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ESTABLISHMENT OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

S.J. Res. 133

TO PROVIDE FOR THE ESTABLISHMENT OF THE AMERICAN
INDIAN POLICY REVIEW COMMISSION

JULY 19 AND 20, 1973



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

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ESTABLISHMENT OF THE AMERICAN INDIAN POLICY
REVIEW COMMISSION

HEARINGS
SUBCOMMITTEE ON INDIAN AFFAIRS
ON THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HENRY M. JACKSON, Washington, *Chairman*

ALAN BIBLE, Nevada

FRANK CHURCH, Idaho

LEE METCALF, Montana

J. BENNETT JOHNSTON, JR., Louisiana

JAMES ABOUREZK, South Dakota

FLOYD K. HASKELL, Colorado

GAYLORD NELSON, Wisconsin

PAUL J. FANNIN, Arizona

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JAMES A. McCLURE, Idaho

DEWEY F. BARTLETT, Oklahoma

JERRY T. VERKLER, *Staff Director*

WILLIAM J. VAN NESS, *Chief Counsel*

FORREST J. GERARD, *Professional Staff Member*

HARRISON LOESCH, *Minority Counsel*

SUBCOMMITTEE ON INDIAN AFFAIRS

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(II)



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ESTABLISHMENT OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

THURSDAY, JULY 19, 1973

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

The subcommittee met at 2 p.m. in room 3110, Dirksen Office Building, Hon. James Abourezk, chairman, presiding.

Present: Senators Abourezk [presiding] and Bartlett.

Also present: Jerry T. Verkler, staff director; and Forrest Gard, professional staff member.

Senator ABOUREZK. The hearing is in order.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

This is an open public hearing to take testimony from administration and private witnesses on Senate Joint Resolution 133, to provide for the establishment of the American Indian Policy Review Commission.

Throughout the history of Federal-Indian relations there has never been a comprehensive approach by the Congress and the Executive that dealt effectively with Indian problems and, at the same time, efficiently fulfilled Indian needs.

As a result, Indian policy was shaped by a fragmented, piecemeal approach which served to inhibit, rather than promote Indian development and has directly led to the deep despair and frustration recently vented in the siege of the Bureau of Indian Affairs and the occupation of Wounded Knee, S. Dak.

I firmly believe that the time has come for a thorough review of these past policies, to see where they have proved inadequate so that a more comprehensive approach can be attempted.

This resolution would provide an appropriate vehicle for such a review. It would provide for a congressional commission of bipartisan composition from both the Senate and the House of Representatives.

This group would then select five members of the Indian community as follows: three members from federally recognized tribes, one of whom is residing away from the reservation; one member from the urban Indian community; and one member from a tribe not recognized by the Federal Government.

The Commission would be charged with reviewing all of the treaties, statutes, judicial decisions and executive orders, as well as the Constitution itself, to determine the legal-historical basis for the unique relationship that Indian people have with the Federal Government.

It would also review past policies, practices and governmental structures, so it can readily assess their efficiency and effectiveness with a view toward improving their mission of providing needed services and protecting natural resources.

It would explore such areas as the granting of Federal recognition to Indian tribes and communities, and the strengthening of tribal governments so that they can more fully represent their members.

Most importantly, through an interim and a final report, the Commission would be required to submit recommendations from which the Congress may legislate meaningful approaches to fulfill the present and future needs of Indian people.

The committee looks forward to receiving the views of the administration and private witnesses with respect to the proposed legislation.

At this point, I shall order that the resolution and administration report be made part of the record.

[The text of S.J. Res. 133 and Department of the Interior report follows:]

93^d CONGRESS
1st SESSION

S. J. RES. 133

IN THE SENATE OF THE UNITED STATES

JULY 16, 1973

Mr. ABOUREZK introduced the following joint resolution; which was read twice
and referred to the Committee on Interior and Insular Affairs

JOINT RESOLUTION

To provide for the establishment of the American Indian Policy
Review Commission.

DECLARATION OF POLICY

It is hereby declared to be the policy of Congress that the
unique and longstanding legal relationship between the American
Indian people and the Federal Government shall—

(a) be fully recognized and respected; and

(b) serve as the foundation for a fundamental reform of
Federal-Indian relations so as to develop and implement a
new national Indian policy to encourage and assist the full
development of the unique human and natural resources of
Indian people.

DECLARATION OF PURPOSE

Recognizing that the unique relationship of the American
Indian people and the Federal Government is based upon the

Constitution, numerous treaties and a still-growing body of statutory law and court decisions, that this relationship carries with it a Federal trust responsibility for the protection of Indian land and rights to other natural resources and for the provision of public services to Indian people, that this solemn and legal responsibility has not been adequately fulfilled, that the Indian people have been denied the opportunity to realize the full potential of their human and natural resources, and, therefore, that those results demonstrate that the national Indian policy and the administration of Indian affairs is not in the best interests of the Indian people, the general public, and the Federal Government, the Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indian people.

Whereas article I, section 8, clause 3, of the Constitution of the United States, gives to Congress the power "to regulate commerce * * * with the Indian tribes;" and this clause has been consistently interpreted to give Congress plenary power over Indians and Indian tribes; and

Whereas the Congress has not exercised such plenary power to bring about fundamental reform to Indian affairs since approval of the Act of June 18, 1934 (48 Stat. 987), the Indian Reorganization Act; and

Whereas the Constitution, numerous treaties, statutes, and judicial decisions have charged the Federal Government with a special trust responsibility to protect and enhance Indian lands, water, and other natural resources; and

Whereas the national American Indian policy, from the beginning of this special Federal trust responsibility, has followed an inconsistent pattern and has failed to assist Indian people to achieve their individual, family, and community goals; and

Whereas the administration of Indian affairs by the governmental institutions charged with fulfilling the special Federal trust responsibility to Indians is characterized by a morass of conflicting policies and practices that serve to inhibit the exercise, rather than encourage the fulfillment, of such responsibility to Indians; and

Whereas, as a direct outgrowth of the inconsistent policy pattern followed by the Federal Government, generations of Indian people have suffered social and economic deprivation unparalleled by any other segment of society; and

Whereas such social and economic deprivation is illustrated by the following:

(1) The infant mortality rate for Indians is 23.8 deaths per 1,000 live births compared to 19.2 for all races;

(2) The life expectancy for Indians is 64.9 compared to 70.8 for all races in the Nation;

(3) Typical Indian families of five or six live in one- or two-room houses, 24 per centum of which lack running water and adequate sanitation facilities;

(4) Forty-three per centum of Indian students drop out of school before graduation, and the average number of years of schooling completed by Indians is 8.4 compared to the national average of 10.6;

(5) Unemployment among Indian people averages 40 per centum, and runs as high as 58 per centum on some reservations during the winter months;

(6) The average annual per capita income for Indians is \$1,184, as compared to a national average of \$3,344; and

Whereas the failure of governmental institutions to enable individual Indians to enjoy good health, to receive meaningful academic and vocational training, to find satisfying employment, to live in decent and acceptable housing, and to enjoy fundamental civil rights has contributed to feelings of despair, frustration, and alienation among young and older Indians alike; and

Whereas the despair, frustration, and alienation experienced by many Indian people have led to deep division in the Indian community and such division having already manifested itself through serious eruptions which conceivably could recur; and

Whereas the Congress deems it timely and essential to undertake a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government to support the formulation of more positive and effective national Indian policies and programs; and

Whereas as used in this resolution the term "American Indian" or "Indian" shall include "Alaskan Native"; and

Whereas the President is to be commended for submission of a legislative package to Congress which is designed to implement a self-determination policy for American Indian people; and

Whereas the proposed comprehensive review of the historical-legal basis underlying the unique Federal relationship with American Indian people would not preclude congressional

consideration of the President's Indian legislative proposals and other important Indian measures: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That it is the sense of Congress that—

4 (1) (a) In order to carry out the purposes described
5 above, there is hereby established a commission to be known
6 as the American Indian Policy Review Commission, here-
7 inafter referred to as the "Commission".

8 (b) The Commission shall be composed of fifteen mem-
9 bers, as follows:

10 (i) two majority members of the Senate Com-
11 mittee on Interior and Insular Affairs and one Member
12 of the Senate at large to be appointed by the majority
13 leader of the Senate and two minority Members of the
14 Senate to be appointed by the minority leader of the
15 Senate;

16 (ii) two majority members of the House Com-
17 mittee on Interior and Insular Affairs and one Member
18 of the House of Representatives at large to be appointed
19 by the Speaker of the House of Representatives and two
20 minority Members of the House of Representatives to be
21 appointed by the minority leader of the House of Repre-
22 sentatives;

1 (iii) there shall be elected from the foregoing ten
2 members a Chairman and a Vice Chairman of the Com-
3 mission at an organizational meeting called at such time
4 and place as may be specified in a call issued jointly by
5 the senior member appointed by the majority leader of
6 the Senate and the senior member appointed by the
7 Speaker of the House of Representatives;

8 (iv) five Indian members who shall be selected by
9 the ten congressional Members, by majority vote, at their
10 organizational meeting immediately following the elec-
11 tion of a Chairman and Vice Chairman from the follow-
12 ing segments of the Indian community:

13 (1) three members shall be selected from tribes
14 that are recognized by the Federal Government, one
15 of whom must presently reside off the reservation;

16 (2) one member shall be selected to represent
17 urban Indians; and

18 (3) one member shall be selected who is a
19 member of an Indian group not recognized by the
20 Federal Government.

21 None of the above shall be employees of the Federal Gov-
22 ernment at the time of selection, nor shall there be more than
23 one member from any Indian tribe.

24 (e) Any vacancy which may occur on the Commission
25 shall not affect its powers or functions but shall be filled in

1 the same manner in which the original appointment was
2 made.

3 (d) Eight members of the Commission shall constitute a
4 quorum, but a smaller number, as determined by the Com-
5 mission, may conduct hearings.

6 (e) Members of Congress who are members of the Com-
7 mission shall serve without any compensation other than that
8 received for their services as Members of Congress; but they
9 shall be reimbursed for travel, subsistence, and other neces-
10 sary expenses incurred by them in the performance of the
11 duties vested in the Commission.

12 (f) The selected Indian members shall each receive
13 \$150 per diem when engaged in the actual performance of
14 duties vested in the Commission, plus reimbursement for
15 travel, subsistence, and other necessary expenses incurred by
16 them in the performance of such duties.

17 DUTIES OF THE COMMISSION

18 (2) (a) The Commission shall—

19 (i) appoint an Executive Director, whose responsi-
20 bility will be to supervise the Commission staff and as-
21 sign and arrange for the preparation of the necessary
22 reports;

23 (ii) appoint a General Counsel, whose duties will
24 be to advise the Commission, the Executive Director, and

1 the staff on legal matters and supervise the carrying
2 out of those contracts which involve legal expertise;

3 (iii) contract with organizations and individuals
4 whose professional expertise, experience, work, and cred-
5 ibility are generally recognized and accepted;

6 (iv) create such advisory groups to examine par-
7 ticular issues as the Commission deems necessary to
8 achieve adequate Indian involvement on those issues;

9 (v) conduct hearings in various regions and on
10 selected Indian reservations where Indians can most
11 easily attend and make their views known directly to
12 the Commission and where particular illustrations of
13 fact situations may be more easily documented;

14 (vi) study and analyze the Constitution, treaties,
15 statutes, judicial interpretations, and Executive orders to
16 determine the attributes of the unique relationship be-
17 tween the Federal Government, Indians, and Indian
18 tribes, and concerning the lands they possess;

19 (vii) review the policies, practices, and structure
20 of the Federal agencies charged with protecting Indian
21 resources and providing services to Indians;

22 (viii) examine the statutes and the procedures for
23 granting Federal recognition and extending services to
24 Indian communities and individuals;

25 (ix) collect and compile the data necessary to

1 understand the extent of Indian needs which presently
2 exist or will exist in the future;

3 (x) explore the feasibility of alternative elective
4 bodies which could fully represent Indians at the na-
5 tional level of Government to provide Indians with maxi-
6 mum participation in policy formulation and program
7 development;

8 (xi) consider alternative methods to strengthen
9 tribal government so that the tribes might fully repre-
10 sent their members, and, at the same time, guarantee
11 the fundamental rights of individual Indians; and

12 (xii) recommend such modification of existing laws,
13 procedures, regulations, policies, and practices, as will,
14 in the judgment of the Commission, best serve to carry
15 out the policy and declaration of purpose as set out
16 above.

17 (b) The Commission shall submit to the President of
18 the Senate and the Speaker of the House of Representatives
19 an interim report, not later than one year after the passage
20 of this resolution, which shall contain recommendations
21 based upon their preliminary findings for legislative con-
22 sideration and specific legislative action to better fulfill the
23 needs of Indian people. Not later than two years after the
24 passage of this resolution, the Commission shall submit to
25 the President of the Senate and the Speaker of the House

1 executive branch of the Government any information it deems
2 necessary to carry out its functions under this Act and each
3 such department, agency, and instrumentality is authorized
4 and directed to furnish such information to the Commission
5 and to conduct such studies and surveys as may be requested
6 by the Chairman or the Vice Chairman when acting as
7 Chairman.

