakima real estate operations by a system of fees charged on each transaction. The fees are assessed on a fee scheduled based on the values involved. Therefore, an owner in interest to trust property or interests if faced with several problems (1) takes no action and allows the provisions of the Act of operate with the Yakima interests passing only to the Yakima heirs, or (2) gift deed the interests to their non-Yakima heir(s) or (3) sell the interests and allocate the proceeds. This last procedure is time consuming and quite often subject to other certain procedural restrictions.

## STATEMENTS

You have had handed to you a statement by Mrs. Ruby Dean Leno. Mrs. Leno is an enrolled member of the Yakima Tribes, her children are not enrolled, is a knowledgeable person and has for several years been attempting to resolve her situation since her children will not inherit her property. Mrs. Leno has resolved to sell her interests. She has been advised the sale will require time to consummate. During this period she has no protection in the rights of her husband and children to benefit in her estate in event of death.

The statement of Mrs. Dorothy Quaempts Ike Cassaway refers to 21 trust interests in Yakima property. Mrs. Cassaway has been attempting the past year to convey a part of her Yakima interests to her Warm Springs children. She has found the gift conveyance procedure time consuming and expensive.

Mrs. Hazel Queahpama Tewee has been concerned since she had the provision of the Yakima Act explained to her. She is only one of many who have not realized how effectively the Act operates to limit her heirs in her Yakima property.

Mrs. Irene Quaempts Queahpama Hernandez is also concerned and has been assessing the processes and actions necessary to secure her Yakima interest to her children.

Three of the above have retained their original trust allotments in addition to other trust Yakima rights and interests.

The two examples attached speak for themselves. No. 1 outlines the family history in a Yakima probate case wherein 16 living blood heirs are denied the right to inherit in the estate, while the entire estate passed to an adopted son not of the family blood. The 16 are not enrolled Yakimas who do not qualify because of residency, blood quantum or other reason.

Exhibit No. 2 Warm Springs Allotment No. 317, Nellie Whitley, deceased, is an example taken from one of the current Warm Springs Tribal acquisition cases. It is an illustrative of multiple ownerships and the related problem. This example reflects the difference in the basic principles involved; i.e. the Yakima containment by arbitrary denied of inheritance by any except Yakima enrolled persons as opposite to the functional normal rights of inheritance followed by an equitable extinguishment of the ownership in favor of the Warm Springs Tribes. The Yakima procedure appears morally and constitutionally unjust, the Warm Springs process requires financing and funding but is nevertheless fair and constitutional. The owners then benefit by an American, democratic process in their inheritance right.

There should be added to the Departmental letter of July 7, 1967 under the statistics section, "Escheated to Yakima Tribes, four cases."

There are enclosed for your reference, copies of Agency letters of January 23, 1968, May 4, 1967, and related attachments, three statements by Yakima enrollees, and Examples 1 Yakima case and 2 Warm Springs cases.

The goal of containment of reservation interest and property ownership is ideal, the method of containment in an equitable manner is the problem that confronts us.

Sincerely yours,

\_\_\_\_\_, *Superintendent.*

Senator McGovern. We will now hear from Mr. Jackson.

Mr. JACKSON. Thank you, Senator McGovern.

It is indeed a pleasure to appear before you and discuss these problems we are now facing. But, first, I want to say that personally we do not have anything against the Yakimas. They have called us blood brothers, and we in turn have called them the same way. We celebrate the same celebrations, we enjoy the competitive sports with them, basketball, bowling, baseball, but we all abide by the same rules in those things.

When it comes to this, the enjoyment or the fine relationship seems to part. It is just because of this one section in the law.

Now, the first of these examples I want to discuss concerns a Yakima enrollee. Her name is Alice Scott, and ended up as Daisy Heath Clyde-hawks. She had two sons who are unallotted. She had some Yakima property, but she also had four relatives enrolled at Yakima but not

enrolled at Warm Springs. So they enjoyed the privilege of inheriting one-fourth each of the property she had at Yakima.

Now, the property at Warm Springs was worth \$420. The property at Yakima was worth \$3,270. Here we have the case of two sons who were completely disinherited in this one case.

Example No. 2 also concerns a Yakima allottee, Hattie Wolfe, and she had a number of heirs-at-law. Five of these were enrolled at Warm Springs, three were Yakima enrollees, and they all enjoyed the privilege of inheriting the Warm Springs property, which amounted to \$60, eight of them altogether. But when it came to the Yakima property, the five that were enrolled at Warm Springs were disinherited, and only three were heirs to the property. The property at Warm Springs amounted to \$60, the property at Yakima amounted to \$15,106.

Case No. 3 is named Agnes Teaius. She had five heirs-at-law. Three were Warm Springs enrollees but unallotted. They inherited Warm Springs property valued at \$1,224.83. When it came to the Yakima property they were completely disinherited. All of the Yakima property was inherited by a cousin of the fifth degree. The value of the property was \$15,182.47.

Now, you take just these three examples alone, the total value of the Warm Springs property amounted to \$1,704.83. The total amount of the Yakima property that the Warm Springs people were disinherited from was \$33,559.13, a difference of \$31,854.30, in just those three examples that we pulled out of the files. It was mentioned a while ago, too, that there were three that had voted against this, only three that had voted against this section 7 originally.

I have here four statements signed by Yakima enrollees who are bitterly opposed to this section 7 of the law. One is working at Warm Springs. She is a 4/4 degree enrolled Yakima Indian. She has property on the Yakima Reservation. She has grandchildren. Yet she cannot will this property under the present circumstances to her grandchildren or to her husband or to her son or daughter. She can take this longer route by deeding it, but supposing in the process something happened to her, she would still lose out on the property, so she feels she is facing a hopeless situation.

This is another case, this is a full-blooded Indian named Hazel Queahpama Tewee. She is enrolled at Yakima, 61 years of age, and she has six children all enrolled at Warm Springs. She holds trust interests on the Yakima Reservation, and she has been told that under the 1946 Yakima Inheritance Act her children, who are members of the Warm Springs Tribe, cannot inherit any of the Yakima property. She says, "This I do not like, it is not fair to my children. Children of a Yakima parent should be allowed to inherit trust property at Yakima or wherever the property is located. The law is not fair, and should be changed to permit our children to have our trust property when we pass on." It is signed by Hazel Queahpama Tewee.

No. 3 also concerns a full-blood Yakima enrollee, 48 years of age. She has five children. Four of them are enrolled at Warm Springs, one at Yakima. The Warm Springs children, under the existing laws, cannot inherit the Yakima property. One child is enrolled at Yakima, so she said, "In the event of death, I want to distribute my property fairly among my children. To do so under the Yakima law, I will be required to deed the property I wish to leave to my Warm Springs

enrolled heirs during my lifetime. This is a costly, time-consuming process requiring the making of separate deeds at the cost of surveys and conveyance costs of approximately \$75 per deed. The law should permit me to make a will disposing of all my property in one instrument."

"The Yakima inheritance law," she goes on to say, "should be corrected to allow children of a Yakima parent or natural heirs to inherit from their Yakima father, mother, husband, or wife." It is signed Dorothy Quanempts. That is No. 3.

No. 4 also involves—

Senator McGOVERN. These are all Yakima tribal people?

Mr. JACKSON. All living in one place.

Senator McGOVERN. Mr. Panner, what determines whether the child in an enrollee of the tribe or not? Is it his birthplace?

Mr. PANNER. Residence generally, Senator.

What happens is that if they have the necessary blood quantities and if they maintain a residence within the Yakima Reservation or within the ceded area they are then eligible for enrollment. If they do not maintain a residence within that area they are not eligible.

At Warm Springs, if they are a member or a child of a member of the necessary blood quantum, and they have a residence within the reservation, they are eligible for enrollment there, so that a Yakima father and a Warm Springs mother who are living on the Warm Springs Reservation will ordinarily have their children enrolled at Warm Springs. It was mentioned this morning by Mr. Hovis that they enrolled members into the Yakima Tribe all over the United States. I think those people still have to have a residence within the ceded area in order to get enrolled. I am not sure about that, but I believe that is the rule.

Mr. JACKSON. Sir, may I read this whole thing?

Senator McGOVERN. I am sorry to interrupt you.

Mr. JACKSON. This is written by Mrs. Irene Quaempts Queahpama Hernandez:

My name is Irene Quaempts Queahpama Hernandez, 59 years old, an enrolled Yakima of  $\frac{3}{4}$  degree Indian blood, have six children and hold interests in trust interests and rights at the Yakima Reservation. Under the present Yakima inheritance laws, none of my children will inherit any of my Yakima trust property or interest in event of my death. The Yakima interest will pass on to Yakima enrolled cousins.

This is an unfair law. It denies my children the right to inherit property and assets I have saved for them over the years. If I deed the property to them now, it will take money I cannot spare to pay the costs of conveyance and surveys; if I happen to suddenly die, they will not inherit. What should I do. The present law is unjust.

And it is signed by Mrs. Hernandez. These are just four examples.

One more that I would like to discuss. I am closely, I think, related to the Yakima people, as closely as anyone. My mother is a Yakima Indian enrolled. She has property there. My brother is enrolled at Yakima. My two other brothers at Warm Springs. Now, my mother has made a will, she wants to will the property to some of her grandchildren who are enrolled at Yakima. We have explained to her that this just cannot be done because they won't—

Mr. PANNER. Excuse me, you meant enrolled at Warm Springs.

Mr. JACKSON. Yes. This cannot be done because of this act, you know. So even if she does make a will this will cannot be recognized

because of the existing laws; so that it would be best for her now to deed the property to the youngsters.

Well, then, when you deed the property to the youngsters—

Mr. PANNER. She may want it back, a life estate. She cannot sell it without their signatures or mortgage.

Mr. JACKSON. Trustees or these fellows who handle managed property. They may appoint somebody that she does not agree with, they may sell the property.

Senator McGOVERN. Actually, from the standpoint, as I now understand it, of this restriction, it originally was intended to accomplish—what would be the difference in the legal principle involved if you had a law that said you could not deed property to a nontribal member? What is the difference between saying you cannot do it by inheritance as against preventing it by a deed?

Mr. PANNER. I think on principle you can do the same thing. There is no difference in principle. Either way it is a forfeiture of a vested interest in property. I do not think in any other situation, other than the Indian situation, that the Congress would even consider it.

There has been some suggestion here by the Yakimas that if we do not like their act we should get a similar act passed, you see. Well, I am sure you would not pass one. You certainly should not, because in effect what it would do would be to permit us to just disinherit everyone. We could say no one ever can own property under any circumstances outside of Warm Spring members which, from the standpoint of the tribe, might be desirable. In other words, there is an interest in holding this land base together. But it has to be balanced with the individual rights as well.

This is why we are embarked on a program of acquiring these rights whenever the land goes out of non-Indian ownership or nonmember ownership. We attempt to acquire those interests back, and we have spent a lot of money, and we are continuing to do it. If the Yakimas want to protect their land base, then I think they should operate within the same area that we all do.

Senator McGOVERN. So you have no quarrel with the intent of the law?

Mr. PANNER. No, sir. In fact they suggested this morning we were trying to regulate their enrollment performance. We are not. We recognize, in other words, the Yakimas should be allowed to set such rules as they want for enrollment to the tribe. That is a different situation, though, than taking property away from somebody who has acquired. If you have got a wife, maybe a son who has built a home on this property for his family, worked all his life to get that family in shape or to build it up, and all of a sudden he is disinherited because he is not a Yakima, that is a bad situation.

Mr. JACKSON. Sir, this has become more important in the northwest because there are so many intermarriages now among the tribes that pretty soon we will just have one big tribe in the northwest area instead of Yakima, Warm Springs, and so forth.

Senator McGOVERN. But an Indian from another tribe, let us say from your tribe, who marries a Yakima does not become a member of the Yakima Tribe.

Mr. PANNER. No.

Senator McGOVERN. Not even through marriage?

Mr. PANNER. She cannot. In other words, they cannot belong to two tribes unless they give up their membership in one, and that has never happened. Theoretically it could happen, but nobody would ever take that chance to have it happen, so she does not change. If she is a Warm Springs woman or a Warm Springs man who marries a spouse from Yakima, that is it.