8 (c) If the Commission requires of any witness or of any
9 Government agency the production of any materials which
10 have theretofore been submitted to a Government agency
11 on a confidential basis, and the confidentiality of those mate-
12 rials is protected by statute, the material so produced shall be
13 held in confidence by the Commission.

14 APPROPRIATIONS, EXPENSES, AND PERSONNEL

15 SEC. 3. (a) There is hereby authorized to be appro-
16 priated a sum not to exceed \$2,000,000 to carry out the
17 provisions of this Act and such moneys as may be appro-
18 priated shall be available to the Commission until expended.

19 (b) The Commission is authorized, without regard to
20 the civil service laws and regulations and without regard to
21 the Classification Act of 1949, as amended, to appoint and
22 fix the compensation of its staff director, and such additional
23 personnel as may be necessary to enable it to carry out its
24 functions except that any Federal employees subject to the
25 civil service laws and regulations who may be employed by

1 the Commission shall retain civil service status without inter-
2 ruption or loss of status or privilege.

3 (c) The Commission is authorized to enter into con-
4 tracts or agreements for studies and surveys with public and
5 private organizations and, if necessary, to transfer funds to
6 Federal agencies from sums appropriated pursuant to this
7 resolution to carry out such aspects of the review as the
8 Commission determines can best be carried out in that
9 manner.

10 (d) Service of an individual as a member of an ad hoc
11 committee, or employment by the Commission of an attorney
12 or expert in any job or professional field on a part-time or
13 full-time basis with or without compensation shall not be
14 considered as service or employment bringing such individ-
15 uals within the provisions of the Act of October 23, 1962.
16 (76 Stat. 1119).

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 19, 1973.

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

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S.J. Res. 133, "To provide for the establishment of the American Indian Policy Review Commission."

We have not had sufficient time to evaluate the specifics of this joint resolution or to consult Indians regarding it and thus are unable to take a position on the resolution at this time.

We would emphasize, however, that we consider three elements of this Administration's Indian policy to be absolute essentials. First, termination is an unacceptable method of dealing with American Indians. Second, the President's Indian package legislation and the Block-Grant Proposal are vital to the improvement of the situation of American Indians that all Americans so fervently desire. Third, the philosophy of Indian self-determination requires that Indians be thoroughly consulted concerning the establishment of a commission or other mechanism to reassess Federal Indian policy. We would strongly recommend that any Congressional effort to review Indian policy not weaken Federal commitment to any of these three elements.

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

Sincerely yours,

JOHN H. KYL,
Assistant Secretary of the Interior.

Senator ABOUREZK. The first witness is the Honorable John Kyl, Assistant Secretary for Congressional and Public Affairs of the Interior Department, accompanied by members of the staff.

John, we are happy to see you again today. I wonder if you would introduce your staff people.

Mr. KYL. It is a pleasure, Senator.

On my left is Robert Bruce, Bureau of Indian Affairs and on my right, Dennis Drabelle, of the Legislative Office who works on most Indian legislation.

Senator ABOUREZK. Mr. Secretary, I wonder if before you present your testimony if I might ask my time honored question of when the Department of Interior intends to submit a name for confirmation for Commissioner of Indian Affairs.

Mr. KYL. My response to that is different, sir. I think that probably you know more than I do about that matter. I say that in sincerity, sir.

Senator ABOUREZK. I guess we will not go into it any further then and we are pleased to hear your testimony.

STATEMENT OF JOHN H. KYL, ASSISTANT SECRETARY OF THE INTERIOR FOR CONGRESSIONAL AND PUBLIC AFFAIRS; ACCOMPANIED BY ROBERT BRUCE, BUREAU OF INDIAN AFFAIRS AND DENNIS DRABELLE, STAFF ATTORNEY, OFFICE OF LEGISLATION

Mr. KYL. Thank you very much, Senator Abourezk. The statement is short.

I regret to say that we have not had enough time to give this joint resolution the careful consideration which it clearly deserves.

Nor have we had time to assess the views of Indians on the general concept or the specifics of this resolution. For that reason, we are unable to take a position on the resolution at this time.

We will, of course, be happy to submit a complete report on the resolution at a later date.

We would, however, like to mention three elements of the administration's Indian policy which we would hope any congressional re-evaluation of Indian policy would not erode.

First, unilateral termination is a thoroughly discredited policy and should not be resuscitated.

Second, the bills in the President's Indian package and the Block-Grant proposal should be enacted as soon as possible.

Third, the principle of Indian self-determination entails that Indians should be fully consulted concerning the creation of any mechanism to revamp Federal Indian policy.

This concludes my statement.

Senator ABOUREZK. Thank you very much for that, Mr. Secretary. And, just by way of response on behalf of this particular legislator, I agree that termination is unacceptable and so long as I have any powers in Indian affairs and the Congress of the United States I will

be against termination of Indian tribes without the Indian tribes themselves wanting that to happen.

Of course, I would not want to go against their wishes on it. Second, I want to agree that the President's package on Indian legislation is moving along. It is moving along in this committee; we are waiting for an open spot in the full committee to mark up the Indian financing bill and the Indian self-determination and education bill. And we have other bills moving in the legislative process that will be coming up this year and we hope to get as many of these as we can out onto the floor of the Senate this year for passage so that the House can then deal with it as they see fit.

And, the third point that you bring up, the philosophy of Indian self-determination, is one with which I fully agree and I know that you personally agree with it.

I wish that you could convince the people in the Bureau of Indian Affairs of that same statement of truth.

And I believe that this congressional effort that we are trying to undertake will not weaken but it will strengthen the Federal commitment to all of these elements as well as the general Federal-Indian relationship.

So, I wish to thank you for your testimony. I know that the bill was presented to you on short notice and we would like to have your report later on after you have had a chance to consider it.

Would you have any idea of when the Department could bring us a report on this legislation?

Mr. KYL. The normal period for consideration is about 30 days. We do have a recess coming up. I am certain that we can have a complete report for you at the time you return from the August recess if that is soon enough.

Of course, if you want to move faster than that, why, I suppose we can try to gear up.

Senator ABOUREZK. We go back into session about September 3 if my information is correct. If we would be able to have it by September 1 so the staff could review it before the session starts would be very helpful. Would August 15 be suitable?

Mr. KYL. That is fine, sir.

Senator ABOUREZK. We would appreciate it; that would give the staff time to review it before we come back into session.

Mr. KYL. Yes, sir.

Senator ABOUREZK. I have no more questions and I see that members of the minority have no more, so we will once again thank you very much for your appearance today.

Mr. KYL. Thank you, sir.

Senator ABOUREZK. The next witness is Mr. Lee Cook of the National Congress of American Indians in Washington, D.C. Mr. Cook, we are happy to have you back before us today and we would be pleased to hear your testimony on this resolution.

STATEMENT OF LEE COOK, NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, D.C.

Mr. COOK. Thank you, Mr. Chairman.

I do not have a written report or statement at this time. I am just beginning a new job in Minneapolis and I am kind of between jobs and I have not had time to catch up.

I have read the bill and needless to say I and the National Congress are very pleased with the intent and purpose of your joint resolution.

The implications of the bill, I think we have all been talking about and been concerned about for many, many months now.

I think the primary thrust of the intent of the bill is something that I have been trying to get some attention to for the last year especially and that being recognizing the chaos in the Indian Bureau and in the Department of Interior and through our Government. I have encouraged in letters to Senator Jackson, Senator Mansfield, and Senator Ervin and communications to yourself that I really believe it is high time for Congress to get the direction in programs of Indian affairs nationally from the executive branch to really once again assume their right in this constitutional world in establishing a national policy and a system of national programs for our Indian community.

The intent, of course, is outlined in your bill, and I sincerely appreciate the fact that you have noted that there really has not been a major departure in Indian policy and programs since the reorganization act.

I think it is high time, recognizing the recent incidents causing further chaos throughout Indian country, that the Congress does in fact set up a review commission so suggested by the bill.

We have talked about numerous kinds of departures from the possibility of setting up a new kind of vehicle. I think the reorganizations are apparent to everyone that the realignments represent sort of changing the place settings on the table when it is really the table that needs to be changed.

The structure of the delivery system without question needs to be changed. We made some reference to that at my last discussion here on the possibility of oversight hearings on allocations in budget, et cetera, of the Bureau that some other kind of vehicle really seems to be in order.

And, I think the intense kind of review and investigation and research implied in the bill is exactly what we need. In the 2½ years implied in the bill for doing that intensive review of Indian policy and programs the primary thrust of the Federal Government being the trust responsibility and that respect without question is due for review.

I have heard some rumors lately that there has been some discussion about contracting the trust responsibility. I think people fail to realize that the basic fundamental relationship between Indian country and the Federal Government is just that trust relationship and without it you really would not have any need for an agency like the Bureau of Indian Affairs.

The review suggests part of the concensus around Indian country for some kind of a treaty commission. It suggests the possibility of looking at a brandnew way of delivering services and funds to the Indian communities.

It looks at ways of reviewing national priorities. But, primarily, the thing that I like about it is the fact that Congress has taken the initiative.

I like the idea of the membership on the Commission being representative of the Congress, the House, the Senate, and the Indian community.

I would make a couple of suggestions there, rather than talking about urban reservations in terms of the Indian membership that it really be reservation and non-reservation, urban and rural.

One of the communities that we so often forget in talking about includes the representation on communities of Indians is the rural non-reservation Indians throughout our country includes a large part of the eastern tribes. It includes a large part of the States of Washington, California, and Oklahoma. It is a very, very large part of our Indian community and I would hope that in the membership of the proposed Indian members of the Commission that that be taken into consideration.

Senator **ABOUREZK**. I wonder if I might stop you there. Your recommendation was, instead of the way we have the representation broken down, should be in the categories of urban, rural, reservation and urban, four categories?

Mr. **COOK**. I should say reservation and nonreservation, rural and nonreservation, or urban. It would seem to me, I think the intent, you really have three major groups of Indians that you should be addressing yourselves to in the selection process.

The Federally recognized tribes, those that are clearly in the urban population representing approximately half of our community and a very, very large part of our Indian community are rural nonreservation people. So that you really have in my mind a representation for instance that would include the eastern coalition of tribes and it would include representation from the Oklahoma community in that same regard, a large part of the State of California and a large part of the State of Washington.

Senator **ABOUREZK**. You are talking about rural nonreservation in that particular regard?

Mr. **COOK**. Yes.

Senator **ABOUREZK**. Would that be taken care of by No. 1? Do you have the bill? On page 6, the first subsection reads: "Three members shall be selected from tribes that are recognized by the Federal Government, one of whom must presently reside off the reservation?"

Mr. **COOK**. Yes, I thought it was inclusive but I guess I would like to see it be more clearly stated.

W. Strickland, who was chairman of the eastern coalition—or the Coalition of Eastern Tribes—to be excluded from national legislation confronting Indians. And I just think those particular Indian communities just have a prejudice, I guess, about that, just having been too often excluded and mentioned we always wind up with a dichotomy of reservation and urban.

But, if you really, I think, take note of the fact that Oklahoma has the largest State Indian population in the country and for the most part does not have a reservation Indian community.

While they have a number of tribes they are never recognized and nevertheless followed from the category in a large part as rural nonreservation.

The other I guess minor suggestion that I would make in terms of talking about the executive director, and I know again Indian prefer-

ence always causes lots of chaos, but I would hope that it might at least be inserted that the executive director at least be preferentially Indian.

Senator ABOUREZK. Executive director of the staff you mean?

Mr. COOK. Yes.

When I first read the bill, you know, you always look for things to suggest, or things that are wrong, or things that might be amended or suggested. And, my first reaction was that just—you know—you did not overlook anything, you placed great emphasis on the trust responsibility which I sincerely appreciate and I think all of Indian country appreciates.

You have placed great interest on Indian input with the possibility of contracting services, the kind of field hearings that are at least implied. So that the larger part of Indian country really does not get a chance to participate and to become involved in the intensive review that the Commission at least has suggested by the bill to carry on.

Every item that is outlined in the bill I am fully in support of. I would really like to say there are some areas that I find you short on, but the bill is presently in my mind one of the most comprehensive suggested and proposed bills that I have seen in a long, long time.

Without question, again we need some kind of commission to review the treaty issue; we need a commission to take a look at the present delivery of instruction. I think we really do need, as I have indicated in my last testimony to you, a new kind of vehicle.

We really need to firm up the relationship between the Federal Government and the Indian community at this point in time. I think it is high time that we do that.

It has been approximately 40 years since anything really substantial has been done.

But more importantly, I like the idea of Congress taking the initiative and particularly of the congressional Members appointing and selecting the Indian members.

I would prefer that the Congress maintain the most exclusive control of the direction of the activity of the hiring of the staff, the appointment of any members, as possibly could be maintained by the congressional Members.

Senator ABOUREZK. Thank you.

While it is nice to hear somebody saying good things about legislation that the staff and I have drafted together, we would also like to hear criticisms you might have after you have had a chance to look at the bill a little harder.

And the reason for these hearings and for asking for your suggestions is that we probably have overlooked something and we would appreciate the Indian community itself throughout the country telling us what they think ought to go into the bill or ought to be taken out if they think it is wrong.

So, we certainly appreciate any criticism that you might have of it.

I might also ask you, Mr. Cook, if the National Council of the American Indians would begin to prepare—and this, by the way, is true for any other Indian groups or Indian people in this room, within hearing of this room, would you prepare and submit to this committee a list of people in each of the categories that you would like to see put on this Commission?

Mr. COOK. I would be happy to.

Senator ABOUREZK. And we want to hear from your organization, as well as from other Indian organizations throughout the country. And, if you would break it down as to when you do submit a name or names, show under which category they would fall and I think we can probably clarify that reservation-non-reservation thing a little better. We appreciate your suggestion there and I will have the staff get together and work on it to make it much more clear.

I think we have the same goal in mind; I do not think we have a difference there, but it is just that we probably have not stated it as clearly as we should have.

Mr. Cook. Right, I know it is just a minor thing but I just feel like too often we miss that and so often every time we get in any kind of a hassle we wind up with a reservation urban dichotomy and I do not think that that fairly represents the Indian community at all.

Senator ABOUREZK. What we want to do is to get a point of view from every segment of Indian society, from somebody who represents the Oklahoma group for example, that would be the off-reservation tribal member. And, the urban member, of course, must be represented, the nonfederally recognized tribes have got to be represented and the others should be tribal representatives from different parts of the country who represent different kinds of Indian societies because I think there is enough of a difference between Indian tribes and societies that even within the recognized tribes you have to have different representation.

Do you have any other comments or suggestions?

Mr. Cook. No, just to speed it up and get on with it.

Senator ABOUREZK. OK, thank you very much, Mr. Cook.

Mr. Cook. Thank you.

Senator ABOUREZK. The next witness is Samson Miller, vice president of the tribal council of the Mescalero Apache Tribe.

Mr. Miller.

Mr. MILLER. Yes, sir?

Senator ABOUREZK. Would you introduce the gentlemen with you, please?

Mr. MILLER. Mr. Chairman, this is my council member, Alton Peso.

Senator ABOUREZK. We are happy to have you here, Mr. Miller.

STATEMENT OF SAMSON MILLER, VICE PRESIDENT, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION, MESCALERO APACHE TRIBE; ACCOMPANIED BY ALTON PESO, COUNCIL MEMBER

Mr. MILLER. I am Samson Miller, vice president of the tribal council.

The Mescalero Tribe welcomes the opportunity to express its preliminary views on Senate Joint Resolution 133, which the chairman introduced regarding the establishment of an Indian Policy Review Commission.

The National Chairmen's Association joins with the Mescalero Apache Tribe in these preliminary views and has requested that this be made known and be part of the record.

Consistency, patience, and courage have been the hallmarks of Indian people for decades. During these decades the courts, executive

department, and sometimes even the Congress have caused an erosion of Indian rights.

Erosion results most often from neglect. Neglect of the Indian problems we trust will end in the start of the Commission proposed by the Senate Joint Resolution 133.

The detailed and exhaustive study contemplated by Senate Joint Resolution 133 has long been needed. The Mescalero Apache Tribe commends the chairman for his deep interest in Indian problems.

May we respectfully suggest that this committee consider: First, that Indian membership on the Commission be increased to 10, no less than 7, 5 should be selected from the tribes recognized by the Federal Government and should be residents of the reservation. That the National Tribal Chairmen's Association through its board of directors should make the selection of the Indian members of the Commission.

The organization is made up of elected tribal chairmen of land-based federally recognized tribes and the legitimate voice of the Indian people and the only major group with clear credentials to speak for federally recognized tribes.

Second, that the pending legislation benefiting Indians be pushed and not delayed, because of this resolution. For example S. 1341, dealing with financing economic development for Indians is much needed. We pray for its passage in the near future.

Third, that preservation of water resources in the reservations be commenced immediately. We respectfully suggest a joint meeting of this subcommittee and the Subcommittee on Water and Power Resources early in the fall.

Indian water rights are critical to Indian development; progress must continue. All Indian people need your immediate attention to assure Indians that (a) Indian water rights are litigated only in Federal courts; (b) that conflicts of interest within the executive branch of the Government do not cause the loss of Indian water.

Fourth, that the policy body be permitted to submit Indian community development and rehabilitation plans as has been provided to other countries by our Government.

For many years the United States has rebuilt foreign countries with Federal funds appropriated to protect our national interest.

We wish to remind Members that the Congress and the Federal Government established its own laws and under that system signed treaties governing the Indians, thereupon setting up reservation governments.

We are asking that the Government take an active role in rebuilding with tribal leadership the reservations that have so long been a burden to this country.

Fifth, that qualified Indians are appointed to the staff by the full Commission. This will facilitate communications between the Commission and the Indian people by the fact that there would be Indian input, involvement, and participation.

With your help the Mescalero people of today and all Indian people will pass on to their children a brighter prospect for a future.

Thank you very much.

Senator ABOUREZK. Thank you very much, Mr. Miller. We appreciate your appearing here today.

I am sorry that the officials of the National Tribal Chairmen's Association are not here with you. I know that you are representing part of their statement but I just might say that we have invited the National Tribal Chairmen's Association for many hearings here to testify and to my knowledge they have never appeared yet, not any of the national officers are on record here. And, we certainly appreciate your bringing their word because they very seldom ever come here.

Mr. MILLER. Thank you very much.

Senator ABOUREZK. We thank you.

The next witness is Mr. Raymond Simpson, who is an attorney representing several tribes in the Southwest.

Mr. Simpson, I wonder if you would introduce your panel that you have here with you?

Mr. SIMPSON. Mr. Chairman, I will introduce Mr. Frank Tenorio, who represents the Water Rights Division of the San Felipe Pueblo Council for New Mexico who is seated on my right. And, Mr. Tenorio, would you introduce our other guests?

Mr. TENORIO. Yes, to the left of Mr. Simpson we have the Lieutenant Governor from the San Felipe Pueblo, Robert Velasquez, and we have Nat Chevarillo, a councilman from San Felipe Pueblo.

Senator ABOUREZK. We want to welcome all of you here today and we are very happy that you came up for this testimony and we would be pleased to hear your views on this legislation.

STATEMENT OF RAYMOND SIMPSON, ATTORNEY AT LAW FOR SEVERAL TRIBES IN THE SOUTHWEST; ACCOMPANIED BY FRANK TENORIO, WATER RIGHTS DIVISION, SAN FELIPE PUEBLO; ROBERT VELASQUEZ, LIEUTENANT GOVERNOR, SAN FELIPE PUEBLO; AND NAT CHEVARILLO, COUNCILMAN

Mr. SIMPSON. We do welcome the opportunity to appear before you.

I would say at the outset to understand who we speak for, in this particular instance I am here representing particularly three of the Pueblo tribes on the Rio Grande, San Felipe, Santa Domingo, and Santa Anna; also five of the lower Colorado River tribes, the Fort Mohave Tribe, the Chemehuevi, the Kokapaws, the Colorado River, and the Pachans, and also the Alacole Indians from Palm Springs, Calif.

There are other tribes I have not talked to who I do represent. These I have, and my remarks for that reason are expressed at their wish.

At the outset I would say this, I regret very much, Senator, that the minority vote is not here today. I deeply appreciate the fact that you are taking a lead and I think the Indians would feel perhaps a little more inspired if they could appear and have people flanking you on the right and the left because what you are attempting to do is without question a revolutionary type of thing in Indian affairs.

Senator ABOUREZK. I wish you would not use that word, if you could find some other word to replace that word I would appreciate it.

Mr. SIMPSON. Senator, I appreciate your admonition, but I think of Tom Payne who said if we are going to have a decent and clean government we must have a revolution occasionally. The type that you are advocating I think is the kind that we need.

Senator ABOUREZK. Let the record show that Tom Payne said that. Mr. SIMPSON. In any event, I would say that one of the big problems I feel, sincerely representing a number of tribes, that the Indians face, and that what Senate Joint Resolution 133 brings into sharp focus is the fact that we have with the United States acting as a trustee, a peculiar or almost an anomalous situation.

Ordinarily if I represent a client, Senator, who is a trustee, and if that trustee is not performing, or if that trustee refuses to perform in the way that he should I go into court, I get a court order compelling him to perform or removing him.

Now, with the United States it is a little difficult for the Indians when they complain to go into any court and have an order removing their trustee. They are denied that particular right.

For this reason they have come to Washington, they have pleaded, they have complained, they have wept tears, they have gone back because frustration overtook them.

Wounded Knee, that you are so well acquainted with, is only evidence in my judgment of frustration; whether it is right, wrong, or or indifferent, the point is the problems have not been dealt with honestly because there are two words that strike me in terms of trustee law that come to the floor today.

One is abdication and the other is confiscation. I am suggesting as a practical matter, the United States has attempted to abdicate its responsibility as a trustee where the Indians are concerned and that in today's particular picture, what we are seeing is the Federal Government as trustee saying we must consider the general welfare provision of the Constitution, that the general welfare must be held above the welfare of the beneficiary of the trust.

Second, we see them saying, well, if we are dealing with a State or local authority, we must consider harmony between the various governments and if the Indians get in the way that is tough.

The concept of sovereignty as espoused by Indian tribes they say is old fashioned.

Third, we find what is a horrible thing, that is a conflict of interest that is so destructive of the corpus of the Indian's trust that the Indians are being slowly destroyed.

Now, specifically, so I do not place myself in the position of trying to cover the multitude of sins that have been committed, I would address myself to two areas today that critically challenge the question of whether or not the tribes in the southwestern part of the United States can survive; one is water and the other one is tribal government.

Now, when I speak of water, Senator, you know and I know, in fact everybody who just looks at it honestly will quickly concede that the lands in the southwestern part of the United States are virtually worthless without water.

Water is an ingredient that the U.S. Supreme Court back as early as 1908 in the *Winter's* case said:

* * * if we are to assume that our Government is one of conscience, we must imply that when these lands which belong to the Indians are set apart for Indian reservations that this Government intended that they should have reserved unto them sufficient water to use those lands in the way that would make their existence meaningful.

Now, specifically, I speak first, for example, of the Pueblos. If you look along the Rio Grande you will find, Senator, the Congress of the United States appropriated more than \$70 million for the Cochetee Dam construction. This looked like a great project to certain people.

At the same time in the San Juan project which diverted water, again water in which these Indians have a vital interest, the Congress of the United States saw fit to appropriate more than \$100 million.

The Indians, who have tried to determine what their entitlement to water was, have come to Washington and they have said you are building a dam up here holding water back from us; this is going to pollute the river. We have a river where pollution is already a problem. What about our future? What about what the Congress of the United States and the U.S. Supreme Court have said we are entitled to?

Well, the Water Rights Office was set up by the trustee. These Indians received a few thousand dollars—over \$100,000—to try to have a water inventory prepared. They were told you must do it on this. You can spend \$100,000 to prepare the inventory to determine what they are entitled to but yet when you deal with precisely what the Government is doing in the diversion through the Bureau of Reclamation and other interests you are getting up to more than a quarter of a million dollars.

Why the disparity? If the trustee has an obligation, as we know he does, to preserve the corpus of the trust. I turn you to the Colorado River tribes, those five tribes—look at the central Arizona project, Senator, which this Congress has already determined it will take over \$1 billion to build it; that is a heck of a lot of money.

Yet, if with the five lower Colorado River tribes I represent through the trustee, as represented by the Secretary of the Interior, this last year they were given the magnanimous sum of \$50,000 to determine how much water they are entitled to.

Now, Senator. I emphasize something here that I think is tragic. In 1964 the U.S. Supreme Court in *Arizona v. California* said these Indians we believe under the *Winter's* doctrine are entitled to as much water as is reasonably required to use their irrigable lands.

They then said to the trustee, let us know what the amount is. They entered into an interlocutory decree, not a final.

They said we will give you 2 years to give the real facts to us. Two years passed and they did not have the facts; 4 years passed and they did not have the facts.

Senator, today they have not got the facts because last January I was called to Washington on behalf of these tribes to try to work out a basis for determining the irrigable acreage.

They have never sent men into the field to have soils tested scientifically determining how much of this acreage is irrigable.

So, finally in this great way they said well, take the \$50,000, we know that you cannot do the job for that but take it and show us where we are wrong.

That is what we are doing. The Indians are compelled to eat the crumbs on the table. This is wrong for a trustee to treat the beneficiary in this manner.