Senator McGOVERN. OK. Did you have any other questions?

Thank you very much, gentlemen.

Mr. Dellwo.

**STATEMENT OF ROBERT D. DELLWO, ATTORNEY, SPOKANE, COEUR d'ALENE AND KALISPEL TRIBES; ACCOMPANIED BY JOSEPH R. GARRY, CHAIRMAN, COEUR d'ALENE TRIBE**

Mr. DELLWO. Mr. Chairman, Senator McGovern, I am Robert Dellwo, and I am an attorney for the Spokane Tribe, which is near Spokane, Wash.; the Kalispel Tribe also in that area; and the Coeur d'Alene Tribe.

Sitting with me today is Joseph R. Garry, who is the chairman of the Coeur d'Alene Tribe, and a member of the State Senate of the State of Idaho, and who was the president of the International Congress of American Indians for 8 years, and a recognized national leader in Indian affairs.

I have my roots, I might say, in the Flathead country, born and raised on the Flathead Reservation, and very familiar with that area.

It is difficult for me to think of any points that have not been covered. Perhaps I can bring out one or two things.

The first point is geographically, Senator, that here we have in the central part of the State of Washington a large tribe of over 5,000 members with a land base. Surrounding it are these other tribes. For example, to the north is the Colville Tribe, and the Spokane Tribe which I represent. To the northeast is the Kalispel Tribe and Coeur d'Alene Tribe. To the east is the Nez Perce Tribe, and to the south is the Warm Springs and Umatilla Tribes. These tribes surround the Yakima Tribe and historically and traditionally and up to the present time, the Yakima area has been a kind of crossroads, an extremely hospitable tribe with lots of activity, sports and so forth and, as a result, from the very origin of these reservations there is a complete degree of intermarriage and intermixture between these tribes and the Yakima Tribe.

Another point I wanted to make is that back in the reservation days when they were being formed, most of these tribes were in the nature of confederations; for instance, the Confederated Colvilles. In the case of Coeur d'Alene Tribe, nearly half of the so-called Coeur d'Alenes were members of other tribes who happened to live on the reservation and who were swept into enrollment in the enrollment days, and in the allotment days, so that actually on to their rolls went a number of Flatheads, Spokanes, Yakimas, and so forth. So there was a built-in intermarriage.

Therefore, we have the tradition of a history of intermixing of these tribes; commerce, and the intermarriage between them that is the rule rather than the exception.

This morning, of course, the Yakimas were pointing out that this was, in their opinion, an internal private matter.

Each of the tribes that I represent, and all of the tribes with which I am familiar, have the same problems of enrollment as do the Yakimas. For example, in the case of the Coeur d'Alene Tribe, as pointed out by the Yakimas this morning, there are over 120 members who could not prove a drop of Indian blood if their lives depended on it. This is a private matter. If a tribe wants to do something or seek legislation to more or less decontaminate their rolls of non-Indians and to strengthen their enrollment, that may be a private personal matter. But when they enact a law that, in effect, disinherits members of other tribes, true Indians, of course, this becomes a matter of real interest to other tribes and is no longer a private internal matter.

In my practice among the Indians for the last 18 years I have observed and worked innumerable Indian estates and I could cite, as did the Warm Springs Tribe, innumerable examples where there is a mixture of children on the Yakima Tribe and on the Coeur d'Alene or one of the other tribes, and the Yakimas are inheriting on the reservations that I represent. Of course, the members of the tribes that I represent are not inheriting on the Yakima.

Let me mention just a couple of matters. For instance, we have the Isadore family in the Coeur d'Alene Tribe, a large family, and through a sequence of about 50 years of intermarriage and deaths and descent, and so forth, I have observed the Yakima members of that family inheriting interests on nearly 20 allotments at Coeur d'Alene, which have a total value of nearly \$250,000 of the most valuable wheatlands in the Coeur d'Alene area, and yet the Coeur d'Alene members of the same family have inherited nothing on the Yakima Reservation.

I have in mind another case in which a Yakima was married to a Coeur d'Alene Indian and participating through the years in the Coeur d'Alene estates, and yet finally on his death, because there were no eligible Yakima heirs, his estate on the Yakima Reservation escheated to the tribe and none of the Coeur d'Alene members of that family could inherit.

There is another factor that I would like to mention, and that is where you have a large tribe in the middle, and smaller tribes surrounding it, and where the wealth of this central tribe is greater per capita than the wealth of the surrounding tribes, there is the tendency, where you have mixed parentage, to enroll the children, at least part of them, with the larger tribe. For that reason, say a member of the Kalispel Tribe, with which Mr. Gamble and I have been talking in the last couple of years, has a small enrollment of 160 members but it has an actual Indian population, you might say, of several hundred. The reason for this is that a majority of the children are enrolled with other tribes, the Spokane, the Coeur d'Alene, the Flathead and the Yakima would be the best examples and, therefore, in family after family you have the Yakimas inheriting on the Kalispel, but the Kalispel members of the family not inheriting on the Yakima, and you experience great tension and turmoil within these families. You find families torn apart, and they do not understand this and, of course, as Mr. Panter pointed out, as a practicing attorney representing Indians, it is almost impossible to explain.

I wanted to ask Mr. Garry now who, as I introduced him, is the chairman of the Coeur d'Alene Tribe, to add his comments.

Mr. Garry.

Mr. GARRY. Thank you, Robert.

Senator McGOVERN. Mr. Garry.

Mr. GARRY. I think everything here has been just about said, and I have very little more to add.

I do want to confirm what Mr. Dellwo has set forth is the position of the Coeur d'Alene Tribal Council, of which I am chairman, in opposition to section 7 of the Yakima Act.

I have a relative who had to enroll on the Kalispel, and her husband is a Yakima. But by reason of the fact that they could not inherit anything on the Yakima, she had the children enrolled on the Kalispel.

I do feel that something should be done to sort of straighten this around so that all tribes would be on an equal footing, reciprocity legislation or some such thing as that, but at least to maybe make it possible for the tribes, members of other tribes, to inherit within the Yakima Reservation.

This would not only solidify the nation but at least they would have equal rights. That is about all I have to say at this time.

Senator McGOVERN. Thank you, Mr. Garry.

Mr. DELLWO. I would like to clarify one thing about the residence requirement for enrollment. The tribes I am familiar with have no residence requirements. For example, if you have a husband and a wife, one Yakima and one Coeur d'Alene, living on the Coeur d'Alene Reservation, the parents can pick which tribe their children are enrolled with. They can enroll their children on the Yakima Reservation even though they reside in the Coeur d'Alene area.

Senator McGOVERN. Providing one parent or the other has membership?

Mr. DELLWO. Yes. The only requirement is that one parent or the other have membership, and you frequently find these families where half are one tribe and half are of the other tribe.

Senator McGOVERN. But once they make that decision then they are bound by this legislation.

Mr. DELLWO. Yes.

Senator McGOVERN. If they choose other than the Yakima Tribe.

Mr. DELLWO. Yes; and you will run into many of these situations. For example, on the Kalispel Tribe they did not have assets for a number of years. They might register all of their children on the adjacent tribes, the Yakima or the Spokane. You run into families such as the Campbell family on the Kalispel where all of the children are registered on the Spokane, and it makes no difference in inheritance. But if they are all registered as Yakimas, then, of course, they could inherit on the Kalispel but those who are registered as Kalispels could not inherit on the Yakima.

Senator McGOVERN. I see. Since they have that option with the children, why wouldn't they take advantage of that? I suppose there are other reasons why they prefer that they not do it.

Mr. DELLWO. Well, yes; there are many other reasons. There is tribal loyalty and tribal affiliation. There is a dominant member of the family who want the children to be Coeur d'Alenes.

Senator McGOVERN. Yes.

MR. DELLWO. Also, if everybody took advantage of their option, then you would have a tremendous growth of Yakimas. Everybody would be registering Yakimas in order to inherit on the Yakimas, and there would be a shrinking away of membership of the other tribes.

Senator McGOVERN. Well, thank you very much.  
(The statement referred to follows:)

#### STATEMENT ON BEHALF OF SPOKANE, COEUR D'ALENE AND KALISPEL TRIBES

The writer is attorney for the Spokane, Coeur d'Alene and Kalispel Tribes and has been authorized and requested to submit this statement in behalf of those tribes urging the enactment of S. 1764.

In preparing this statement the writer has knowledge of the contents of statements prepared by the attorneys for the Warm Springs and Umatilla Tribes and finds that all of the points and arguments made by them would apply equally to the three tribes he represents. Each of the attorneys has cited examples of Indian probates where great injustices resulted by reason of the enforcement of Section 7 of the Yakima Enrollment Act.

The writer could cite innumerable other examples, all to the same point. He is involved at the present time in a large Indian will contest case in which three Yakima Indians are inheriting nearly \$200,000 worth of wheat lands on the Coeur d'Alene Reservation. These Yakima heirs are grandchildren and great grandchildren of deceased Indian couples who were mixed Yakima and Coeur d'Alene. Large estates on both reservations accrued through a series of probates and marriages. The Yakima members of the family are inheriting freely on the Coeur d'Alene Reservation but the Coeur d'Alene members cannot inherit on the Yakima Reservation. This is a large estate. The same thing has happened in numerous smaller estates.

The writer has observed the close relationship between the Yakima Indians and the various neighboring tribes. In looking at the map one can see that the Yakima Reservation is centrally located with the Colville, Spokane, Kalispel, Coeur d'Alene, Nez Perce, Umatilla and Warm Springs Tribes surrounding it. What is true now has been true since the beginning of the reservations. The central location of the Yakima Tribe, its various attractions, the hospitableness of the Yakimas has made it a kind of gathering point or crossroads for the Indian people. As a result, intermarriage has been the rule rather than the exception.

In the typical family of mixed tribal affiliation you have a Yakima parent and a parent enrolled with some other tribe. The children are often divided in their enrollment. As the generations succeed each other this mixture of Yakima and the blood of other tribes becomes more and more complicated and widespread and the problems of heirship will extend from generation to generation. In a situation of this kind to provide by law that only the enrolled Yakimas with satisfactory Yakima blood quantum can inherit on the Yakima reservation results in almost unbelievable inequities and injustices.

A number of possible solutions present themselves:

1. Enact a similar law governing all of the other tribes.
2. Generate a will and land transfer program in which precautions are taken by individual members of other tribes against inheritance on their reservations by Yakima Indians.
3. Repeal Section 7 of the Yakima Enrollment Act.

The conclusion is obvious. The only practical solution is the repeal of Section 7 by the enactment of S. 1764.

#### COEUR D'ALENE RESOLUTION

Whereas, the Coeur d'Alene Tribe has always considered Section 7 of the Yakima Enrollment Act to be patently unfair and has urged its repeal, now, therefore,

**BE IT RESOLVED:** That the Coeur d'Alene Tribe does hereby express its support of S. 1764 which, if enacted, would repeal Section 7.

The Coeur d'Alene Tribal Council has noted the statements being filed in behalf of the Warm Springs and Umatilla Tribes. These statements could be endorsed by the Coeur d'Alene Tribal Council without change. Everything said in them in support of S. 1764 applies with equal force on the Coeur d'Alene Reservation.

Being filed herewith is a further statement by our attorney Robert D. Dellwo who is speaking in more detail for the Coeur d'Alene, Spokane and Kalispel Tribes.

The existence of Section 7 in the Yakima Enrollment Act is one of the most unfair, unjust and inequitable things that exists in Indian law. As Mr. Dellwo relates, there is a great frequency of intermarriage between our tribal members and those of other tribes, including those of the Yakima, Colvilles, Flatheads, Kalispels, Nez Perce, Spokanes and Yakimas all inherit land interests on our reservation. Our members likewise inherit land interests on all the other reservations—EXCEPT ON THE YAKIMA RESERVATION.

In the case of the Yakima Tribe, its members can inherit freely on our reservation, but brothers, sisters and spouses in the same family cannot inherit on the Yakima Reservation. We have many allotments on the Coeur d'Alene Reservation in which Yakima Indians have inherited interests. These are often split families where one spouse is Coeur d'Alene and the other Yakima. Part of the children may be on the Coeur d'Alene rolls and part on the Yakima rolls. The "Yakima" children inherit their parent's interests on the Coeur d'Alene Reservation, but the Coeur d'Alene children do not inherit those on the Yakima. We could cite many other examples, all illustrating the unfairness of Section 7.