If you are going to have this great disparity where you give millions, in fact more than a billion going into the central Arizona project ulti-

mately, which will take a river that is already over-appropriated, it will take 1,200,000 acre feet a year and move it over into Phoenix and to Tucson so that these people can have what they believe is going to be a better economy and let the Indians who are right on the river who have had this water and an entitlement to it from time immemorial go without, this is wrong, this is not the trustee's performance. And yet, they cannot have him removed.

Your resolution, I believe, and the tribes that I speak for believe, offers an opportunity to impose a checks and balance system that our Government intended.

We have given the executive branch of the Government a responsibility to execute the trust; they are failing miserably in this respect by delay, by disproportionate expenditures of money and by an inherent conflict of interest that besets the whole system.

I even go further, Senator, and emphasize on behalf of the Alacole Indians, they have water which they are entitled to and here they are in the middle of the desert, a great recreational resort, Palm Springs, Calif., water comes down from the White Water River to them; they are entitled to quite a bit of that water. In fact, the Supreme Court under *Winters* said they are entitled to the paramount use of that water irrespective of the State system of appropriation.

All right, they believe this and I think they believe it correctly. But, what are they facing?

The Southern California Edison Co. many years ago was granted a permit to divert some of that water so that the city of Banning, a small town, could have power.

They have been doing that for quite some time in other surrounding non-Indian areas. Now, when the relicensing of that project came up, Senator, 2 years ago, it was brought to the attention of the tribe.

They interposed a pleading with the Federal Power Commission in which they said we want the right to show you that this is hurting us. Our water table has fallen 73 feet in the past 15 years. In this desert we cannot have this happen.

We want the right to show you that the permit should not be granted or the license granted again.

They called upon the trustee to do something about it. The trustee said, well, I do not know exactly what is going on, which of course is not to the trustee's credit, we need time.

The Indians said well, we do not want to give you time, we want this stopped and we believe we are right. We want to hear it.

The Federal Power Commission, as you may know, Senator, has a provision in its law that if they cannot make up their minds and a license is up for renewal and no action is taken it is automatically renewed for another year.

The renewal results in a diversion of more than 10,000 acre-feet a year that supports a city of 25,000—not big—but important to these Indians on the desert. They did not get their hearing.

Now, they say to me, file a lawsuit, show that there is discrimination, show that we are not getting our rights under the law.

But, as you know the old statement justice delayed is justice denied; when they run out of water it does not do them any good to have a judgment on paper.

What they want is action by the trustee. What you are proposing in this resolution as I have read it, and which I wholeheartedly concur with, is that you are going to be looking and reviewing what the executive branch is doing and determining that they either are or are not implementing the objectives or preserving and protecting the corpus of this trust.

This we consider critical in the area of water. I might say, and I do not want to go too long on this, and I assured Mr. Girard that I would not, but I get rather excited about it because I am so indignant about the whole thing, that we also, Senator, have one other thing that is critical. We talk about the area of self-determination, now if the Indians are to follow that course and if they are to believe it they again need help from the trustee. In executing the wishes of the Congress even they are not getting it because you have States that are constantly looking for revenue.

We look at the tax-exempt Indian lands, look at the tax-exempt incomes from it and say we want our bite, taking the Indians and saying you are not paying taxes, overlooking the fact that they have a bargain with the Indians; they got the better part of the bargain and now they want to come back for another bite.

Now, the truth of the matter is that Indian communities, as old Chief Justice Marshall said over 100 years ago, these are independent political communities; they are not subject to the jurisdiction of States excepting where Congress has expressly consented to that.

Now we find them reaching out to regulate the use of the land through zoning. We find them reaching out trying to tax it.

Some of our cases recently have favored the Indians, but I speak expressly of one tribe trying to get around the possessory interest tax that was imposed. They went to the trial court and they lost it, they expected to on the local level.

They went to the ninth circuit where they got a divided court so they were making mileage. When they asked for the trustee, Senator, they just asked the Supreme Court of the United States to hear them.

Mr. Griswald spoke up and said, I do not think this case has enough merit and therefore I recommend that the Supreme Court not hear it.

This is the kind of help they got. They were denied the right to a hearing even, not on the merits, just the right to show that they were right or wrong.

I ask you in terms of zoning which can certainly affect the land—this Congress has said that certain reservations should be equalized and they have set values.

You allow the States or the cities within the States to zone that land and you can destroy those values. Now, actually what I am trying to say in a nutshell with respect to your bill is that it seems to me what you propose is excellent and long overdue.

It seems to me, second, that you have one weakness that I would comment upon. I think you need more money; I think the amount of money that is being spent by the Federal Government in projects that are adverse to the Indian interests is so tremendous compared to the peanut picture that we have in terms of the \$3 million advocated to combat that while I have great faith in the Indians, Senator, and great faith in the Congress, I would like to think that at least the ammunition was equal.

I do not think you have to go that far because there is so much wasted by the Federal Government that if handled efficiently all we need to do is to increase that which is being allocated.

Senator ABUREZK. I might say that we are entitled to come back for additional money if we see the necessity for it. We do not intend to hold back on the study, we intend to have a very thorough study, but I appreciate your comments.

Mr. SIMPSON. This is very gratifying and I conclude with two things if I may, to somewhat end what I have tried to say. One, there was a case decided just a few years ago referred to as the *Eagle River* case. This case is one which has pretty much pulled the rug out from under the Indians because prior to that time everyone recognized that Indian water law was in a category that was unique and it had to be determined by the Federal courts and the Federal courts were far more sympathetic to Indians than State courts.

This *Eagle River* case is one where the Department of Justice in concert with the Department of Interior allegedly being the trustee completely sold the Indians down the river because they promised they would present the picture.

They asserted that this had nothing to do with Indian rights, it was only with public lands. In fact, title 43, which the whole law suit was brought under, section 666, provided—the title of it was “Public Lands Waters.”

In this instance all we wanted the Supreme Court to do was to say it does not apply to Indians but today we have it being applied to Indians all over the country, Indians like the Fort Mohave Tribe that I represent, being in three States, Senator, find that they have to fight in three States to determine their water rights as opposed to one Federal district.

The Indian problem is being compounded annually by inaction by what I call the abdication and the confiscation of Indian rights because the Indians are losing it without any aggressive advocate on their behalf.

And the last thing I say, Senator, as I told Mr. Tenorio this—he said I should tell it, I said maybe I should not. It is simply a story he told me about that they told on the reservation about a father there who said his son was not doing too well in geography and he called the son in, Senator, and he said to him, look, I am father and I am a white person and I always got good grades in geography, I do not know why you do not but I am going to be very tolerant and I am going to help you out.

He said I came home tonight and I stopped at a travel agency and I have a great big map here of the United States so now I am going to show you how you can learn geography.

With that he took out a pair of scissors and he cut this thing up like a jigsaw puzzle and it fell all over the floor.

He said now son, if you can put that together by the time that I get around to eating dinner I will give you \$5.

The little boy had never had that much money in his life and he got busy. The father went out of the room and a little later he heard the boy shout, Dad, can you come here.

So, he went in figuring well I will help the little tyke out and he stepped into the room. To his amazement perfectly assembled on the

floor was this map of the United States and he said, son, I thought you did not know anything about geography, how could you do that so quickly?

He said, well, dad, will you still give me the money if I tell you how I did it?

The father said "Yes, I will, I would like to know." The boy said, "Well, dad, there was a picture of an Indian boy on the other side of this map of the United States and I figured if I could get the boy together the United States would take care of itself."

Mr. Tenorio says that he feels Senate Joint Resolution 133 is an effort to get the boy together and I think he might have some brief comments to add, if you please.

Senator **ABOUREZK**. Thank you very much. We appreciate your testimony very much. I can see why you represent so many Indian tribes. I never had that many clients in my life when I was a lawyer but of course I cannot give as effective a presentation as you have. I certainly appreciate it.

Mr. **SIMPSON**. Thank you, sir.

Mr. **TENORIO**. Senator Abourezk, this is certainly a great occasion for the people of San Felipe to be here with you across the table from us and talking about the things that were referred to and alluded to here.

It has been long overdue and the way that Senate Joint Resolution 133 points out is the way that it should be followed.

We certainly talk from experience as far as going through the frustrations of keeping our tribe together.

My comments are definitely coming from the Pueblo San Felipe but I am certain that this can be applied many times over throughout the country where the Indian is against a brick wall or a stone wall not knowing where to go because he has lost all faith in the individuals that are more or less entrusted to his protection.

It is a real struggle. It not only affects water rights and land resources but it affects the whole gambit of what we consider trying to live in this day and age.

One thing that I would like to definitely point out or put a definite accent on is the fact that certainly many times throughout the history of the United States in its relationship to the Indians in its affairs there have been solutions that are brought out but in almost every case the minimum or the limiting factor has always been money, has always been the lack of financing.

We all know the reasons behind this and at this time we feel that we are getting closer to convincing some of the people that our purpose in life is real.

We maintain that we will not be led asunder or led astray. Every day now Indian people are working up to the fact that we should not entrust anybody with the business of what actually should have been our business.

We want to do those things ourselves. We were given a shot in the arm, so to say, by President Nixon's declaration in 1970. We thought that the day had come to a point where things would actually get moving along at an accelerated pace that we have never seen before.

But, that was just an exercise. Since then we have encountered frustrations. People, I believe, are afraid to let us have the chance to determine for ourselves our way of life.

The most important segment of our fight on the Rio Grande, as Mr. Simpson pointed out so eloquently, is the fight to retain our hold on the water.

I always have said that our Indian people, especially in the valley of the Rio Grande, consider water not only as a commercial commodity; water to us is the very essence of life where we look to it as a living thing, a spiritual thing that was willed to us by a great spirit.

We feel that if the river is permitted to dry up or necessary diversions result thereof, our days are limited. We work with nature and we go with nature and we are part of nature. And, to deprive us of that commodity that is so important is destruction and we have experienced all of the frustrations that we can take.

From here on out I think Senate Joint Resolution 133 is more or less a cloud with a silver lining if we proceed on it in a manner that you point out, if the right people are put on with their heart in the right place, and that is for the well-being of the people, the first inhabitants of this Nation, I think solutions will derive from there that will be meaningful to you, Senator, and will be definitely an accomplishment that has not been accomplished over the decades.

And this we want to see and we will do everything we can possibly do to help accomplish this because I think this is the road that should be traveled.

I thank you very much, Senator.

Senator ABOUREZK. I thank you very much.

I see Senator Bartlett is here now and he is talking to his staff over here right now. But, let me ask you this, do you have any comments, criticisms, or suggestions on the matter of selecting the members of the Commission?

Mr. SIMPSON. My very brief reading, Senator, would suggest that what has been proposed is a good procedure but I would prefer since I have not—as I say, I saw it this morning for the very first time and I would like to reflect upon it and if I have something constructive to offer, please rest assured I will.

Senator ABOUREZK. We would like for you to do that, especially what we are interested in doing is getting a representative viewpoint from the entire American Indian community.

And, if you see any segment left out or underrepresented we would appreciate it if you would let us know.

Mr. SIMPSON. We definitely will.

Thank you, sir.

Senator ABOUREZK. Thank you.

The next witness is Ms. Ladonna Harris. Is Ladonna here?

She will be here in just a minute. Are there any members of the public who would like to make any comments right now while we are waiting for Ms. Harris?

We do this occasionally if we have time after hearings to allow members of the public to invite them to testify and this is the first time that nobody has wanted to testify.

VOICE. Where are the rest of the men?

Senator ABOUREZK. The rest of the Senators? I do not know, I suppose they have other committee meetings and other business I would imagine.

VOICE. I am from Arizona and I am concerned by the fact that Senator Fannin is not here.

Senator ABOUREZK. If he knew you were here—we could look him up for you.

Senator Bartlett.

Senator BARTLETT. Senator, I would like to have this panel take their seats if they would. This is what I asked for, I guess maybe you misunderstood me.

Senator ABOUREZK. Would you like to come back up and take the witness table again? Senator Bartlett would like to ask some questions of you.

Senator BARTLETT. Mr. Simpson, I would like to ask you what you think of this bill.

Mr. SIMPSON. Senator, I made a remark that since I saw it for the first time this morning I do not feel that my opinion in terms of the in-depth analysis has much value.

Senator BARTLETT. I saw it for the first time, I think, Monday or Tuesday morning.

Mr. SIMPSON. I have read it and my unequivocal reaction as a first reaction is that it is an effort in the right direction which is constructive and which is long overdue, because for too long, I think, the executive branch of the Government has failed, let us say, to operate under what I call the checks and balance system or the policing system that can be provided in the implementation of the congressional role and by so doing they have disregarded it and they have failed to perform their trustee responsibilities.

This bill in my judgment begins to fill a void which has existed for at least 40 years.

Senator BARTLETT. How do you mean, a void as a study or a void as providing different means of administration?

Mr. SIMPSON. I would say it is the latter. In other words, I can think of many acts of Congress that have been passed, where the Secretary of the Interior has been directed to do certain things specifically and because no committee of Congress particularly watched or reviewed what was done to implement that policy, it has either been perverted or it has been ignored. And I can provide specifics, if, Senator Bartlett, you are interested.

Senator BARTLETT. I would be interested. In fact, I certainly agree with you on that point, Mr. Simpson. We made that point—the minority members of this committee did, in a meeting, in fact several meetings we had on the Alaskan pipeline bill, that we did not think that the Secretary of the Interior should be able to use the powers of his office in an indirect fashion that he was not entitled to directly according to law.

Fortunately we got that in the bill on the floor. We were unable to pass it. I think, on two occasions in the committee. So, I certainly agree. But, I think I assume that the administration would still be in the executive branch of the Government, you are not trying to propose changing that?

Mr. SIMPSON. No, I simply want to make sure that they know that under a system of checks and balances that they have responsibility to the Congress to carry out the mandates of Congress.

Senator BARTLETT. I am not as familiar with the proposal as I would like to be because I think we got it Monday or Tuesday. But, as I understand it, it provides for members on the Commission, two from the minority and two from the majority from the Senate and the House and one at large, which would mean five Members of the House and five Members of the Senate, five Indians, one of whom should be off the reservation—I assume that means two would be on—one selected by the representative of the urban Indians and one should be a member of an Indian group not recognized by the Federal Government.

In the proposal for this bill that the staff went over with me, members of the minority staff, and my staff, the proposal called for a like number to be appointed by the executive branch of Government and it appeared to be some unanimity of opinion that that was a good proposal on the basis that in order to have this proposal fly it would require the cooperation and the support of the administration.

So, what do you feel about that, having the administration appoint a like number?

Mr. SIMPSON. My immediate reaction is in the negative. I can recognize the effort to obtain harmonious conduct. I am fearful that would lead to so many compromises that we would be back in the same mess we are in.

I really view this proposal of this committee as a type of supervisory role and I think the people who are in that role must not feel an allegiance to the executive branch but must feel primarily the responsibility of the Government.

I think this is policing the executive branch. It is not because they are doing something that is wrong; it is just to make sure that when they do that the Congress, particularly in carrying its wishes out has somebody who is going to inform them upon whom they can rely.

Now, after further thought I might say I am wrong on that but my immediate reaction to your question is as I have stated.

Senator BARTLETT. As I understand it, I am not sure from what you have said what the purpose of the Commission may be, but if the purpose is to establish an American policy to conduct a comprehensive review of the historical and legal developments underlying the unique relationship and presumably to perhaps review existing law and legislation, there could very well be the requirement for both the legislative branch and the executive branch to have a chance to review legislation.

It takes both to pass it, as you well know. You mentioned you felt this should be a legislative prerogative of sort of a review of the administration.

Maybe this is what the Commission is supposed to be doing, I do not know because I have not had a chance to read it.

I am more familiar with what the thinking was that went into it rather than what it calls for. But, you are saying that it calls for sort of an overview, a continuing overview by these people of the executive branch or the Bureau of Indian Affairs?

Mr. SIMPSON. This was my quick reading. It will be my wish, if I am reading it incorrectly I would—if you would permit, simply refer to two quick specifics.

In 1959 the Congress had a particular problem called the equalization problem. They had been ordered by the Ninth Circuit to equalize allotments on the Alacole Reservation.

They set up a bill providing for that. They assigned a value to all of the allotted land trying to equalize it as best they could.

Since that time local governments have gotten into the act with great strength and have endeavored to regulate the use of this particular equalized land, and in the past couple of months have succeeded in completely destroying the equalization program of Congress by reducing the value of the land in some instances by as much as 75 percent.

I mention this because the executive branch has been appealed to for a period of nearly 2 years to try to do something on behalf of the Indians.

They were urged by their own regional solicitor to do something on behalf of the Indians, they have not. And, the corpus of that trust is shrinking while they do nothing.

I have read this particular proposal Senate Joint Resolution 133 as providing for the type of review where you could look at what Congress has mandated. You would look at what the executive branch is doing and if you find that the Indians say they are ignoring what the Congress have told them to do, they are not acting as a trustee, that you would probably in those circumstances call representatives of the executive branch before you and say, how come?

I think this would be most desirable and if it is not intended in the proposal I would certainly suggest that it be added.

Senator BARTLETT. Mr. Simpson, the declaration of purpose that I have before me says as follows: To establish the American Indian Policy Review Commission to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government.

The Federal Government, as you well know, is composed of three branches, not just the administration. You mentioned Government earlier, I believe, in the context of the administration.

So, when it says Federal Government it is talking certainly also about the legislative and perhaps the judicial and the manner in which the policies and procedures of the institution are charged with fulfilling the special trust responsibility are administered.

So, it seems to me from this, this would be covering the special arrangements, the trust agreements, the laws written by Congress and signed by the President, review everything and not just be a group to make a judgment or pass a judgment on the administration.

Mr. SIMPSON. Let me say, Senator—

Senator BARTLETT. You apparently think it should be a group that would just pass judgment on the administration, or do I understand you?

Mr. SIMPSON. No. So that I make myself completely clear, I definitely believe that it should be a let us say policing of the Government, including all three branches.

Senator BARTLETT. A policing?

Mr. SIMPSON. Well, a reviewing by policing. For example, I have given one illustration on the executive, let me give one on the Congress.

In 1953 the Congress enacted House Concurrent Resolution 108. At that time the census was clearly let us terminate our responsibility to the Indians as quickly as possible.

Since that time, Congress, in reviewing the impact of what happened with the Monominee's and the Kalamites and others, decided that this was really a very unwise thing and that it really was a cowardly way to abdicate a responsibility.

Senator BARTLETT. On policing, this would of course, I think, carry with it the word a continuing action. Do you consider this then a policing action that this body would continue for some length of time and continue to police the actions of the Senate, the actions of the House, the actions of the executive branch, and the actions of the judicial branch, is that what you mean?

Mr. SIMPSON. The answer is yes, I abhor the phrase police state so much, that I do not like to suggest that I am advocating that, but I am advocating that the Government as such through the legislative branch, the judicial and the executive, as I would implement this, would in a sense be policing itself. They would be trying to review the validity of their acts with a mind to correcting them when they see that the objectives are in fact not being reached.

Senator BARTLETT. When you say they would be policing themselves, who are they?

Mr. SIMPSON. Well, if Congress, as an illustration, has an Indian tribe come up and say, what you did by the enactment of bill *x* is causing great devastation and it should be changed—and I think of a specific bill there, too, of the guardianship and custodianship bill in California that Congress enacted in 1959.

In 1964 they decided that it was a tragic mistake and amended it to take care of those mistakes based upon a review of the entire factual picture from the date of enactment until the date of amendment.

This was to the credit of Congress. They had a special committee investigating this based upon complaints.

I would like to think that in Indian matters through Senate Joint Resolution 133 you gentlemen would undertake to review what has been done, to review what the rights are to protect the Indian picture, that you would not only do it in terms of your conduct but in terms of the totality of the Government, even the courts, even the executive branch, not as an absolute thing but as a way of trying to do a better job than has been done.

Senator BARTLETT. As you described your example I gathered that the actions taken by this group in the Indian tribe that came in did not police the legislative branch of Government, nor the executive branch, nor the judicial, but recommended. Would that be another term that you might use?

Mr. SIMPSON. I like the word recommended better. I used policed. I do not think that we are necessarily going to put the Congressmen or Senators in jail or the President, or what have you.

No; my feeling is that it would be—I would like to think of it stronger than recommendation. I would like to think that you had a

constant program of reviewing the effectiveness of the action of the Federal Government as trustee in all three fields with a constant effort to correct the mistakes that are made and to implement the decent objectives that are espoused so often and then forgotten.

Senator BARTLETT. That, of course, is the job of the three branches right now, with or without this.

Mr. SIMPSON. Right.

Senator BARTLETT. Thank you.

Thank you, Mr. Chairman.

Senator ABOUREZK. Thank you, Senator Bartlett and thank you, Mr. Simpson.

Ms. Harris is here; the next witness is Ms. Ladonna Harris, president of the Americans for Indian Opportunity in Washington, D.C., a former Oklahoman.

I am very pleased to have you here today, Ms. Harris.

Ms. HARRIS. Thank you.

Senator ABOUREZK. We would be happy to hear your testimony now.

Senator BARTLETT. I am hoping she still is an Oklahoman.

Ms. HARRIS. Thank you, Senator.

STATEMENT OF LADONNA HARRIS, PRESIDENT, AMERICANS FOR INDIAN OPPORTUNITY, WASHINGTON, D.C.

Ms. HARRIS. Mr. Chairman, members of the committee, I want to express my support of the establishment of the American Indian Policy Review Commission as proposed in Senate Joint Resolution 133.

We feel that this commission is long overdue.

As Indian people we have been subjected to the changing policies of the Federal Government. We have gone through a series of Government policies ranging from extermination to acculturation to termination, repeating the cycle from time to time.

The only thing that has been consistent about Government policy is that Indians have been consistently denied a voice in the making of it.

For the last 10 years I have been actively involved in action programs in the Indian community. It is my observation in the last 5 years there has been a marked difference.

In the last 2 years we, the Indians, have made radical changes.

First, you must realize that we are a movement. The remarkable thing about that is that there are over 300 tribes of us, speaking 300 different languages, having 300 different life styles, and 300 different culture bases.

People must understand that we are different from each other, that when you use the term "Indians" it is like saying "Europeans."

Tribally we are as different as Norwegians are to Italians. Yet, we can all agree on the issues that affect our lives, Indian education, tribal sovereignty, treaty rights, water rights, termination and, most important, the right to be different.

Indians have given much to the United States, from our corn to our land, but I think the most important is to come. We will teach you that it is possible to be different and yet be a part of the whole America.

One of the facts that you already know is that we are the highest and lowest of many things in this country. We have the highest infant mortality, the lowest life expectancy, the highest suicide rate, the lowest income, the highest drop out rate, the lowest educational level.

You have heard all of these facts before about the poorest housing, the poorest health, more of us in prison in percentage to our population than any other ethnic group, and longer sentences.

These problems came about with the "melting pot" myth, with institutions such as Government, religious and educational institutions telling us every day of our lives that there is no value in our languages, no value in our customs, no value in our culture.

And it turned into low self-esteem and self-hate which took many forms, from high alcoholic intake to four times the national average in suicide, the ultimate in self-hate.

But we have changed. I think that the Government and the general populace do not understand that now we see ourselves differently.

We see ourselves as people with different cultures, people with beautiful languages and values worth saving. With that comes a whole new set of problems.

We have come to this point in history along a trail of broken treaties. But over and over again we have believed in the basic sincerity of the Government.

Even now we are taking seriously the policy of self-determination as avowed by the last two administrations. Yet all our instincts, and much actual evidence, tells us that it is only rhetoric.

Indians and Indian programs have once again become the political football kicked around by both the Congress and the administration.

Because we have changed, I suggest that now is the time for the Government to change.

Our population is now over 1 million, with one-half being under the age of 16. We are the fastest growing segment of the American society.

We are about evenly divided, with about one-half of us living on reservations and one-half of us living in rural and urban America, each fighting for self-determination in our own style.

With over 14,000 students in college, with a marked increase in Indian professionals, funds for the Indian Education Act have been recommended—I have to strike that—is up for reconsideration for refunding.

Tribal governments still cannot contract for services to their people. Only a few Indian school boards are controlled by Indian people.

Though the rhetoric remains, the frustration becomes greater. Our new self-image and high esteem demand that we break down stereotyping such as that of the noble savage or the drunken Indian, people with good hand/eye coordination, quaint tourist attractions, and the image of us imposed upon the general public by the movie industry.

In striving for self-determination many of us have left our traditional homes and have been relocated to the cities mostly by the Federal Government with the promise of better jobs and better living conditions for ourselves and our families.

Once there, cutoff geographically from our homes and communities, we have been abandoned by the Government—terminated from the

services we were guaranteed by treaties and law. This is a gross violation of Federal responsibility.

In the cities we form Indian centers and councils to reinforce ourselves and to try to provide services for fellow Indian people with the most meager of resources, still trying to carry out Indian traditions both in culture and in responsibility to one another.

It does not make you less Indian to live off the reservation, but some people in policymaking positions have determined that this will be so.

And we are terminated right and left, terminated with poor education, poor health, little or no job experience—and terminated from our tribal relationships by Government policy.

The special relation by the Federal Government through treaties cannot end on the border of a reservation any more than our skins can change color when we cross that border.

Now the new federalism is forcing us to deal with old enemies—States, regional and county political power structures.

We must have a clear policy from the Federal Government. We want Congress to help maintain the special relationship at the same time giving us increased control over our own lives and the right to be different.

Because we see ourselves differently, we will not tolerate the old prejudices, the insensitivity, and the injustices that we have borne so long.