We strongly urge the enactment of S. 1764.

#### Spokane Resolution

Whereas, the Spokane Tribe is vitally interested in the enactment of H.R. 7653 and S. 1764 which, if enacted, would repeal Section 7 of the Yakima Enrollment Act which has worked so many injustices on our reservation and among our people, and

Whereas, our interests in seeking repeal of said Section 7 are identical to those of the Warm Springs Tribe, the Umatilla Tribe, the Coeur d'Alene Tribe, the Kalispel Tribe and, in fact, all the tribes of Oregon, Idaho and Eastern Washington in which there is a frequency of intermarriage with Yakima Indians and of families that are part Yakima and part some other tribe, now, therefore,

*Be It Resolved:* That the Spokane Tribe does hereby announce its support for H.R. 7653 and S. 1764 and urges their enactment into law.

In announcing our support for these bills and urging the repeal of said Section 7, we hereby adopt as if set out in this resolution the following statements submitted in behalf of other tribes by our attorney Robert D. Dellwo.

We adopt and approve all of the comments in the statement dated January 26, 1968 entitled "Statement of the Confederated Tribes of the Warm Springs Reservation of Oregon" and submitted and signed by their attorney Owen M. Panner. We also adopt and approve the statement that the Warm Springs Tribe will file in the hearings before the Senate Interior Committee on S. 1764. Everything said in this statement would apply to the Spokane Tribe.

We adopt and approve all the comments in the statement dated January 23, 1968 entitled "Statement on Behalf of the Confederated Tribes of the Umatilla Indian Reservation in Support of H.R. 7653" submitted and signed by the tribe's attorney Mark C. McClanahan. We also adopt the similar statement the Umatilla Tribe will file in the Senate hearings on S. 1764. As in the case of the Warm Springs Tribe every comment that Mr. McClanahan makes in that statement would apply with equal force on the Spokane Reservation.

We adopt as a part of this resolution the statement being filed by Robert D. Dellwo, dated March 1, 1968, as attorney for the Spokane, Coeur d'Alene and Kalispel Tribes.

As each of the attorneys explains, nothing is more inequitable than the fact of the Yakima Indians inheriting freely on each of our reservations while our tribal members, often children or spouses in the same families, cannot inherit on the Yakima Reservation.

We urge the enactment of S. 1764.

#### Kalispel Resolution

Whereas, the Kalispel Tribe has members who have been adversely affected by Section 7 of the Yakima Enrollment Act which would be repealed by S. 1764, now, therefore,

**BE IT RESOLVED** that the Kalispel Tribe does hereby express its support for S. 1764.

In lieu of a lengthy statement in support of its position, the Kalispel Tribe calls the Senate Interior Committee's attention to the statements being filed in behalf of the Warm Springs and Umatilla Tribes. These statements set out in some detail the reasons for the repeal of said Section 7. All of the points and arguments urged in behalf of those tribes would apply equally in the case of the Kalispel Tribe.

We also adopt as part of our statement the statement by our attorney Robert D. Dellwo, dated March 1, 1968, being filed herewith.

The repeal of Section 7 would remove a most unjust and inequitable rule of descent the existence of which has actually caused many instances of strained relations between Kalispel and Yakima Indians and has in some cases torn families apart.

We urge enactment of S. 1764.

Senator McGOVERN. Is Mrs. Workman here?

**STATEMENT OF GRACE EDSSEL WORKMAN, ENROLLED MEMBER OF  
THE YAKIMA NATION**

Mrs. WORKMAN. I am an enrolled member of the Yakima Nation. I presently reside here in Maryland, and my husband is a District policeman.

I would like to go on record as being opposed to this bill. I had no previous knowledge of the hearing before this morning's paper, and when I heard of it I did come down right away.

I wanted people to know that we are aware of this and of the consequences that will happen if this amendment is passed. This will have no immediate effect on myself and my husband's family, but it will have an effect on my people of the Yakima Nation.

We have the right, just as all other people have the right, to be a self-governing body, and that is the reason the Yakima was set up for the Yakima people by treaty.

We have our own council, we do our own governing, and I think we should have the right to decide what will happen to our land.

Senator McGOVERN. Is your husband a member of the tribe?

Mrs. WORKMAN. No.

Senator McGOVERN. He is not. So that if anything should happen to you your interests would not pass on to your husband.

Mrs. WORKMAN. No.

Senator McGOVERN. Yet you favor retaining—

Mrs. WORKMAN. I do. Not for myself but for my people.

Senator McGOVERN. Well, thank you very much, Mrs. Workman. I appreciate your testimony.

Mr. Grorud, we will be glad to hear from you now.

**STATEMENT OF ALBERT A. GRORUD, ATTORNEY,  
WASHINGTON, D.C.**

Mr. GRORUD. I am Albert A. Grorud. I will identify myself. I served for about 28 years as a staff member on this committee. I was designated special assistant and attorney for the committee and also an investigator of the subcommittee which existed for about 18 or 20 years, which investigated the Indian Affairs of the United States, and I was in charge of it.

I have been familiar with the Yakima Reservation for about, for some 40 years. I have visited the reservation frequently, and I will say

about this act of 1946 it was enacted improperly, and it was promoted by the Indian Office, its promotion began several years before the enactment of the law.

The Indians have never had the say of whether or not they approved of this legislation.

In 1934 or 1935 the question of whether or not to adopt the Wheeler-Howard Act came before the tribe, and they had a secretarial election and everyone, every member, living on the reservation and outside voted and rejected the Wheeler-Howard Act overwhelmingly.

Commissioner Collier at that time did not like such action so he proceeded in about the year 1940 or 1941 to promote this legislation. It is in effect another Wheeler-Howard Act. But the Indians never liked it. I mean they never had a chance to vote on it.

I retired from this committee in 1955, and after that I represented an organization of the Yakima Indians which was very active for several years, petitioned the Secretary of the Interior for a secretarial election, but we never could get the approval of the Secretary. When we did try to elect opposition candidates to the tribal council, the chairman of the meeting would declare no quorum present, and adjourn the meeting, without date of such as took place at the annual meeting and election in July 1955, without a vote taken, and when fall came further postponements and delays were made which delayed the election for months, until the winter of 1958 when it was a difficult matter to travel from the west side of the Cascade range to the east side of the mountain range.

I feel it is my duty to come here and represent the majority of the Yakima Tribe.

Senator MCGOVERN. Mr. Grorud, why did, in your judgment—you say the BIA actually pushed this legislation?

Mr. GRORUD. Oh, yes.

Senator MCGOVERN. Why? Why would they be interested in legislation of this kind?

Mr. GRORUD. Well, they had the Wheeler-Howard Act and wanted the Yakimas added to it, but the Indians rejected that, and—

Senator MCGOVERN. I see.

Mr. GRORUD. And as it is now. Commissioner Bennett testified before the subcommittee of the House on the Ullman bill. He stated to the committee that the Yakima Tribe is against this legislation. This is not true. The Yakima Tribal Council is, but not the tribe. I would say that the tribe is for this legislation.

Senator MCGOVERN. The rank and file.

Mr. GRORUD. Yes, to repeal section 7. But it does not go far enough. It should be amended to include section 4, and all the provisions of the act.

In 1960 Congressman Tollefson introduced a bill, H.R. 1176, to repeal this act, and the Department submitted a report that would favor repeal of sections 4 and 7. So we acceded to that, and it passed the House on April 19, 1960.

It came to the Senate on April 20, 1960, and it never was considered by the Senate. The Senate did not adjourn until September 1960, however, the tribal council, by its delaying tactics, was strong enough to defeat consideration of this legislation during the 79th Congress.

Now, the Yakima Reservation is probably one of the most productive reservations in the United States. They have an irrigation project that is probably the most productive in the United States, but 90 percent of the acreage on the project is farmed by non-Indians. So, in effect, the Indians are landlords and collect the rentals.

Senator McGOVERN. They lease it out?

Mr. GRORUD. Yes, and it is a bad situation. I would suggest that the Secretary call an election so that every Indian will have an opportunity to say whether or not they will agree to legislation of this kind, and I predict that, knowing the Yakima Indians as I do, that perhaps 90 percent of them will vote in favor of repealing the entire act, and I believe that in order that the committee may be wholly informed, an election should be held.

Now, the Yakima Indians have been very much encouraged by this new activity by the two Senators from Oregon in introducing this bill which would repeal section 7. If the Yakima Tribe is afforded an opportunity to vote at a properly conducted election, a vast majority will favor the repeal of the act of 1946.

I do not know, it used to be about 4,600 members of the tribe, and about half of them live off the reservation. A lot of them live in Seattle, Tacoma, and other coast cities on the west side of the Cascade Range.

Senator McGOVERN. But you think in a referendum or election of some kind that the overwhelming majority of the tribal members would vote to repeal this section?

Mr. GRORUD. Yes; they are in favor of repealing the entire act.

Senator McGOVERN. Yes.

Mr. GRORUD. But they would be very grateful even if section 7 were repealed.

Senator McGOVERN. Yes.

Mr. GRORUD. It is a very bad situation.

Senator McGOVERN. So you say the majority of them are in favor of the bill that is before the committee?

Mr. GRORUD. Yes. But they would ask to amend it which includes section 4. It passed the House which repealed section 4 and section 7, so we felt it would go through. But the tribal council was strong enough, I assume politically, to defeat it from being considered by the Senate.

Senator McGOVERN. Thank you very much.

Mr. GRORUD. Thank you very much.

I would like to get permission to file a statement and get sufficient time. The Indians whom I represent have no money to hire anybody.

Senator McGOVERN. We will keep the record open for a few days.

Mr. GRORUD. I would like to have about 30 days. How about 20 days?

Senator McGOVERN. Can you do it in 15? You cannot get it in in a couple of weeks?

Mr. GRORUD. A couple of weeks. All right, I will try to do that. I do all the work without any help. It is difficult, but I will prepare my statement within that time.

Senator McGOVERN. Thank you.

Mr. GRORUD. Thank you.

Mr. PANNER. Mr. Chairman, if I might, about this last statement, I would like to say even though I am in favor of repealing this section, I do not believe that a great majority of the Yakimas would over-

whelmingly favor this repeal, and I am not sure that is relevant, in any event.

The Congress passed this act, as this witness has testified, and even if the Yakimas were in favor of it you could understand why they were because it is escheating land back to the tribe. I would resist anything that delays it because this bill has been struggling for 10 years now, and I even hate to have this gentleman have 2 weeks to file a statement if it might slow up this committee. This thing has been at it for 10 years now, and it needs some action.

I am also authorized to say that the Umatilla Tribe, which is another big tribe in the area, is filing and has filed, I believe, with Jim a written statement supporting repeal of this section 7.

Senator McGOVERN. All right. Thank you very much.

Mr. PANNER. Thank you.

Senator McGOVERN. I appreciate it.

(The additional statement referred to is as follows:)

ADDITIONAL STATEMENT BY ALBERT A. GRORUD, ATTORNEY AT LAW,  
WASHINGTON, D.C.

I submit that the record reveals that the Commissioner of Indian Affairs, Robert L. Bennett, the delegates representing the Yakima Tribal Council, Robert B. Jim, Eagle Seelatsee, Watson Totus, George Umtuch, and its Attorney, James B. Hovis, by their manifestations before the Committee merit censure. Their deviation from rectitude and suppressing the truth was apparent, all of which was for the purpose to mislead and deceive the Congress of the United States and its duly authorized Committees.

The matter for consideration before the Senate Subcommittee on Indian Affairs is S. 1764, providing for the repeal of Section 7 of the Act of August 9, 1946 (60 Stat. 968). An identical bill (H.R. 7653) is now pending before the House.

Legislation which became the Act of August 9, 1946, originated in the House of Representatives by the introduction of H.R. 6165, 79th Congress, on April 17, 1946, entitled:

"To provide for the preparation of a membership roll of the Indians of the Yakima Reservation, and for other purposes."

It is my belief that the make-up of such a title was an invention and a concoction created by the Indian Bureau, its officials, agents and employees with the aim to mislead and deceive the Congress.