So as we try to accomplish things for ourselves and our children, there is little response either from the Government or the general public.

And we lash out at this in confrontations at Alcatraz, ceremonies at Flagstaff and Gallup, fishing rights in Washington State, disorders in North Carolina, long hair in public schools in Oklahoma, the occupation of the Bureau of Indian Affairs or Wounded Knee.

Some of our actions may seem to be irrational but I am reminded of the statement my husband made that perhaps Indians are reacting in a rational way to an irrational situation.

It is clearly within the purview of the Congress to establish a commission to oversee the Government's American Indian policy. I think it would be a wonderful thing.

But I would add a word of warning. This must not be a token effort to quiet the protests. It must be a device to insure that treaties will be honored, that promises will be kept, and that all these words that have been spoken about self-determination become a reality.

Thank you.

Senator ABOUREZK. Thank you, Ms. Harris. I appreciate the testimony.

I want to just say that I do not consider it a token; I consider it, as author of the bill, a very serious effort to not only document what is wrong but what can be done about it. I wish I knew the answers now without waiting 1 year or 2 years for experts in the field of Indian affairs to bring back the answers; I wish I knew them, I do not.

I have got to be very frank and honest on that. It is my intention with this legislation to try to settle, if it is possible, the questions that have been raised by Indian people over treaties, over trust responsibilities,

over the Government's responsibility in health, education, and welfare aside from trust matters just in an effort to settle the so-called Indian question.

And, I hope it is taken in that light by the Indian community. I know as one of the spokesmen for the Indian community your opinion and your support of this is valued by at least myself and in that regard I would like to ask you if you have any criticisms of the bill specifically with regard to selection of the Commission members, or the amount of money, or the amount of time, or whatever.

Ms. HARRIS. No, I will probably go along—I would like to go along with the Tribal Chairman's Group in enlarging it to the equal amount of Indian people, not that I agree with our selection process, but I have to agree with the number—having an equal number of people so that the people that are chosen would not be intimidated by Members of the Congress by just being outnumbered. That would be my idea.

Senator ABOUREZK. You think there ought to be an identical number, exactly 10?

Ms. HARRIS. Yes, I would prefer more Indians.

Senator ABOUREZK. More Indians than there are congressional members? Keep in mind that this is a congressional study with Indian participation.

Ms. HARRIS. The reason I say that is that my observation is that committees like this, and particularly Members of Congress, in their positions that they hold with power, is quite intimidating to many people.

Senator ABOUREZK. I have never found anybody to be intimidated by me.

Ms. HARRIS. And that perhaps to have the Indian input you would need to have more Indian people on it. That would be the only thing that I would suggest.

I would not make a big issue of it but I would say that would be my suggestion on improving the resolution.

Senator ABOUREZK. You made an effort aside from that number which I appreciate hearing and I think that is well worth consideration on the part of the committee.

Aside from that, what we are trying to do is make sure that each major segment of the Indian community is represented in the selection and I want to ask you about that.

In regard to the tribal-nontribal selection of members, do you have any comments you would like to make about how that is selected?

Let me ask it this way, do you think this adequately represents the various segments of the Indian community in America?

Ms. HARRIS. Yes, I think so; I think it would be because I think one of the big questions you will have to really get into is this trust responsibility to off-reservation Indians.

You know, in order to get at that I think they would have to be properly represented. You know, the whole Commission would be of no value in my opinion because I think that is one of the biggest things that are facing the Congress and the Indian Administration is what is that relationship and what is that responsibility? And, it is going to continue to be.

It has been my observation that the departments of the Government have followed whatever rule, there is no real policy and everybody does just what they want to or whatever political power an individual tribe or group can get together to make it work whether they really follow that policy or not. So, I think it is important.

One of the other things that I would like to mention is my understanding that where there is consideration from this administration about changing the Bureau over to another department or to the Department of Energy and whatever—

Senator ABOUREZK. Natural Resources.

Ms. HARRIS. And I am not sure, I guess we will always be considered Natural Resources; I do not know whether to take that as a compliment or not.

But, that whole question should really be examined and decided. My position is that I think we should make a special department, a Bureau of Indian Affairs and be specific because if we are put over there is another department we would be again in conflict of interest and our interest is the only thing that has happened to us in the Department of Interior where lands and water rights and timber and everything else have become another problem.

And, as the energy crisis develops, coal is becoming one of those problems again.

Senator ABOUREZK. I tend to agree with you on that: I think it is going to have to come through a separate agency or department or whatever.

I do not know if we have ever achieved a Cabinet level status because of opposition from the administration for our proposal. But, the Trust Council, which is an administration proposal to take the trust responsibility and put it into a separate agency without putting Indian affairs into a separate agency is one that at this point at least makes me awfully cautious because of the number of attorneys proposed to be put into that authority.

Ms. HARRIS. I agree.

Senator ABOUREZK. I think the original proposal was 15 attorneys and I think that has been trimmed down by the administration to 10 or something like that and that is not enough to do the job properly.

So, I think there is definitely some other tack to be taken.

Ms. HARRIS. There has never really been an advocate for Indian people in Washington. The Bureau has never really acted as an advocate in the administration as far as funding, the proper funding for programs and proper program development.

So, I think perhaps that whole question of where it should be put is an important one.

Another one that I think I would like the Council to look into when it is established, and I assume it will be, is the fact that people come to our tribes, particularly come to our organization when they finally have worked out a direct contract and then it always seems that the next year something happens to undermine that contract, such as they do not get the same amount of funding.

I know this has happened in your State and I know I have called on Senator Bartlett to help some of the people that this has happened to that you know—it is almost programmed to fail, the espoused contract-

ing to tribes and then it comes up with programs, the funding is cut so that you can almost predict that the program will fail the next time around. And then you can point out that to the tribe and say, look, they cannot manage their own affairs.

But, I know that this has happened to the incident in your State and has happened to many other people that the funding for direct contracting is being cut out and then the other thing—well, just that whole reorganization—and I think that time after time many people have come and testified and pretty much, we could say, were generally in agreement that we do away with area offices and go to agencies and let them be technical assistants from Washington.

And, all of the words that Secretary Morton spoke right after the occupation of the Bureau, it sounded like we were going that way, and then all of a sudden with some of the reorganization comments that we have been hearing in these last few months was that to strengthen the area offices, you know, to set up an obstacle between the Indian and the Government, it almost seems.

And I would like to see a great deal of thought given to that because I think most tribes have passed resolutions to that effect but they are never considered. It is like we wake up to a new world every time we change commissioners, like the whole thing has not been thought out before and we are just going over and over the same thing.

We use so much energy by doing so when we could really be spending some of that energy in our local communities.

One of the reasons I was late, I was invited to go to Philadelphia, Miss., for the Choctaw Annual Fair and it was really a magnificent thing.

I remember hearing 8 or 10 years ago about the problems they were faced with and it was really a picture of self-determination about what that tribe has been able to do in a really isolated area with little or no support from other Indian communities.

Being from Oklahoma, we feel a special identification with the people in Choctaw because they have relatives in Oklahoma back and forth. And, many Oklahoma people were there.

But, it was a beautiful sight to see accomplishments of the Choctaws in Mississippi and what they have done themselves. And it was not because of policy changes, it was just that they got themselves together and demanded part of what was happening.

And they are right in the midst of stepping ahead and that is why it is so important that we do not slow down the progress that could take us on to another 20 years of real progress. That is in the spirit of what is happening when I said we were a movement. There is a real national spirit of "Indianness" in the country that the Indian people are striving for more confidence in those tribes. Indian organizations in the city are striving for real aggressive ideas and with just a little bit of help from the Federal Government financially, if not for the cumbersome bureaucracy that we put on paper before the progress could be just remarkable in these next few years.

So, I think that the Council at this time has the right idea not to slow down on what is in the mill now but to help it go forward, and I think, to encourage the Indian community to continue to do what it is doing and to continue the spirit that is out there.

You know, here in the Mississippi the Choctaw—somebody has asked, for God's sake what are you growing there in the middle of July, why are you growing that in the middle of July?

But, it was just inspirational to see and it is happening in the reservation in your State, and it is happening in Milwaukee, Wis., and Minneapolis, Minn. It is beautiful to see and it is inspiring and it is just the right kind of enthusiasm and respect from this Council that you are hoping to make.

I think it would be a beautiful addition to what is already happening.

Senator ABOUREZK. Well, thank you very much. I have no more questions.

Senator Bartlett.

Senator BARTLETT. Thank you, Mr. Chairman.

Ms. Harris, it is particularly nice to have you here and see you again.

I know of your interest in working with the Indians and you have demonstrated it on many occasions.

I would like to ask a little further along the line the one question I guess that was asked of you about the makeup of the Commission.

I feel that this is rather important and I certainly think that your suggestion of having more Indians—as it stands now, if I read the bill correctly, there will be five Members of the House, five Members of the Senate and five Indians.

I can see reason to increase the five Indians and I think you have a valid point because as I look at it, anything that would come from this Commission as a recommendation to the Congress would also have to receive approval, at least in most cases by the executive branch and become law.

And, therefore, I think that there are those who believe that it is important that the executive branch also be included at this stage of the game. Would you agree with that?

Ms. HARRIS. I have a feeling, Senator, people are always—people who do not understand Indians are always saying why don't you get yourselves together and have one leader?

And, I was amused, I was talking to the wives of the White House fellows of this administration and they came over and talked and they were saying why didn't we get one leader. And I was saying I would like to say that about the administration; it seems like there is—you are not even talking about the Congress and the Bureau of the Budget, but just to talk about the Secretary of Interior has its kind of philosophy and then the White House has it, and then there is the Vice President's Office and I wish they would get together and have one leader.

But, we are receiving much more help in many ways from this administration by the fact that there are that many people interested in Indian affairs. I guess that is the good thing about it.

I do not feel it would be appropriate that an administration official be on the Commission nor do I believe the administration should appoint Commission members.

Senator BARTLETT. Yes, and I was thinking not of the administration people on the Commission as much as their making appointments

to it. Perhaps there would even be some, but the point would be that the legislative branch could have some wonderful ideas and if they were completely formed to be understood by the executive branch there might be little opportunity to pass that.

For example, the administration introduced seven pieces of legislation 2 years ago—2½ years ago to this committee and I think most of the proposals had rather broad support from the Indian community and none of them have become law yet.

Now, there is more interest in reporting these out. I think this committee will report a number of these bills out this Congress and hopefully they will pass the Senate and become law.

Senator BARTLETT. Are there any particular areas of concern to you that you have not covered that you think this committee should investigate, concerns that are not being either properly understood or properly administered or properly legislated where the Government could, either directly or indirectly, with its influence, perhaps in the private sector for instance, be of assistance?

Ms. HARRIS. Yes; I think the ones that I mentioned, particularly like contracting that goes directly to the tribes should be a vital interest. And of course I have a deep concern about off reservation Indian people who are struggling most desperately for survival, really with very little help.

There are some pilot projects now in existence from HEW in regard to urban renewal. You know, I would like to see—I think the program has no way of evaluating it the way it was set up but I hope we can look into the possibility of how that was set up and how we could go along those lines.

I served on the National Council of Indian Opportunity under the last administration and had, as you know, hearings on the problems of urban Indians. And so, I feel very sensitive to the problems that urban Indians face and their frustrations and their strong desire.

You know, I really want to get out of the idea of reservation and off-reservation; Indians are Indians wherever they are and that trust responsibility does not end as I mentioned—

Senator BARTLETT. You want to include Oklahoma Indians?

Ms. HARRIS. Absolutely, that makes me even more sensitive.

And also the whole question, the Indians on the east coast—you know, they formed a coalition now and they have particular problems. Do we as a Government have a responsibility to those State Indians, and if not, would there be some way that we could encourage some sort of a relationship that would encourage them to exist?

And of course, this whole question of termination, you know, I hope that the Council will not slow down the progress that the Monominee people have made on their restoration bill and those kinds of questions.

But, I think, too, we ought to look into the possibility—

Senator BARTLETT. Excuse me just a second. On that point you may be interested, the three tribes in Oklahoma, all those small tribes which were terminated, in which you are interested now, we are working with them on legislation.

We want to make certain that they pass proper resolutions indicating that they do want to be reinstated. But beyond that point we are trying to work out the problems.

Ms. HARRIS. I think there it would be the psychological fact of reinstating. But, the Monominees and the tribes in Oklahoma will really make a marked difference.

I do not think people in government really understand that the philosophy of termination has done more damage than just the actual termination. And many times we have turned down some progressive programs because we fear there is that hidden termination clause and we are so fearful of termination that sometimes we overlook some good things because of that.

And I think if we were big enough in the U.S. Government to say that that policy was wrong and that we want to reinstate the Monominee's and other people who really want to be reinstated that by that act alone it would reassure the people of that to have the confidence in new aggressive programs that could be developed.

Senator BARTLETT. Ms. Harris, thank you very much. I appreciate your testimony. It has been most valuable to me and I am sure it was to the chairman.