The office of the Bureau of Indian Affairs, during the period of time, between April 4, 1946, and August 9, 1946, was located in the City of Chicago, Illinois.

Following is a legislative history of H.R. 6165, 79th Congress, Second Session:

April 17, 1946. Introduced in the House of Representatives, By Congressman Hal Holmes, of the 4th Congressional District, State of Washington, and referred to the Committee on Indian Affairs, copy of which follows:

[H.R. 6165, 79th Cong., Second Sess.]

A BILL To provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized and directed, with the advice and consent of the Yakima Tribal Council, to prepare a roll showing the members of the Yakima Tribes living on the date of the approval of this Act, which roll shall be kept current and shall constitute the official membership roll of the Yakima Tribes for all purposes. No person who is enrolled with any other tribe of Indians or who has received an allotment of land on any other reservation shall be enrolled under the provisions of this Act. The following shall be placed on the roll:

(a) All living persons who received allotments on the Yakima Reservation, except by fraud.

(b) All living persons who are of the blood of the fourteen original Yakima Tribes, parties to the treaty of June 9, 1855 (12 Stat. 951), and who have received allotments on the public domain within the area ceded to the United States by the Yakima Tribes by the treaty of 1855.

(c) All living persons who have maintained a domicile continuously from January 1, 1941, until the date of approval of this Act on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), and who are (1) descendants of persons who received allotments on the Yakima Reservation, except by fraud, or (2) descendants of persons of the blood of the fourteen original Yakima Tribes who received allotments on the public domain within the area ceded by the said treaty of 1855. All living children born after January 1, 1941, but prior to the date of approval of this Act to a person entitled to enrollment under this subsection shall likewise be entitled to enrollment hereunder.

(d) All children of one-fourth or more blood of the Yakima Tribes born after the date of approval of this Act to a parent who is an enrolled member and maintains a domicile on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855, at the time of the birth of the child.

SEC. 2. Any person of one-fourth or more of the blood of the Yakima Tribes who may be excluded from enrollment under the provisions of section 1 of this Act may apply for membership at any time and be enrolled upon the approval of the application by a two-thirds vote of the Yakima Tribal Council. Applications for enrollment under this section on behalf of minors and persons mentally incompetent may be filed by any enrolled member of the Yakima Tribes.

SEC. 3. Corrections in the roll prepared hereunder, by striking therefrom the name of any person erroneously placed on the roll or by adding to the roll the name of any person erroneously omitted therefrom, may be made at any time by the Yakima Tribal Council.

SEC. 4. Every person whose name appears on the roll prepared hereunder who holds no vested right, title, or interest in or to any restricted or trust land on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855, and who has failed to maintain any tribal affiliations or a residence on the reservation or within the ceded area for a period of five consecutive years, shall no longer be considered a member of the Yakima Tribes, and his name shall be removed from the rolls. It shall be the duty of the Yakima Tribal Council to determine, subject to review by the Secretary of the Interior, loss of membership in each case.

SEC. 5. The Yakima Tribal Council may adopt and enforce ordinances, subject to review by the Secretary of the Interior, governing the expulsion of members for any cause deemed by the council to be sufficient.

SEC. 6. No person whose name shall hereafter be placed on the roll of the Yakima Tribes shall be entitled to any back annuities or per capita payments made to the members of the tribes out of tribal funds which were authorized to be paid to the members of the tribes before such person's name shall have been placed upon such roll.

SEC. 7. Hereafter only enrolled members of the Yakima Tribes of one-fourth or more blood of such tribes shall inherit or take by devise any interest in that part of the restricted or trust estate of any deceased member of such tribes which came to the deceased member through his membership in such tribes, or which came to the deceased member by virtue of an allotment of land on the public domain within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), except that the surviving spouse of less than one-fourth of the blood of the Yakima Tribes may receive by inheritance or devise the use for life of one-half of any restricted or trust lands of the deceased member located on the Yakima Indian Reservation or within the area ceded by the treaty of June 9, 1855.

April 18, 1946, Chairman of the House Committee on Indian Affairs requests Secretary of the Interior for his report on the bill (H.R. 6165). Copy of letter requesting report, follows:

COMMITTEE ON INDIAN AFFAIRS,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., April 18, 1946.

SECRETARY OF THE INTERIOR,  
Washington, D.C.

MY DEAR MR. SECRETARY: Mr. Holmes has introduced H.R. 6165, a bill "To provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes," which has been referred to this Committee.

It is requested that a report be submitted on this bill as soon as possible.

For your information, I am enclosing herewith two copies of this bill.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

April 22, 1946. Secretary of the Interior replies to the Chairman's request. A copy of the Secretary of the Interior's letter, follows :

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SOLICITOR,  
Washington, D.C., April 22, 1946.

HON. HENRY M. JACKSON,  
Chairman, Committee on Indian Affairs,  
House of Representatives.

MY DEAR MR. JACKSON: The Secretary has received your letter of April 18 requesting a report on H.R. 6165 introduced by Mr. Holmes.

A report will be submitted to your Committee at the earliest possible date.

Sincerely yours,

HERBERT J. SLAUGHTER,  
Chief, Legislative Division.

No record of any such report, which was promised by the Secretary was ever received by the Committee.

April 16, 1946. A memorandum for the Commissioner of Indian Affairs, signed by W. H. Flanery, Chief Indian Division, Department of the Interior, a copy of which is as follows :

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SOLICITOR,  
Washington, D.C., April 16, 1946.

Memorandum for the Commissioner of Indian Affairs.

Attached is a copy of a draft of a bill to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes. This bill has been drafted after a number of discussions over the past week with the Yakima delegation of Indians, composed of Messrs. Yallup, Seelatsee, So Happy, and Saluskin. In the preparation of the draft we have merely tried to put in legislative form the thoughts the Indians themselves have. It has been explained to them that the bill, if introduced, will be referred to this Department for report and that the initial report will be prepared in your office and submitted to the Congress through the usual channels. It has been made clear to them that our participation in the drafting of the bill carries no commitment with respect to the kind of report that may be made on the bill. The Indians propose to have their representatives in the Congress introduce the bill.

W. H. FLANERY,  
Chief, Indian Division.

April 26, 1946. A memorandum for the Commissioner of Indian Affairs supplementing the memorandum of April 16, 1946, as follows :

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SOLICITOR,  
Washington, D.C., April 26, 1946.

Memorandum for the Commissioner of Indian Affairs.

Supplementing my memorandum to you of April 16 enclosing a copy of a draft of a bill to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, I am enclosing a suggested substitute for section 7 of the bill, copies of which were handed to the members of the Yakima delegation after they had arranged for the introduction of the bill.

Section 7, as originally drafted, was defective in failing to make it clear that the provisions of that section extended to lands, and the proceeds derived therefrom, located on the Yakima Reservation, or in the ceded area, which the decedent might have acquired by inheritance or devise from prior deceased Indians whether the prior deceased Indians were members of the tribe or not. The suggested substitute should have your consideration in drafting a report on the bill, which has been introduced as H.R. 6165.

W. H. FLANERY,  
Chief, Indian Division.

No record of any hearings held on the bill (H.R. 6165) by the House Committee on Indian Affairs.

July 10, 1946. Reported to the House (H. Report No. 2484) by the Chairman of the House Committee on Indian Affairs, recommending its passage with an amendment deleting section 7 and substitute the following words :

"Hereafter only enrolled members of the Yakima Tribes of one-fourth or more blood of such tribes shall take by inheritance or by will any interest in that part of the restricted or trust estate of a deceased member of such tribes which came to the decedent through his membership in such tribes or which consists of any interest in or the rents, issues, or profits from an allotment of land within the Yakima Reservation or within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), except that a surviving spouse of less than one-fourth of the blood of the Yakima Tribes may receive by inheritance or devise the use for life of one-half of the restricted or trust lands of the decedent located within the Yakima Reservation or within the area ceded by the said treaty of June 9, 1855."

A copy of the House Report No. 2484, 79th Congress, dated July 19, 1946, follows:

[House of Representatives, 79th Cong., second sess., Rept. No. 2484]

PROVIDING FOR PREPARATION OF A MEMBERSHIP ROLL OF THE INDIANS OF THE YAKIMA RESERVATION, WASH.

The Committee on Indian Affairs to whom was referred the bill (H.R. 6165) which directs that the Secretary of the Interior prepare a roll showing the members of the Yakima Tribes and which shall constitute the official membership roll of the Yakima Tribes for all purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On pages 4 and 5 delete section 7 in its entirety and substitute therefore as section 7 the words:

"Hereafter only enrolled members of the Yakima Tribes of one-fourth or more blood of such tribes shall take by inheritance or by will any interest in that part of the restricted or trust estate of a deceased member of such tribes which came to the decedent through his membership in such tribes or which consists of any interest in or the rents, issues, or profits from an allotment of land within the Yakima Reservation or within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), except that a surviving spouse of less than one-fourth of the blood of the Yakima Tribes may receive by inheritance or devise the use for life of one-half of the restricted or trust lands of the decedent located within the Yakima Reservation or within the area ceded by the said treaty of June 9, 1855."

This amendment has been incorporated in this bill at the suggestion of the Department of the Interior in order to clarify the intent of this act. The Interior Department is in favor of the passage of this bill and has recommended its enactment.

The original bill was formulated as a result of the requests of the members of the Yakima Tribal Council. The Committee has accordingly considered this bill and recommends its successful passage.

July 16, 1946. Passed the House as amended by the Committee, without debate. A copy of that part of the Congressional Record of July 16, 1946, which records the procedure followed, is as follows:

[From the Congressional Record, July 16, 1946]

PREPARATION OF MEMBERSHIP ROLL OF YAKIMA INDIANS

The bill (H.R. 6165) to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Wash., and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

YAKIMA RESERVATION INDIANS

The Clerk called the bill (H.R. 6165) to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Wash., and for other purposes.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed, with the advice and consent of the Yakima Tribal Council, to prepare a roll showing the members of the Yakima Tribes living on the date of the approval of this act, which roll shall be kept current and shall constitute the official membership roll of the Yakima Tribes for all purposes. No

person who is enrolled with any other tribe of Indians or who has received an allotment of land on any other reservation shall be enrolled under the provisions of this act. The following shall be placed on the roll :

(a) All living persons who received allotments on the Yakima Reservation, except by fraud.

(b) All living persons who are of the blood of the 14 original Yakima Tribes, parties to the treaty of June 9, 1855 (12 Stat. 951), and who have received allotments on the public domain within the area ceded to the United States by the Yakima Tribes by the treaty of 1855.

(c) All living persons who have maintained a domicile continuously from January 1, 1941, until the date of approval of this act on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), and who are (1) descendants of persons who received allotments on the Yakima Reservation, except by fraud, or (2) descendants of persons of the blood of the 14 original Yakima Tribes who received allotments on the public domain within the area ceded by the said treaty of 1855. All living children born after January 1, 1941, but prior to the date of approval of this act to a person entitled to enrollment under this subsection shall likewise be entitled to enrollment hereunder.

(d) All children of one-fourth or more blood of the Yakima Tribes born after the date of approval of this act to a parent who is an enrolled member and maintains a domicile on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855, at the time of the birth of the child.

SEC. 2. Any person of one-fourth or more of the blood of the Yakima Tribes who may be excluded from enrollment under the provisions of section 1 of this act may apply for membership at any time and be enrolled upon the approval of the application by a two-thirds vote of the Yakima Tribal Council. Applications for enrollment under this section on behalf of minors and persons mentally incompetent may be filed by any enrolled member of the Yakima Tribes.

SEC. 3. Corrections in the roll prepared hereunder, by striking therefrom the name of any person erroneously placed on the roll or by adding to the roll the name of any person erroneously omitted therefrom, may be made at any time by the Yakima Tribal Council.

SEC. 4. Every person whose name appears on the roll prepared hereunder who holds no vested right, title, or interest in or to any restricted or trust land on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855, and who has failed to maintain any tribal affiliations or a residence on the reservation or within the ceded area for a period of five consecutive years, shall no longer be considered a member of the Yakima Tribes, and his name shall be removed from the rolls. It shall be the duty of the Yakima Tribal Council to determine, subject to review by the Secretary of the Interior, loss of membership in each case.