Ms. HARRIS. I want to thank both of you for this particular Commission—I think both of you coming from highly populated Indian States has opened the doors of the Congress to make them more responsible to the Indian community and I certainly appreciate both of you.

Senator ABOUREZK. Well, Ms. Harris, I want to thank you very much for coming here.

The hearing is recessed to be reconvened Friday, July 20, 1973.

[Whereupon, at 3:50 p.m., the hearing was recessed, to be reconvened July 20, 1973.]

[Subsequent to the hearing the following was received:]

STATEMENT OF ROBERT HOSTLER, MEMBER OF HOOPA VALLEY TRIBE, NORTHERN CALIFORNIA

Mr. Chairman: My name is Robert Hostler, I am a member of the Hoopa Valley Tribe of the Hoopa Valley Indian Reservation of northern California. I would like it noted for the record that I am speaking as an interested individual and am not authorized to speak on the behalf of the Hoopa Valley Tribe or any other tribe or organization of California.

It is an honor to have the opportunity to address this committee.

The intent of Joint Resolution 133 is long needed and desired legislation. I concur with and reiterate the suggestions made yesterday by Mr. Cook, Mr. Miller and Mrs. Harris that the Indian membership on the Commission be increased to ten. The selection process stated in the Resolution is acceptable. If an alternative method of selection is established, such as suggested by Mr. Miller and NTCA, I would suggest that along with that body that NCAI and AIO have equal authority in the selections. NCAI and AIO work with and represent Indians throughout the country, reservation Indians and non-reservation Indians. They are familiar with the Indian leaders representing the non-reservation faction and would be able to submit selections of able and knowledgeable individuals.

Mr. Cook's suggestion for changing the terminology in the Resolution delineating the status of Indians to Reservation, Non-Reservation Rural and Non-Reservation Urban, would be more categorically descriptive of the actual status of the Indian community. The majority of the native California Indians are of the non-reservation rural. The state has a huge urban population also.

It is my hope that upon the seating of the Indian Policy Review Commission that the review of Public Law 280 be listed as a priority. Public Law 280 was signed into law in August 1953 and affects five states: California, Minnesota, Nebraska, Oregon and Wisconsin. This law was an integral part of the termina-

tion policy set forth at that time. The law confers jurisdiction to those states in respect to "criminal offenses and civil causes of action committed or arising on Indian reservations within such States, and for other purposes."

This law is detrimental to the sovereignty status of the reservations in those states. The Hoopa Valley Reservation was the target for the imposition of possessory taxes by the county. The Tribe has large timber resources and this is the major source of income to the Tribe. It was the intent of the county not to tax the Tribe, per se, but to levy the tax on the purchaser of the timber. This could affect the tribal income, the purchasers may look upon the sales as undesirable because of the added expense. The county held that once the sale was transacted that the timber passed from trust status and was therefore taxable. This problem has not been fully resolved.

Under Public Law 280 many of the social services provided by the federal government were terminated and were to be provided by the State agencies. Many of the services are inadequate and some non-existent.

Public Law 280 may be expanded by the States to impose county zoning laws and development specifications on the reservations which could curtail or eliminate any development programs planned by the various tribes. I implore the Commission and this Committee to review Public Law 280.

Mr. Chairman, yesterday you preferred not to have the word revolutionary used in describing this bill, I would like to leave you with one thought: Thomas Jefferson said, "A little rebellion is a medicine necessary for the sound health of government."

Thank you.

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ESTABLISHMENT OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

FRIDAY, JULY 20, 1973

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

The subcommittee met at 2:10 p.m., in room 3110, Dirksen Office Building, Hon. James Abourezk, chairman, presiding.

Present: Senators Abourezk [presiding], Metcalf, and Bartlett.

Also present: Jerry T. Verkler, staff director; and Forrest Gerard, professional staff member.

Senator ABOUREZK. The hearings are in order.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

This is the second day of open public hearings on Senate Joint Resolution 133, to provide for the establishment of a National Indian Policy Review Commission.

Yesterday, testimony was taken from the administration and various Indian organizations and individuals who represented Indian people at the National or at least a regional level.

Today, we shall depart from the usual procedure for congressional hearings. A panel of individual Indian leaders representing a broad cross section of Indian society will address itself to this proposed resolution.

Vine Deloria, noted Indian author, lawyer, and scholar, will be moderator of the panel and will introduce his fellow panel members.

After their individual statements, the members of the committee may question them as to their view of this proposal and, through this discussion, meaningful recommendations can be made to strengthen its structure and purpose.

Before we ask the panel to come up we are privileged to have today a member of the Pasamaquaddy Tribe in Maine; Senator Bill Hathaway is going to introduce the members.

Senator HATHAWAY. Thank you very much, Mr. Chairman. I tried to get into the tribe but it seems that my Indian blood is not high enough.

Senator ABOUREZK. We are very happy to have our colleague in Maine, an old friend of mine from the House of Representatives, Senator Hathaway.

Senator HATHAWAY. Thank you, Mr. Chairman and Senator Metcalf. It is a pleasure for me to be here this afternoon to introduce my

good friend John Stevens who has been Commissioner of the Maine Department of Indian Affairs since October of 1971.

In that capacity he administers a budget of over a half million dollars for Indian welfare services including food, clothing, health care, and fuel and he oversees the expenditure of other funds for Indian education and housing.

As you have mentioned, Mr. Chairman, he is a member of the Passamaquaddy Tribe of Indians. He was a governor of an Indian township for 18 years before entering State government. He was a member of the Committee of the Native American Rights Fund; he is the eastern representative of the National Council on Indian opportunity. He is a member of the Governors Interstate Indian Council; he has worked to expand benefits for Maine Indians both on and off the reservation.

He believes strongly as I do also that Maine Indians are entitled to receive the broad range of Federal Government services and benefits available under existing law and that these rights must be given to all Indians whether they live in the East or the West or whether they live on or off the reservation.

And again I say, Mr. Chairman, that it is with a great deal of pleasure that I introduce Mr. Stevens to the committee. I regret that I cannot stay around because the Labor Committee is also meeting this afternoon; I have to be in attendance there.

Thank you, Mr. Chairman.

Senator ABOUREZK. We want to thank you, Mr. Hathaway, and welcome Mr. Stevens here today who will be part of the panel, is that correct?

Mr. STEVENS. Yes, sir.

Senator ABOUREZK. We thank you very much for taking the time to come up here today.

Senator HATHAWAY. Thank you.

Senator ABOUREZK. If Mr. Deloria and his panel would come forward, we are ready for that.

Mr. Deloria, if you would introduce your panel, Senator Metcalf and I would be pleased to listen to what you have to say on this resolution.

STATEMENT OF VINE DELORIA, JR., MODERATOR, STANDING ROCK SIOUX TRIBE, AUTHOR-LECTURER; ACCOMPANIED BY VIVIAN ONE FEATHER, STANDING ROCK SIOUX COMPLEX, FORT YATES, N. DAK.; WENDELL GEORGE, COLVILLE CONFEDERATED TRIBES, NESPELEM, WASH.; KENNETH SMITH, CONFEDERATED TRIBES OF WARM SPRINGS RESERVATION, WARM SPRINGS, OREG.; JOHN STEVENS, COMMISSIONER OF INDIAN AFFAIRS, DEPARTMENT OF INDIAN AFFAIRS, AUGUSTA, MAINE—PASAMAQUADDY TRIBE OF MAINE; LEO VOCU, OGLALA SIOUX TRIBE; PINE RIDGE, S. DAK.; VALENTINO CORDOVA, CHAIRMAN, ALL-INDIAN PUEBLO COUNCIL, ALBUQUERQUE, N. MEX.; AND HENRY ADAMS, NATIONAL DIRECTOR, SURVIVAL OF AMERICAN INDIANS ASSOCIATION, NISQUALLY, WASH.—ASSINIBOINE-SIOUX

Mr. DELORIA. All right, Mr. Chairman. We are very happy to be here.

I will start on my left and introduce the panel members and then we will go into our presentation. On the far left is Mrs. Vivian One Feather, who is representing her husband Gerald One Feather who is one of the leaders on the Pine Ridge Reservation.

Sitting next to her is Mr. Wendell George who is general manager of the Colville Confederated Tribes.

Sitting next to Mr. George is Mr. Kenneth Smith who is general manager of the Tribal Enterprises of the Confederated Tribes of the Warm Springs Reservation in Oregon.

To my right is John Stevens, who has already been introduced, governor of the Pasamaquaddy Tribe.

Next to him on his right is Mr. Leo Vocu who is administrative assistant to the chairman of the Oglala Sioux Tribe, the former executive director of the National Congress of American Indians.

Next to him is Mr. Val Cordova, chairman of the All Indian Pueblo Council from New Mexico.

Finally at the end of the table is Henry Adams, executive director of the Survival of American Indians Association, Nisqually, Wash., which has been active in the fishing rights controversy.

We are here today to discuss Senate Joint Resolution 133 and also to tell the committee something about the variety of conditions existing on the reservations, both Federal and non-Federal, across the country.

I think we can start our preservation with Mr. Cordova who represents 19 Pueblos in New Mexico and is the major spokesman here on this panel from the Southwest. So, I will turn this over to Mr. Cordova.

Mr. CORDOVA. Thank you, Senator Abourezk, Senator Metcalf.

I was here about 2 weeks ago testifying before Senator Abourezk and enjoyed it very much.

I have been asked to speak on the traditionalism of the Pueblo Indians and I think the word "traditionalism" is kind of synonymous with Pueblos.

In many areas of our life such as yesterday some of my coworkers were here testifying on water rights. I am going to touch some on tribal sovereignty and how religion affects our total way of life.

I think in talking about tribal sovereignty—one case in point is the 1968 Indian Civil Rights Act which the panel has rejected because we feel that we have survived or we have lived through three governments, the Spanish, the Mexican, and the Americans right now.

There is a saying today which the Indian people use—that we shall endure. And despite the conquests that we have gone through I think the Pueblos have maintained their form of government, their own laws, and their total way of life despite the impositions by these three governments upon their way of life that they try to impose on the Pueblos.

And, this is one example that I am giving. Culture to us is a way of life and it continues to flourish today despite periods of rejection by Indians of their cultures. The rejection was forced upon them by the BIA's relocation policy a few years back.

All of a sudden in the last 5 or 6 years we have come to a period where everybody is proud to be an Indian, and this is good to see.

However, I think the Pueblos have endured through many years without rejecting their way of life or their religion. They have endured many of the policies that the Government has forced them to go through and are continuing to flourish today.

We are very happy to see our young people returning to participate in our way of life. We do not feel that militancy is necessary to survive as an Indian but a stubborn commitment to preserve our culture is necessary.

Now, I was supposed to present very briefly our belief and why the New Mexico Pueblos are fighting for their water rights.

Most of it was covered yesterday, but I think the religious aspect of it should also be covered here.

A few years ago the Pueblo Indians desperately fought for Blue Lake on the basis that this is their church and because I testified for the Taos Pueblo Indians I feel very much a part of that religion.

The water that flows down the Rio Grande is not only a means of subsistence on our part, but it is a way of life—water that we use not only for drinking purposes but for religious purposes. We cannot reveal how these uses are made but we want the Senators to understand that there is a religious aspect connected with the water that we are fighting for in New Mexico.

With that I would like to go into questions on the bill itself or the resolution itself.

My first question is, Are not the Interior and Insular Affairs Committees both in the Senate and the House already doing what the American Indian Policy Review Committee proposes to do?

Senator ABOUREZK. Are you asking whether they are already doing that?

Mr. CORDOVA. Are they not doing that already?

Senator ABOUREZK. The answer is "No."

Mr. CORDOVA. OK.

The resolution proposes to have the committee or Commission composed of Senators and Congressman who are already on the Senate Interior and Insular Affairs Committees. Is not this repetition having the Senators who are already on the Senate Interior and Insular Affairs Committee on this Review Commission?

Senator ABOUREZK. A repetition of what?

Mr. CORDOVA. A repetition of the composition of the Interior and Insular Affairs Committee.

Senator ABOUREZK. Well, it is not a repetition, it is a selection of most of the members from the committee with one member from each side at large, that is from any committee.

Mr. CORDOVA. OK. Well, here is our proposal. Rather than having these Members of the Senate or the House from the Interior and Insular Affairs Committees, I would propose that the membership of the Senators and House of Representatives come from States that do not have an Indian population because—

Senator ABOUREZK. Why do you say that?

Mr. CORDOVA. The reason I say this is because I feel that the Senators and Representatives that come from Indian country have a conflict of interest in the sense that the constituency of these people, these Senators and the Congressmen, are not only Indians but other sectors of the country, of the State and I feel that whenever there is a conflict between Indians and let us say the Bureau of Land Management, it is the Indian that always loses out in the end.

So, I think that in the composition of this Review Committee it should be considered that Congressmen from States that do not have an Indian population should be considered seriously to compose this Review Committee.