SEC. 5. The Yakima Tribal Council may adopt and enforce ordinances, subject to review by the Secretary of the Interior, governing the expulsion of members for any cause deemed by the council to be sufficient.

SEC. 6. No person whose name shall hereafter be placed on the roll of the Yakima Tribes shall be entitled to any back annuities or per capita payments made to the members of the tribes out of tribal funds which were authorized to be paid to the members of the tribes before such person's name shall have been placed upon such roll.

SEC. 7. Hereafter only enrolled members of the Yakima Tribes of one-fourth or more blood of such tribes shall inherit or take by devise any interest in that part of the restricted or trust estate of any deceased member through his membership in such tribes, or which came to the deceased member by virtue of an allotment of land on the public domain within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), except that the surviving spouse of less than one-fourth of the blood of the Yakima Tribes may receive by inheritance or devise the use for life of one-half of any restricted or trust lands of the deceased member located on the Yakima Indian Reservation or within the area ceded by the treaty of June 9, 1855.

With the following committee amendment :

Page 4, line 14, strike out all of section 7 and insert :

"Sec. 7. Hereafter only enrolled members of the Yakima Tribes of one-fourth or more blood of such tribes shall take by inheritance or by will and interest in that part of the restricted or trust estate of a deceased member of such tribes which came to the decedent through his membership in such tribes or which consists of any interest in or the rents, issues, or profits from an allotment of land within

the Yakima Reservation or within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), except that a surviving spouse of less than one-fourth of the blood of the Yakima Tribes may receive by inheritance or devise the use for life of one-half of the restricted or trust lands of the decedent located within the Yakima Reservation or within the area ceded by the said treaty of June 9, 1855."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

July 17, 1946. The bill was received in the Senate and referred to the Senate Committee on Indian Affairs.

No record of any hearings on the bill (H.R. 6165) by the Senate Committee on Indian Affairs.

August 1, 1946. Reported to the Senate by the Chairman, Senator O'Mahoney (S. Report No. 1925, 79th Congress, dated August 1, 1946). Copy of the printed report follows:

The Committee was not polled, and a good reason why; because such Senators as Wheeler, Thomas, Hatch, Chavez, McFarland, LaFollette, Shipstead, Langer, Bushfield, Moore, and Robertson, were members of the Committee.

[Senate, 79th Cong., second sess., Rept. No. 1925]

#### MEMBERSHIP ROLL OF THE YAKIMA INDIANS, WASHINGTON

The Committee on Indian Affairs, to whom was referred the bill (H.R. 6165) providing for the preparation of a membership roll of the Indians of the Yakima Reservation, Wash., and for other purposes, having considered same, report thereon with the recommendation that it do pass without amendment.

This bill has been considered by the Committee on Indian Affairs of the House. On July 10, 1946, that committee submitted its report (H. Rept. No. 2484) to the House, recommending its passage, and on July 16, 1946, it passed the House.

A copy of the said House Report No. 2484 is attached hereto and made a part of this report.

August 2, 1946. Passed the Senate.

H.R. 6165 being listed on the Calendar with measures which there were no objection.

The House had adjourned sine die when H.R. 6165 passed the Senate.

This was the last day of the 79th Congress. The Senate, on this day convened at 12 o'clock noon and adjourned at 7:27 P.M., sine die.

The House convened at 12 o'clock noon and adjourned at 5:43 P.M., sine die.

A copy of that part of the Congressional Record (pages 10728 and 10729) records the discussions had concerning H.R. 6165, is as follows:

(An objection by one Senator would have defeated the bill.)

[From the Congressional Record, Aug. 2, 1946]

#### THE CALENDAR

Mr. BARKLEY. Mr. President, I ask unanimous consent that the Senate proceed to consider the House measures on the calendar to which there is no objection, beginning with Calendar No. 1955, which is the point at which the last call of the calendar ended, except for two Senate bills; and of course, as I have stated, there is no point in having the Senate consider Senate Bills at this time, inasmuch as the House of Representatives has already adjourned. I also ask that House bills to which amendments have been proposed by Senate committees be not called, for the same reason.

The PRESIDENT pro tempore. Without objection, it is so ordered; and the clerk will proceed to state the measures on the calendar under the agreement just entered.

\* \* \* \* \*

#### PREPARATION OF MEMBERSHIP ROLL OF YAKIMA INDIANS

The bill (H.R. 6165) to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Wash., and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

August 3, 1946. Subsequent to the passage of the bill by the Congress and its adjournment sine die a communication re H.R. 6165 from the Bureau of the

Budget, addressed to the Secretary of the Interior, a copy of said communication follows:

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., August 3, 1946.

The Honorable, the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: The Bureau of the Budget has received the attached facsimile of an enrolled enactment of Congress for the purpose of reporting to the President thereon as to whether there is any objection to its approval:

H. R. 6165. To provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes.

The Director of the Bureau of the Budget will appreciate it if you will send to the Bureau, by messenger, in accordance with Budget Circular No. A-9, your comments on the enrolled enactment, including, where a specific amount is not shown, an estimate of its probable cost, so that your views may be presented with the report of the Bureau to the President.

Very truly yours,

F. J. BAILEY,  
Assistant Director, Legislative Reference.

August 3, 1946. Subsequent to the passage of the bill by the Congress and its adjournment, sine die a Communication re H.R. 6165, from the Bureau of the Budget suggesting a substitute for section 7. Copy of said communication is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, BUREAU OF THE BUDGET, WASHINGTON, D.C.,  
AUGUST 3, 1946

Section 7. Hereafter only enrolled members of the Yakima Tribes of one-fourth or more blood of such Tribes shall take by inheritance or by will any interest in that part of the restricted or trust estate of a deceased member of such Tribes which came to the decedent through his membership in such Tribes or which consists of any interest in or the rents, issues or profits from an allotment of land within the Yakima Reservation or within the area ceded by the treaty of June 9, 1855 (12 Stat. 951), except that a surviving spouse of less than one-fourth of the blood of the Yakima Tribes may receive by inheritance or devise the use of life of one-half of the restricted or trust lands of the decedent located within the Yakima Reservation or within the area ceded by the said treaty of June 9, 1855.

(Note. The foregoing is a suggested substitute for Section 7 of "A bill to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes." The incorporation of the substitute provision can be given consideration in the preparation of a report on the bill after it is introduced and referred to the Department for report.)

August 7, 1946. Subsequent to the passage of the bill by the Congress and its adjournment on August 2, 1946, sine die a communication from the Secretary of the Interior and addressed to James Webb, Director of the Budget, recommended that the President be requested to approve H.R. 6165. A copy of said communication reads as follows:

THE SECRETARY OF THE INTERIOR,  
Washington, D.C., August 7, 1946.

Hon. JAMES E. WEBB,  
Director of the Budget.

MY DEAR MR. WEBB: Reference is made to the request of Assistant Director Bailey for the views of this Department on the enrolled bill, H.R. 6165, "To provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes."

I recommend that the President be requested to approve H.R. 6165.

This bill was introduced at the request of the Yakima Indians for the purpose of defining more accurately who should be entitled to enrollment in the Yakima Tribes. Its provisions would limit the privilege of enrollment, insofar as persons now living are concerned, to persons who lawfully received allotments on the Yakima Reservation, persons of the blood of the fourteen original Yakima Tribes who received allotments on the public domain within the area ceded to the United States by the Yakima Tribes in the Treaty of June 9, 1855 (12 Stat. 951), and persons who are descendants of allottees in either of the foregoing classes if the

domicile of such descendants is within the Yakima Reservation or the ceded area. Insofar as persons born after the date of the approval of the bill are concerned, its provisions would limit enrollment to children who are of one-fourth or more Indian blood of the Yakima Tribes, and who are born to a parent who is an enrolled member and maintains a domicile within the Yakima Reservation or the ceded area.

A further important restriction, imposed by section 7 of the bill, is that only enrolled members of the Yakima Tribes of one-fourth or more Yakima blood may take by inheritance or will any interest in the restricted or trust estate of a deceased member, which come to the decedent through his membership in the tribes, or which consists of an interest in allotted land within the Yakima Reservation or the ceded area, except that a surviving spouse of less than the requisite degree of Yakima blood may take a life interest in one-half of the restricted or trust lands of the decedent.

I believe that the approval of H.R. 6165 would be of real benefit to the Yakima tribes by assisting them in conserving the tribal estate in bona fide Indian ownership.

The costs involved in the administration of this measure, if approved, would probably be nominal.

Sincerely yours,

J. A. KRUG,  
*Secretary of the Interior.*

The Senate Calender, Committee on Indian Affairs, Legislative Calender No. 6, dated August 2, 1946, page 2 list the names of the members of the full Committee, as well as the names of the members of the subcommittee on Senate Resolution 79.

On page 46 records the Senate legislative history of H.R. 6165. Copies of the title page and pages 2 and 46 of the said Calender are, as follows:

COMMITTEE ON INDIAN AFFAIRS, U.S. SENATE, LEGISLATIVE  
CALENDAR, 79TH CONGRESS, FINAL EDITION, AUGUST 2, 1946

JOSEPH C. O'MAHONEY, Wyoming, *Chairman*

BURTON K. WHEELER, Montana  
ELMER THOMAS, Oklahoma  
CARL A. HATCH, New Mexico  
DENNIS CHAVEZ, New Mexico  
ERNEST W. McFARLAND, Arizona  
GLEN H. TAYLOR, Idaho  
E. P. CARVILLE, Nevada

ROBERT M. LA FOLLETTE, Jr., Wisconsin  
HENRIK SHIPSTEAD, Minnesota  
WILLIAM LANGER, North Dakota  
HARLAN J. BUSHFIELD, South Dakota  
E. H. MOORE, Oklahoma  
EDWARD V. ROBERTSON, Wyoming

JULIAN B. SNOW, *Clerk*

BETTYELLEN HEATH, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 79

JOSEPH C. O'MAHONEY, Wyoming, *Chairman*

BURTON K. WHEELER, Montana  
ELMER THOMAS, Oklahoma

DENNIS CHAVEZ, New Mexico  
HENRIK SHIPSTEAD, Minnesota

ALBERT A. GRORUD, *Special Assistant*

B-24, July 17, 1946, H.R. 6165, To provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes.

July 10, 1946: Reported to House. (H. Rept. 2484.)

July 16, 1946: Passed House.

July 17, 1946: Referred to Senate Committee on Indian Affairs.

Aug. 1, 1946: Reported to Senate. (S. Rept. 1925.)

Aug. 2, 1946: Passed Senate.

Aug. 9, 1946: Approved. (Public Law No. 706.) (60 Stat. 968)

During the months of March and April 1946, and a long time before and after said period of time, the Bureau of Indian Affairs was located in the City of Chicago, an Indian liaison staff being located in Washington, D.C.

A delegation from the Yakima Tribal Council, consisting of Thomas Yallup, Alex Saluskin, Eagle Seelatsee (the same Eagle Seelatsee who also appeared and testified before your Committee on March 4, 1968), and Louis So Happy. This

delegation spent several days in Chicago and several days in Washington, D.C., during the months of March and April 1946, performing work in connection with the promotion of the said proposed enrollment legislation.

A draft of a proposed bill which had been prepared by the Bureau of Indian Affairs was finally presented to Congressman Holmes for introduction, who, on April 17, 1946, introduced H.R. 6165, and it was referred to the House Committee on Indian Affairs for consideration.

These delegates visited me at the Senate Committee's office, in the Senate Office Building, during the first days of April 1946. The said delegation discussed with me proposed legislation which it wished to have introduced in the Senate. Senator Mitchell was persuaded to introduce such a bill (S. 2152) on May 4, 1946, entitled:

"Authorizing the Secretary of the Interior to pay salary and expenses of the chairman, Secretary, and interpreter of the Yakima Tribal Council and other committees appointed by said Yakima Tribal Council, and official delegates of the Yakima Tribe, and for other purposes."

These delegates at no time during our conversation and discussions mentioned or referred to the fact that they were in Washington for the purpose of promoting the so-called Enrollment Bill. However, after their departure, under date of April 4, 1956, a telegram addressed to me from Kenneth R. L. Simmons, Minneapolis, Minnesota, reading as follows:

"Kindly help my good friends the Yakima Tribal Delegation introduce their enrollment bill through Congressman Holmes and Senator Magnuson in the House and Senate. \* \* \*"

There is no record of Senator Magnuson ever introducing any "Enrollment Bill".

The Yakima Tribe consummated their contract with Kenneth R. L. Simmons as tribal attorney, on February 7, 1946.

Mr. Simmons took no part in the promotion of the so-called "enrollment bill" while his tenure as tribal attorney existed.

Under date of April 26, 1946, I received from Mr. Simmons a letter relative to the legislation embodied in said S. 2152, copy of which is as follows:

SIMMONS & ALLAN,  
LAWYERS,  
Billings, Mont., April 26, 1946.

Mr. A. A. GRORUD,  
Attorney, Senate Indian Affairs Committee,  
Senate Office Building, Washington, D.C.

DEAR MR. GRORUD: The Yakima tribal delegates conferred with me here in Billings yesterday and advised me of the many kind considerations given them by you on their recent trip to Washington, D.C. As their tribal attorney, I want to now express my appreciation to you for your thoughtfulness.

They are very much interested in a bill which you assured them would be introduced by Senator Hugh Mitchell of the State of Washington, providing, among other things, for funds for tribal delegates to cover travel expenses and allow salaries for such delegates when on duty on and off the reservation. Has this bill been drafted and introduced in either the Senate or the House? I shall appreciate your full advice. Whatever I can do to aid in the matter kindly let me know.

Sincerely yours,

KENNETH R. L. SIMMONS,  
Yakima Tribal Attorney.

On or about July 1, 1946, I discussed the legislative situation concerning Indians with the Chairman of the Committee who, among other things, stated that this late of the Session, when there are no bills on the calendar which are ready for consideration, that it was his judgment that there would be no further hearings by the Committee during the last Session of the 79th Congress; that it would be all right for me to proceed and take my vacation at any time. Guided by the said conversation with the Chairman, I left Washington shortly after July 1, 1946, and remained in Montana during the remaining days of July and most part of the month of August, returning to Washington during the month of September 1946.

During my sojourn in Montana, I visited with Mr. Kenneth R. L. Simmons, at Billings, Montana, who then was the "Tribal" attorney for the Yakima Tribal Council. During the course of our conversation I asked Mr. Simmons to explain

to me the reason why the Yakima Council delegation did not discuss the merits of the proposed "enrollment bill" with me when they were in Washington, instead of waiting until they reached you in Minneapolis on their return trip home. You, at their request, sent me a telegram asking me to help the Yakima Delegation to have their enrollment bill introduced (a copy of telegram referred to is herein-above set forth).

Mr. Simmons replied, as follows: "The Yakima Tribal Council was instructed by Commissioner Collier and Assistant Commissioner William Zimmerman to avoid you," or words to that effect.

I was not present in the city of Washington at any time during the Congressional activities which took place concerning H.R. 6165.

It can be seen that all of the activities conducted in connection with the promotion for the introduction and passage of H.R. 6165 were had by the Indian staffs and the members of the Yakima Tribal Council.

The record is void as to a showing that the said draft of a proposed bill was ever submitted to the whole tribe for approval or rejection.

The Indian Bureau staffs from the Washington office, from the Chicago office, from the Portland area office, and of the local agency staff at Toppenish, Wash., were all actively engaged in the promotion for the introduction and passage of the so-called "allotment" bill from the year 1939, or 1940, until the passage by the Congress on August 2, 1946.

The Yakima Indians did not realize the serious consequences which would result from the enactment of the Act of August 9, 1946, until the members of the Tribal Council began to exercise their authority given them under the provisions of the said Act, such as (1) striking names of members off the roll who had not lived on the Reservation for five years, (2) striking names of members off the roll who are of the  $\frac{1}{4}$  Indian blood, who have not participated in tribal activities or functions for five years, (3) striking names of members off the roll who are unallotted, or had disposed of their allotments, and (4) denying members the right to inherit or take by will any part of deceased's trust or restricted estate of spouse, parents, or other relatives.

By reason of such actions by the Tribal Council, a petition requesting the repeal of the Act of August 9, 1946, was circulated among the Yakima tribal members and signed by 427 adult members of the tribe.

A delegation consisting of two members of the Yakima Tribe were selected to proceed to Washington for the purpose of presenting said petition to members of the Congress, and to request that legislation be introduced in accordance with the prayer of said petition.

On their arrival in Washington this delegation first contacted Senator Harry P. Cain, a Senator from the State of Washington, who, after being advised of the ill effects brought to the Yakimas by reason of the enactment of the Act of August 9, 1946, promptly, on August 16, 1951, introduced legislation (S. 2013) providing for the repeal of said Act. A copy of said petition and a copy of Senator Cain's remarks accompanying his introduction of S. 2103, appearing on page 10315, Congressional Record of August 16, 1951, follows:

[From the Congressional Record, Aug. 16, 1951]

STATEMENT OF SENATOR HARRY P. CAIN IN CONNECTION WITH THE INTRODUCTION OF S. 2013, TO REPEAL THE ACT OF AUGUST 9, 1946, PROVIDING FOR THE PREPARATION OF A MEMBERSHIP ROLL OF THE INDIANS OF THE YAKIMA RESERVATION

Mr. President, I introduce for appropriate reference a bill providing for the repeal of the act of August 9, 1946 (60 Stat. L., p. 968), which act provides, among other things, the delegation of power and authority to the Secretary of the Interior, the Bureau of Indian Affairs, and the Yakima Tribe Council, to administer the affairs of the Yakima Indians, including the preparation of a membership roll of the Indians of the Yakima Reservation in the State of Washington.

Members of the Yakima Tribe, who assert that they represent the majority, claim that the provisions of the said act of August 9, 1946, were improperly and dishonestly explained to these Indians before its enactment. They further assert that the Bureau of Indian Affairs, through its agents, were determined to carry forward the program and philosophies of the Wheeler-Howard Act, which act theretofore had been overwhelmingly rejected by the Yakima Indians.

I ask unanimous consent that a petition dated March 21, 1951, addressed to me concerning this proposed legislation be appropriately referred and printed in the Record at this point as a part of my remarks.

The bill (S. 2013) to repeal the act of August 9, 1946, providing for the preparation of a membership roll of the Indians of the Yakima Reservation, introduced by Mr. Cain, was read twice by its title and referred to the Committee on Interior and Insular Affairs.

The petition is as follows:

PETITION

WASHINGTON, D.C.,  
March 21, 1951.

HON. HARRY CAIN,  
U.S. Senate.

MY DEAR SENATOR CAIN: We herewith present a petition signed by 427 members of the Yakima Tribe of Indians, these signatures representing at least 2,000 of our members. The petition sets forth as follows:

"Whereas Public Law No. 706, Seventy-ninth Congress, second session, chapter 933 (H.R. 6165)—An act to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Wash., and for other purposes—was approved August 9, 1946:

"Whereas the Congress' long-established objective has been to encourage the Indians, particularly the young Indians, to become self reliant, self sufficient, and independent;

"Whereas this act goes against these objectives and is a step backward rather than forward because—

"A. The tribal council is given the absolute power to strike from the roll at any time (1) Any Yakima of  $\frac{1}{4}$  or more blood who has not lived in the Yakima country for 5 years, or (2) Any Yakima of  $\frac{1}{4}$  or more blood who has not joined in tribal activities or functions for 5 years, who is without allotment or inherited interest but who is otherwise eligible to be allotted or to inherit.

*Example.*—A young Yakima of full blood or one-fourth goes away to trade school. He learns a trade and finds employment in a distant city, out of the Yakima country. He supports himself and perhaps marries and raises a family, but lives where his job is, which is out of the Yakima country. His parents are allotted on the Yakima Reservation and want their own flesh and blood son to inherit their allotments. But he cannot inherit, unless he quits his job and moves back.

*Example.*—A Yakima of full blood or one-fourth lives on the Yakima Reservation but he does not join in tribal activities or functions. He does not mix around, but stays strictly to himself. He may find himself stricken from the roll because he did not maintain any tribal affiliations.

"The result is that Indians are encouraged not to find work or occupation beyond the borders of the Yakima country and are encouraged not to become independent, for fear of being disinherited by their own tribe and unable to inherit from their own people.

"B. There is no simple or convenient appeal procedure set up for appeal from the tribal council.

"Whereas the clause 'who has failed to maintain any tribal affiliations' is so loose and indefinite that it can be arbitrarily and capriciously used to exclude otherwise deserving Yakima Indians, and therefore, vests despotic powers in the tribal council;

"Whereas the act deprives allottees and persons with inherited interests of the natural expectation and assurance, that their descendants, who are the natural objects of their bounty, will inherit, but sets up an unnatural scheme, which can cut off their own flesh and blood, and creates complex problems of who is to inherit instead: Now, therefore be it

"RESOLVED, That this act be repealed or changed to eliminate the evils mentioned.

"Dated in February 1951.

"HATTIE PURVIS HOPTOWIT (And 426 others)."

The principal reason for this petition is the request for a repeal of the act of August 9, 1946 (60 Stat. 968). Among other things it provides for the preparation of a new membership roll of the Yakima Indians.

We believe this legislation was instigated and promoted by the Indian Bureau through a tribal council controlled by it.

The Yakima Indians had rejected the Wheeler-Howard Act approximately 10 years before the Indian Bureau and the tribal council started to promote the legislation contained in the act of August 9, 1946. In other words, when the Bureau and its tribal council failed to sell the Wheeler-Howard Act to the

Yakima Indians, they proceeded to do something to bring the Wheeler-Howard Act to the Indians through a deceitful scheme, which apparently worked.

In about the year 1941 the Indian Bureau, its representatives and its tribal council started and continued their underhanded methods to induce the Yakima Indians to adopt the provisions of the Act of August 9, 1946. The provisions of this act were never properly and honestly explained to the Yakima Indians in general, for if they had been the act would have been rejected just as overwhelmingly as the Wheeler-Howard Act was.

The Yakima Indians did not realize the effect of this act until recently, when the tribal council which was established under the provisions of this act commenced to exercise its authority.

The Yakima Indians now find themselves in the hands of a tribal council dominated by the Indian Bureau, which tribal council is squandering the monies belonging to the Yakima Indians.

We, the undersigned, representing the majority of the Yakima Indians, respectfully beg your assistance in obtaining repeal of Public Law 706.

HATTIE PURVIS HOPTOWIT,  
MINNIE MCCOY WHITEFOOT.  
(and 46 others).

In all of the Congresses, with the exception of one or two, since the 82nd Congress, legislation has been before the Congresses for its consideration, and hearings having been held on several bills providing for the repeal of the Act of August 9, 1946.

We direct your attention to House Committee hearings of March 12, 13, 18, and 20, 1959, on H.R. 1176, 86th Congress, Serial No. 7, page 93, captioned, "Appendix", the Committee note follows:

"(Committee Note.—The following letter from Mr. E. J. Wilton, Chairman, Yakima Indian Association of Washington State and the attached exhibits have been submitted as a general refutation of the statements made by Mr. James B. Hovis, Yakima Council Attorney and members of the Tribal Council, before the House Subcommittee on Indian Affairs on March 12, 13, 18, and 20, 1959, with reference to hearings on H.R. 1176, 86th Cong.)"

For convenient reference, a complete copy of the printed hearings before the House Subcommittee on Indian Affairs on H.R. 1176, 86th Congress, Serial No. 7, is furnished. (The hearing referred to is in the files of the Committee.)

The witnesses, on March 4, 1968, who testified in opposition to the repeal of Section 7 of said Act of August 9, 1946, claim that the retention of said Act has caused the members of the Tribe to work together peacefully, harmoniously and prosperously for more than 20 years without successful interruption, when in fact the enactment of the said Act has proved a hindrance to progress.

The Yakima Reservation is one of the most productive reservations in the United States. The Yakima irrigation project is perhaps the most productive of all Indian irrigation projects, yet, for the most part, these irrigated lands are leased to non-Indians. The latest official report on the Yakima Indian land use, available to me is for the fiscal year ending June 30, 1945, which records that the Indians operated 12,141 acres and non-Indians operated 67,703 acres. I do not believe that this situation has changed materially. Such stagnation and lack of progress is largely due to the enactment of the Act of August 9, 1946, and the archaic system of procedure in the election of tribal councilmen. Once elected as councilmen, such election usually follow a continuance to serve for life, followed by the election of their sons and grandsons.

At the hearing on S. 1764, March 4, 1968, the Tribal Council witnesses, also Commissioner Bennett, constantly inferred that the Yakima Tribes are in favor of retaining the said Act of August 9, 1946, when the fact is that the enrolled members of the tribe has never had the opportunity to vote as to its acceptance or rejection.

The overwhelming vote in favor of retaining the said Act claimed by the Tribal Council witnesses is usually by votes taken in the General Council, tallying 137 votes for retaining the Act and 3 votes against.

The issue as to whether or not the Yakima Tribe favors the retention of the said Act has never been submitted to the enrolled of the Tribe.

Such votes at 137 to 3 in the General Council are also illegal, because quorums were not present and voting. A quorum in the General Council is 250 to start with, thereafter 175 members must remain in attendance for legal business.

The only occasion which the members of the Yakima Tribes have been the opportunity to vote on any proposition was on the matter of whether or not they

should exclude themselves from the application of the Wheeler-Howard Act, now generally known as the Indian Reorganization Act. Such an election was held on April 20, 1935. The result of this election was, 361 votes for and 733 votes against. A copy of the notice of said election, follows :

NOTICE TO MEMBERS OF THE YAKIMA TRIBE OF INDIANS

1. In accordance with the provisions of Section 18 of the Act of June 18, 1934 (48 Stats. 984) otherwise generally known as the Indian Reorganization Act, the Secretary of the Interior on the 19th day of February 1935 authorized a call for an election by secret ballot to determine whether the members of the Yakima Tribe of Indians shall by such election exclude themselves from the application of the Act above-cited.

2. April 20, 1935 has been duly appointed as the day for such election.

3. Further, in accordance with said Section 18 and in observance of the requirement of the 30 days notice therein provided for such election, there is hereby posted this 12th day of March, 1935, notice to all members of the Yakima Tribe of Indians eligible to vote under the provisions of the said Act that such election will be held between the hours of 8 o'clock a.m. and 5 o'clock p.m. on the 20th day of April, 1935.

C. R. WHITLOCK, *Superintendent.*

Mr. George Umtuch, on March 4, 1968, before your Committee testified, as follows :

"Just at the last General Council meeting we took this up. We had listed for discussion the bill we are here to talk about, S. 1764. The General Council voted to oppose this bill, S. 1764, 137 to 3."

Here is another case of an illegal vote by the General Council and the enrolled membership of the Yakima Tribes ignored.

The issue as to whether or not the enrolled membership of the Yakima Tribe favored the introduction and passage of H.R. 6165 was submitted to the enrolled membership for their expression. Mr. Seelatsee testified, on March 4, 1968, that in 1946 a draft of a proposed bill was submitted to such membership, who by their votes overwhelmingly endorsed such draft. I assert, based on the record herein disclosed, that Mr. Seelatsee's testimony is untrue.

The Yakima Indians have, ever since about the year 1951, constantly pleaded for a "Secretary election procedure." They have been unsuccessful. Commissioner Glenn L. Emmons has also suggested an election procedure for the Tribal Council to follow, but his suggestion was answered with the following rebuke, "To hell with Emmons, we are a sovereign nation, we do what we please."

Mr. Glenn L. Emmons' said letter, addressed to Mr. George Umtuch, Chairman, Yakima General Council, dated October 7, 1955, follows :

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS,  
Washington, D.C., October 7, 1955.

MR. GEORGE UMTUCH,  
*Chairman, Yakima General Council.*

MY DEAR MR. UMTUCH: During the past two months I have received a great many letters as well as phone calls and personal visits pertaining to the election of members to serve on the Yakima Tribal Council. Some of these communications objected to the manner in which the meeting on July 15 was held; others supported the action that was taken. I, of course, am deeply concerned about any confusion or controversy that might exist concerning the election of tribal officials to conduct the affairs of the Yakima Tribe.

I do not pretend to know all of the facts concerning the current controversy among the tribal members of the Yakima Reservation and my only concern is that within a reasonable time an election be held that will give each tribal member an opportunity to express himself on who should represent the Tribe in an official capacity. I am sure that you as well as all members of the Tribe want to conduct your affairs on a business-like basis and that you also share my concern in making sure that the will of the majority of the people prevails. In this spirit I am writing you and would like to suggest a number of steps that might be taken to insure that the forthcoming election which you have announced for November 28, 29, and 30 be a really representative election. I hope that you will understand that these suggestions are in no ways a reflection on the present council or on any member of the Tribe and are made only in the interest

of trying to straighten out some of the present misunderstandings that are hurting the Yakima people. My suggestions are as follows:

1. You have announced an election for November 28, 29, and 30. It is my understanding that you have many other items to take up besides purely election affairs. In order that all members of the Tribe who are eligible to vote may participate, I suggest that you pick a specific time during which the actual balloting will be held. Since you have announced a three-day meeting it would seem desirable to set, for example, the afternoon of the second day from two to six for the actual balloting time. In this way all members will know that they must be there by two o'clock if their voice is to be heard.

2. Since you do not have a constitution, rules, or regulations to govern your operations, your elections have been conducted by custom and there appears to be some question as to the actual rules of custom under which you are operating. I understand that you are putting these rules of custom, under which the election will be operated, down in writing. This is a very good idea and I hope that a copy of these rules and regulations plus an announcement of the exact balloting time will be sent to each eligible voter of the Tribe.

3. Since the election is to be held during the latter part of November and the weather might be inclement, I suggest that you hold it at a place that is most easily accessible to the majority of the members and that it be at a meeting hall that has adequate seating space to hold all of the members present. If the attendance is greater than the capacity of the hall, provision should be made for counting the votes of those people in adjoining rooms or outside.

4. Since this is a tribal election, all Bureau personnel have been advised not to participate in the election nor to take any part in its supervision. I understand that the Tribe has selected a committee of disinterested persons to assist with elections. I believe this is a step in the right direction and a very wise move and I congratulate you for taking such a step.

If the above suggestions are followed I am sure that the Yakima people will elect a representative council at the November meeting and, further, that the Yakima people will respect and support that choice during their term of office. If for any reason a representative election is not held at the time announced then I believe it would greatly damage the prestige and the operating efficiency of the Yakima Tribe. In such an event in order to protect the interest of the entire Tribe it would no doubt be necessary for me to recommend to the Secretary that he withhold his recognition and to call a Secretarial election under rules and regulations which he would prescribe. I am confident, however, that Secretarial action will not be necessary and that there will be no difficulty in getting the required quorum in November and choosing a truly representative council.

I believe that the difficulties that have arisen over the July meeting should be avoided in the future at all costs. I strongly urge that you in cooperation with the Tribal Council and other Yakima members work out some written procedures that can be formally adopted for all future elections after the election in November. It seems to me that such election procedures should provide for established polling places throughout the reservation with absentee balloting or providing for voting entirely by mail. The election for councilmen should be open to all adult members of the Yakima Tribe whose names appear on the Yakima Tribal roll regardless of the place of residence.

In order that you may have some information as to how other tribal elections have been and are being conducted, there are enclosed copies of regulations governing the Osage, Navajo, and Fort Peck elections. Aside from the Navajo regulations the other regulations enclosed were issued pursuant to specific statutes passed by Congress. The Osage Tribe, however, drafted its regulations and patterned them after the Oklahoma State Election Regulations. The Yakima Tribe might desire to pattern its regulations after the Washington State Election Regulations. This would have real advantages in that the tribal members would have to acquaint themselves with only one set of election procedures.

It will be noted that in some of the enclosed regulations, employees of the Bureau of Indian Affairs take a part in conducting the elections. This Bureau does not look with favor on Bureau employees participating in tribal elections even when asked to do so by the tribal governing bodies. In recent years we have prohibited such participation. It is requested, therefore, that in drafting regulations to govern Yakima tribal elections, no provision be made for employees of the Bureau to participate in the conduct of the election. Any member of the Yakima Tribe who is employed by the Bureau will, of course, be free to vote in tribal elections.

Please be assured that I am not critical of any official or member of the Yakima Tribe. My only interest in writing you this letter and making these suggestions is to try and clear up some of the past misunderstandings that have arisen and to make it possible to have an election that no one can challenge and to elect a tribal council that will be truly representative of the Yakima people.

Sincerely yours,

GLENN L. EMMONS, *Commissioner.*

Enclosures.

RE COMMISSIONER ROBERT L. BENNETT

Supported by the record herein set forth concerning this whole matter was, and now is, available to the Commissioner. It is my belief that he should have frankly and without an unbiased and prejudiced mind told the Committee the true facts.

Mr. Bennett, together with the tribal witnesses before your Committee, insisted on giving your Committee the impression that the Yakima Tribe favor the retention of the provisions of the said Act of August 9, 1946.

Mr. Bennett also stated that a departmental report on H.R. 6165 was made to the White House, after its passage by the Congress. However he failed to offer same for the record of this hearing. There is no such report on file with the National Archives. Since Commissioner Bennett evidently has the access to same, I submit it was his duty to offer it for the record of this hearing. Mr. Bennett also stated that if section 7 is repealed, the Yakima estates of deceased Indians will be probated according to the laws of the State of Washington, which statement is true, but the Indian Bureau does not follow the law, it has modified the law by some departmental regulation, which regulation is responsible for the troublesome fractionated heirship problem.

It is an axiomatic proposition of law that a departmental regulation does not supersede a statutory law.

The Indian Bureau should be made to respect and follow the law.

Much has been written and said about the constitutional rights of the Indians. If the Indian tribes were permitted to select their attorneys who would represent them instead of having the so-called "tribal attorneys" to represent the tribal councils who are adjuncts of the Indian Bureau, the Indians' constitutional rights would be solved.

The Senate Committee on Indian Constitutional Rights should look into the matter of Indian constitutional rights. A good place to start with would be the Yakima Reservation, then the Colville, Spokane, Warm Spring, Flathead, Blackfeet, Ft. Peck, and the Sioux Reservations in North and South Dakota.

By reason of the foregoing, herein above set forth we respectfully ask that S. 1764, be amended by striking out all after the enacting clause and insert the following:

"That the Act entitled 'An Act to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington, and for other purposes,' Approved August 9, 1946 (60 Stat. 968). Is hereby repealed."

Further, by reason of the foregoing herein above set forth, we respectfully ask that a secretarial election be called for the purpose of affording all of the enrolled members of the Yakima Tribe an opportunity to express themselves regarding this issue.

For convenient reference I submit the material:

Senate hearings on S. 809, S. Con. Res. 3 and S. 331, 85th Congress.

House hearings on H.R. 4005, Serial No. 26, 85th Congress.

House hearings on H.R. 1176, Serial No. 7, 86th Congress.

Communication, addressed to Glenn L. Emmons, From Yakima Indian Association, dated August 22, 1955 and September 20, 1955.

A communication addressed to Elwin A. Nellis, Editor Yakima Daily Republic, dated July 24, 1963, and a letter addressed to Congressman Hale, signed by John O. Crow, Acting Commissioner of Indian Affairs, attached thereto.

(The material referred to is in the files of the committee.)

Senator ANDERSON. In addition, I will include in the record certain communications we have received from parties interested in the legislation.

(The data referred to follows:)

HOVIS, COCKRILL & ROY,  
Yakima, Wash., April 4, 1968.

HON. HENRY M. JACKSON,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR JACKSON: In reference to the discussion that the Yakima Tribal delegation had with you and your staff on March 7, 1968, regarding S. 1764, I wish to report as follows:

Upon the delegation's return to the Yakima Reservation two proposed amendments to S. 1764 were discussed with the full tribal council on March 13, 1968. The purpose of this discussion was to give direction to the undersigned as to how to compromise with other tribes. The first amendment would be to amend S. 1764 to allow Section 7 to be retained but to provide that Yakimas not be able to inherit from other tribes. The other was to provide that Section 7 be retained but that compensation shall be paid to those who cannot inherit for the interests they otherwise would not inherit. Because of sickness we were unable to further consider this matter until April.

While the Yakima Tribal Council still stand by their statement that they have no objection to other tribes having the same provision or passing retaliatory legislation, they do not believe that they have the authority in face of overwhelming action against any amendment by the General Council to propose any amendment. Therefore, my hands are tied in discussing compromise with other tribes. I was so instructed by the Tribal Council at their meeting April 3, 1968.

The Yakima Tribal Council is uniformly against the passage of S. 1764 or any amendment to Public Law 706, 79th Congress, and request your support in this regard.

Sincerely,

JAMES B. HOVIS,  
Yakima Tribal Attorney.

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STATEMENT OF ORVILLE NELSON OLNEY, ROLL No. 1894, YAKIMA INDIAN TRIBE

We of the Yakima Indian Progressive Association endorse and urge passage of S. 1764. Our association is strongly in favor of any legislation that would eliminate any discriminatory provisions, or deny us or our heirs our constitutional rights contained in the act of August 9, 1946 (60 Stat. 968) providing for the preparation of a membership roll of the Indians of the Yakima Reservation. Section 7 of the act denies heirs with less than one quarter degree of Yakima blood to inherit. A non-Yakima spouse who has spent a lifetime helping develop the property is denied the right to inherit. We ask that section 7 of the act be repealed on the grounds that it is inequitable. Our association represents many people living on the reservation, many living off the reservation where they can best provide for their families, and those serving in the Armed Forces all over the world.

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STATE OF OREGON,  
HOUSE OF REPRESENTATIVES,  
Salem, Oreg., March 1, 1968.

HON. MARK O. HATFIELD,  
New Senate Office Building,  
Washington, D.C.

DEAR MARK: My close association with the Confederated Tribes of the Warm Springs Reservation brings me in frequent contact with many of their internal problems. Recently I have been talking to some of my friends and constituents on the Reservation concerning Senate Concurrent Resolution 11, introduced in the 90th Congress by Senator McGovern and others, on February 17, 1967.

This resolution has been well received by many thoughtful leaders of the Warm Springs Confederated Tribes. They believe that it will assist in the updating of the thinking of, and allow a new approach for, Congress on matters pertaining to Indian affairs and Indian problems.

If this resolution is approved, the future deliberations will not be restricted by past resolutions on this subject which may have become obsolete by this time.

As an illustration, the following clause in Senate Concurrent Resolution 11 has tremendous potential for lasting benefits to most Tribes:

"The Indian and Alaska native governing bodies should be recognized as having the full authority to determine the extent and manner of utilizing all available resources for their communities."

It is the concensus of those with whom I have talked on the Reservation that the enactment of this resolution will surely enhance and strengthen many of the present constructive statutes, as well as much of the pending legislation on this subject.

I am told that many Tribal members, and representatives, of the Treaty Tribes of the Columbia River will be testifying on behalf of this resolution. I urge you to give it your favorable consideration.

Sincerely yours,

SAM JOHNSON.

CONFEDERATED TRIBES, COLVILLE RESERVATION,  
COLVILLE INDIAN AGENCY,  
Nespelem, Wash., March 6, 1968.

HON. GEORGE MCGOVERN,

U.S. Senate, Chairman, Subcommittee on Indian Affairs, Senate Interior & Insular Affairs Committee, New Senate Office Building, Washington, D.C.

DEAR CHAIRMAN MCGOVERN: Enclosed herewith please find a copy of Colville Business Council Resolution numbered 1966-246, dated August 26, 1966, which will further support our position as being strongly in favor of early enactment of S. 1764. Under Section 7 of 25 U.S.C. 607, entitled "An Act to Provide for the Preparation of a Membership Roll of the Indians of the Yakima Reservations, Washington, and Other Purposes" (60 Stat. 698, August 9, 1946) only enrolled members of the Yakima Tribe can inherit property on that Reservation. There are many intermarriages between Indians enrolled in the Yakima and Colville Tribes and the children of these marriages are enrolled in either tribe, with the result that brothers and sisters may be members of different tribes. Thus, members of both tribes become entitled to inherit lands on both Reservations. Those enrolled in the Yakima Tribe can and do inherit on both, but because of Section 7, no member of the Colville Tribes can inherit any Yakima property. We feel this is inherently unfair and discriminatory to the Colvilles.

It is conservatively estimated that there are approximately 70 Yakima enrollees married to members of the Colville Tribes. The total acres of land on the Colville Indian Reservation inherited by Yakima enrollees encompasses approximately 5,899 acres. This is compared to approximately three to four thousand acres of land on the Yakima Indian Reservation in which Colville enrollees have in inherited interests.

Section 7 of the Yakima Enrollment Act of 1946 should be repealed since it is unfair and discriminatory to all other Indian Tribes. Without Congressional action, this unjust law will continue to prejudice the Colvilles and all other Tribes that intermarry with the Yakimas. We fervently hope that your Committee will lead the way in having this law repealed.

In conclusion, we wish to thank you and members of your distinguished Committee for the opportunity to express our wholehearted support of early passage of S. 1764, 90th Congress, 1st Session.

Respectfully submitted,

NARCISSE NICHOLSON, Jr.,  
Chairman, Colville Business Council.

[Enclosure]

RESOLUTION OF THE COLVILLE BUSINESS COUNCIL

Whereas, the Colville Business Council is concerned with the inequitable situation that prevails as to the Colville Confederated Tribes because of discriminatory provisions of Section 7 of 25 U.S.C. 607, entitled "An Act to Provide for the Preparation of a Membership Roll of the Indians on the Yakima Reservation, Washington, and Other Purposes (60 Stat 968, August 9, 1946)"; and

Whereas, under Section 7 only enrolled members of the Yakima Tribe can inherit property on that Reservation; and

Whereas, there are many intermarriages between Indians enrolled in the Yakima and Colville Tribes and children of these marriages are enrolled in

either tribe, with the result that brothers and sisters may be members of different tribes; and

Whereas, enrolled members of the Yakima Tribe can and do inherit property on both the Yakima and Colville Reservations, but because of Section 7 no member of the Colville Tribes can inherit any Yakima property; and

Whereas, the above result is inherently unfair and discriminatory to the Colville Tribes; and

Whereas, also as a result of Section 7 owners of property on the Yakima Reservation are prevented from disposing of their property as they may wish, in sharp contrast to the rights held by other citizens of the United States; and

Whereas, the Business Council has also reviewed Senate Joint Memorial 8, which passed the Oregon Legislature May 6, 1965, and the statement on behalf of the Confederated Tribes of the Umatilla Indian Reservation in support of Senate Joint Memorial 8, both of which indicate that the Umatilla Tribes also suffer from the discriminatory provisions of Section 7; and

Whereas, the United States Department of the Interior also desires that Section 7 be repealed; and

Whereas, legislation has been introduced in the United States Congress to repeal Section 7, now, therefore,

Be It Resolved, that we, the Colville Business Council, meeting in Special Session at the Colville Indian Subagency, Nespelem, Washington, acting for and in behalf of the Colville Confederated Tribes this 26th day of August, 1966, do hereby go on record urging and requesting that legislation be passed in the present session repealing Section 7, or if no action is taken by the present Congress, that legislation to repeal Section 7 be introduced and passed in the next Congress; and

Be It Further Resolved, that the Business Council approved the statements made on behalf of the Umatilla Confederated Tribes, and fully supports the position taken by the Oregon Legislature in passing Senate Joint Memorial 8; and

Be It Further Resolved, that the Business Council fully endorses and supports the United States Department of the Interior in urging repeal of Section 7.

The foregoing was duly enacted by the Colville Business Council by a vote of 8 For; 1 Against, under authority contained in Article V, Section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation, ratified by the Colville Indians on February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938.

NESPELEM, WASH.,  
February 29, 1968.

HON. GEORGE MCGOVERN,  
U.S. Senate, Chairman Subcommittee on Indian Affairs, Senate Interior & Insular Affairs Committee. New Senate Office Building, Washington, D.C.:

Please accept this telegram as the position of the Confederated Tribes of the Colville Reservation, Washington, as being strongly in favor of the early enactment of S. 1764 on which hearings are being held on Monday, March 4, 1968. We are deeply concerned with the inequitable situation that prevails as to the Colvilles because of discriminatory provisions of section 7 of 25 USC 607, entitled "an act to provide for the preparation of a membership roll of the Indians of the Yakima Reservation, Washington and other purposes." (60 stat. 968 August 9, 1946.) This will reiterate the previous action taken by the Colville business council by enactment of resolution numbered 1966-246, dated August 26, 1966, a copy of which will follow. Please have our views and position read into the hearing records reflecting that Confederated Tribes of the Colville Reservation are fervently in favor of early enactment of S. 1764.

Respectfully yours,

NARCISSE NICHOLSON, Jr.,  
Chairman, Colville Business Council.

LOS ANGELES, CALIF.,  
March 2, 1967.

Senator HENRY M. JACKSON,  
Washington, D.C.:

We of Yakima Indian Tribe ask you to put forth every effort to strike out section 7 of the act of 1946 which eliminated many from the Yakima Tribe. I'm having Mr. Albert A. Groud to represent me there. Thank you for your effort.

J. FRANK HUBBARD.

TACOMA, WASH.,  
March 2, 1968.

Hon. HENRY M. JACKSON,  
U.S. Senator, Washington, D.C.:

I am a member of the Yakima Tribe. Majority members are overwhelmingly for the repeal of section 7 of Yakima Enrollment Act of 1946. Albert A. Grorud is familiar with our problem. We wish him to represent us on March 4th.

MYRTLE B. MOCKEL.

MALCOLM S. McLEOD,  
ATTORNEY AT LAW,  
SEATTLE, WASH.,  
February 26, 1968.

Senator HENRY M. JACKSON,  
Senate Office Building,  
Washington, D.C.

DEAR "SCOOP": I wish to go on record as being against the Yakima Enrollment Act, and in favor of the bill which will abolish this discriminatory, unfair and impossible piece of legislation. I have had in the course of the last eighteen years of work with the Indians, numerous instances where widows, orphans and elderly defenseless persons have been denied their inheritance by this vicious act, because they were unable to hire a lawyer and unable to provide the proof that their Indian blood exceeded one-quarter so that they could inherit their own family's property. I would estimate that in the past several years, over one million dollars worth of property has been forfeited by various Indian heirs because of the unfair provision of the Yakima Enrollment Act.

I would appreciate it if you could use your good office to see that the bill is passed that will abolish this discriminatory statute.

Thank you for your courtesy.

Cordially yours,

MALCOLM S. McLEOD.

EVERETT, WASH., February 23, 1968.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
U.S. Senate,  
Washington, D.C.:

Regarding Senate Bill 1764, Section 7 elimination, we are in favor of the passage of S. 1764.

It is not right as laws stand for Yakimas to inherit trust lands elsewhere and we don't inherit in Yakima Tribe after we become intermarried into their Tribe.

This was brought before Stillaguamish Tribe as several are married into Yakima Tribe. We also have few Lummi Tribe members here who have married into Yakima Tribe and have no inheritance after Yakima member died.

JOHN P. SILVA,  
Chairman, Stillaguamish Tribe of Indians.

Mr. JACKSON. I want to ask you a question. What difference would this make, supposing the majority of the Yakima people were in favor of it? We still would not gain anything.

Senator McGOVERN. Congress does not have to await a referendum on any issue to act.

Mr. JACKSON. That is right.

Senator McGOVERN. And I think the point that the witness was making is that the position of the tribal officers does not necessarily reflect tribal opinion. But I think the point is well taken that that is an irrelevant matter in terms of what Congress ought to do in discharging its own function.

We have got another rollcall here, and I am going to have to run.

Mr. GRORUD. Thank you very much.

Senator MCGOVERN. I think we have heard all the witnesses and we will stand adjourned today.

(Thereupon, at 3:30 p.m., the hearing in the above-entitled matter was adjourned.)

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We have got another roll call here, and I am going to have to run.  
Mr. Gorman, thank you very much.  
Senator McGowan, I think we have heard all the witnesses and we  
will stand adjourned today.  
(Thereupon, at 3:30 p.m., the hearing in the above-entitled matter  
was adjourned.)