Senator ABOUREZK. I appreciate the suggestion. I know for one thing that I have in my State 32,000 Indian constituents and probably well over 600,000 non-Indian constituents. And I personally do not consider it a conflict of interest. I have made my position very clear both to the people of South Dakota and anybody else that would listen that I do not have any conflict of interest, that if I am attempting to do something with regard to the Indian affairs situation I have no conflict whatsoever between the Bureau of Reclamation or the Bureau of Land Management or whatever.

That may be true on the part of some other people but it is not true on my part nor is it true on Senator Metcalf's part, and I would hope to be selected on the Commission.

Mr. CORDOVA. Well, I see this in New Mexico where I come from. This is why I am proposing this.

Now, one other question on the Indian representation on the Commission. Why do you have what I interpreted as an Indian not living on the reservation to be a rural Indian, is this the intent?

Senator ABOUREZK. You mean the one member of the tribe who does not live on the reservation?

Mr. CORDOVA. Yes.

Senator ABOUREZK. Yes, well that is intended to take into consideration or to get a spokesman from the community of Indian people who are tribal members but who do not have a reservation set up such as Oklahoma and such as some of the California tribes.

What we try to do, Val, is to make sure that there was some representation from each segment of the American Indian community.

Now, maybe we did not achieve that and I would appreciate hearing your comments if we did not. And, that is one of the purposes of these hearings, to get a better representation. But, if we did not we would like to hear.

Mr. CORDOVA. The reason why I brought this out was that in Albuquerque we have Pueblo Indians who themselves do not consider themselves urban Indians.

Really, if you ask a Pueblo Indian living in Albuquerque are you a reservation or urban, he will answer reservation because his ties are still strong back to the reservation.

And, whether you consider this one member from that community belonging to this Commission—I wanted an understanding and I think I understand what you mean.

Senator ABOUREZK. Let me ask you this, do you think that fulfills what we are trying to fulfill, that is a spokesman from each different segment?

Mr. CORDOVA. Whatever representation you are going to have, you are not going to fulfill the total purpose really because you are going to have contention from every segment of the Indian population.

For instance, I see the bill mostly directed to reservation Indians and yet—you know, you have three representatives, one from the urban

Indians, one from the nonrecognized tribes, and the other one is supposed to represent the community that does not reside on the reservation. And yet, very little of the bill talks about these people.

Senator ABOUREZK. Which people?

Mr. CORDOVA. About these off reservation people. Most of the bill is directed to the reservation Indian.

Senator ABOUREZK. Well, it is not intended to be restricted to the reservation. I think one of the major problems, as you are aware and I am aware, is the division today between urban and reservation Indians and the division in the Bureau of Indian Affairs and in the Government itself as to whether or not urban Indians shall be dealt with in a similar manner as the reservation Indians.

That is one of the problems that this Commission has to face and ultimately this committee and this Congress has to face. That is one that has got to be dealt with as soon as possible and we hopefully are going to try to do it within the context of this Commission.

And, the bill itself in picking the Commission does not limit—it does not restrict what the Commission will study. It makes suggestions as to what it will study but these are not all-inclusive.

And, in my opinion, if I am selected on the Commission, if it is the staff's wish, and I hope I will be, I will make certain that that is one of the first questions that is answered—how will the Government deal with urban Indians and reservation Indians and how will their relationship be defined?

Mr. CORDOVA. Senator, that is about all I have for now. I may add some more later on.

Senator ABOUREZK. OK, thank you very much, Val; I appreciate your comments.

Mr. DELORIA. Senator, next we would like to present Mr. Wendell George who is general manager of the Colville Confederated Tribes in Nespelem, Wash.

Mr. GEORGE. Senator, I have a written statement that I would like to summarize for you as briefly as I can.

I would like to spend most of my time on how the problems that we have had in the past relate to the Colville Tribes, because that is where my experience is.

Senator ABOUREZK. We will accept your written statement into the record.

[The prepared statement of Mr. George follows:]

PREPARED STATEMENT OF WENDELL V. GEORGE, VICE CHAIRMAN OF THE NATIONAL INDIAN ECONOMIC DEVELOPMENT POLICY BOARD AND A MEMBER OF THE COLVILLE CONFEDERATED TRIBES

Mr. Chairman: Since 1778 the Federal government has vacillated from an advocacy role to an adversary role. The philosophies of the government also included a paternalistic attitude where Indians were generally considered incompetent, and the government, thru the BIA, had to make all the decisions for them, and a terminating attitude where Federal supervision was to cease and the Indians to be assimilated into the white society. These attitudes and roles were tainted with external forces such as; white developers who were hungry for Indians and natural resources, uninformed Congressmen who did not take the time to research the 5000 odd legislative actions concerning Indians, and Congressmen who had special axes to grind for their non-Indian constituency. In both cases, many rules, regulations and Congressional acts were passed which

were detrimental to the overall benefit of Indians. Many were do-gooders who inadvertently joined special interest groups to pass this negative legislation. All this might not have been possible if a system were available which; (1) provided an effective feedback mechanism to Congress which would allow them to evaluate the success of their legislative actions and; (2) to get an informed input from the Indians before the legislation was passed. This testimony offers such a mechanism. It will be described by first summarizing the chronology of Indian issues which dramatically demonstrates the collective thoughts of the Federal government over the years with special emphasis on the environment and issues that exist today. Second, the criteria for a solution that meets the needs of the Indians will be described. Third and last the characteristics of this solution will be described. A method will be suggested as to how it can be implemented.

The chart shows in bar graph form a chronology of Indian issues from 1778 thru today. This chart encapsulates the attitude of the Federal government towards the Indians over almost 200 years. A cyclic trend can be seen from this chart which shows the pro and con reversals of the Federal government. The dark bars indicate those actions favorable to Indians, the light bars unfavorable actions and the shaded bars are partially favorable and partially unfavorable. It can be seen that from 1778 to 1872 treaties and executive orders were enacted by Congress and the Executive branch which were total recognition of tribal sovereignty because it designated certain lands for the occupancy and use by the Indians and it gave Indians the right of self-government. But in 1887 the Allotment Act was enacted which effectively reduced the Indian base because it divided tribally-controlled land into small tracts of land averaging 135 acres which were given to individual Indians under the ruse that he could become economically independent through farming or some other enterprise. Of course the Indians given such allotments were not given the wherewithal to implement and operate such enterprises successfully. More importantly he was never asked whether he wanted to become a white society farmer which was entirely foreign to his nomadic way of life. For the most part, he chose the obvious way to put food on the table which was to sell the land to the always ready and available land hungry, non-Indian individuals who would offer him a few dollars per acre which was many times under the actual value of the land even then. This, coupled with the Reclamation Act of 1902, which gave the Federal government the right to put irrigation projects and dams on Indian Reservations without the explicit approval of the Tribes involved and the Homestead Act of 1916 which opened up Reservations to homesteading on lands that were not previously allotted resulted in a net loss of over 90,000,000 acres of best Indian land to whites between 1887 and 1933 (reference—Congressional Record dated Friday, October 7, 1949, testimony of Congressman Burns, Nebraska). Of course, valid Indian input to these Congressional actions was never solicited or received except in a few cases where a puppet Tribal government was coaxed or coerced into testifying in favor of these actions.

In 1924 the Indian Citizenship Act was passed which gave the Indian the right to become a full-fledged citizen of the United States if he followed certain procedures. This, in effect, put the Indian in a dual citizenship role, that of the Indian Tribe he belonged to which was protected under a Federal trust and that as a U.S. citizen which gave him the right to vote in Federal elections but not necessarily in state elections as that was to be implemented through state government legislation.

The Snyder Act passed in 1921 had far reaching implications for Indians but had such broad language that the BIA was able to make arbitrary decisions for administrative convenience. Consequently, the Bureau has engaged in selective exclusion of Indians living off-reservation which made them ineligible to receive services. A historic examination of the Bureau shows that the eligible class of Indians to receive services was expanded or contracted with little regard for constitutional or legal rights of Indians to have services. The Bureau is now guided by a memo from the Assistant Secretary for Public Land Management dated January 16, 1970. The memo states:

"It is a long-standing general policy of the Bureau of Indian Affairs and the Congress that the Bureau's special Federal services are to be provided only to the reservation Indians. The basis for these special services rest in treaties with tribes and upon the tax-exempt land on which the Indians reside, and in the inability of the local and state governments to provide the usual services in Indian country".

There is no legal or statutory reason for this limitation. In addition, specific eligibility criteria for bureau services to Indian clients rests largely on blood quantum and place of residence. The inconsistency of this approach is demonstrated by a Papago Indian youth, whose family has lived in Tuscon, Arizona, for two generations who had little difficulty in securing a college scholarship from the Papago Agency. The reason for this is that a greater number of potential clients for this bureau service live off reservation, than on. In Minneapolis, on the other hand, a Chippewa youth, requesting scholarship assistance is apt to be turned down since agency scholarship budgets tend to be oversubscribed by reservation residents. In the State of Washington members of the Wanapum Band who do not live on or have a reservation are not eligible to receive bureau services in spite of most members' being full bloods. This is further complicated by the fact that members of the Stillicum Tribe, a non-recognized/non-reservation Tribe, are eligible to receive health care from a federal Indian hospital. By such inconsistent practices many Indians do not receive bureau services. It becomes clear how such practices continue when it is understood that the federal government may selfishly benefit from not providing such services. This was exemplified by a statement by a former bureau employee:

"The federal government benefits most, it believes, when it provides or pays out for the fewest services, hence, the smaller the client group, the lower the cost of services. The current interpretation is for men who sit in the administrative halls of Indian affairs and in rooms far from the Indian people to sit down and with the stroke of a pencil or the smudge of an eraser, "wipeout" many Indians—the denial of the right to be Indian by an unchallenged, lawless, and unfettered, unauthorized administrative tribunal. By this formula Indians disappear—they become 'State Indians', 'Urban Indians', 'terminated Indians', 'Canadian Indians', 'landless Indians', anything—but not federal Indians. They, federally related Indians, cost money. They are owed services, under law."

In 1934 the Wheeler-Howard or Indian Reorganization Act was enacted. It was the first enlightened legislation passed by Congress since the Treaties and Executive orders which created Indian reservations. This act re-enforced the Indians rights of self-government because it enabled him to create Tribal Councils, corporations or other forms of governments which are Federally recognized entities with certain jurisdictional rights. This restored much of the previous sovereignty that had been chipped away by previous legislation. Even so, an October 17, 1949 testimony by Congressman, George W. Malone from Nevada took direct issue with the IRA on the assumption that Indians did not want and could not benefit from self-government although this is fundamental to the democratic process! Again there was a minimum amount of coordination with the Indians during this legislative process, and they, for the most, did not understand the significance of this Act. As a result, many tribes did not vote to organize under this IRA. The Act required that they make their determinations within one year but because of the poor communications that existed at the time in the rural Reservations and the non-Indians in adjacent areas who were quick to assess the danger of a strong Tribal government to their individual self interests, many Indians were button-holed and convinced the Act was actually not to their benefit. In today's enlightened era of Indian Self-Determination, this Act could logically be expanded to include a national Indian policy mechanism which would provide the vehicle for getting a grass-roots input into the legislative process.

Congress created the Indian Claims Commission in 1945 which gave Indians the right of due process for claims against the government for mismanagement of Indian land and property by the BIA. This part of it was good but the bar graph is shaded because again Congress decided they knew what was best for the Indians without seriously consulting them because they did not allow for the return of land but instead they paid off in 1850 dollars. Of course, the land appreciated so much during this time that this payment is essentially worth nothing at today's prices. The Taos and Yakimas are proof that Indians today prefer the return of land to a ridiculously low payment for it. It is interesting to note that much of this land has been put into Public Domain and would be relatively easy to return to the Indians. A nominal research into Federally-held forest land shows the U.S. operated its forest enterprise at a \$200 million deficit in 1970-1971 even in a good market like today. The Forest Service has operated at an average deficit of \$70 million for the last ten years according to the annual Forest Service reports. Surely the Indians could do no worse as many Tribes such as the Warm Springs, Navajo and Apaches operate profitable logging and sawmill operations.

The bar graph shows the beginning of a very black period in 1953 when PL 83-280 was created. This was a direct attack at Tribal self-government because it gave 5 states the right to impose jurisdiction on Indian Reservations. Such an approach only makes sense if the Indians involved were not capable of organizing and operating their own governmental affairs. The Colvilles have demonstrated capability to tax wholesale tribal enterprises in order to obtain self-sufficiency and are now in the process of implementing a law enforcement program that will surpass any in the State of Washington. But yet the State of Washington will not rescind jurisdiction to the Colville Tribe because they can see an economic gain by controlling the natural and human resources on the Reservation. A situation like this highlights and need for the Federal government to exercise their Trust responsibility by guaranteeing the tribal right of self-government. Most tribes are heavily outnumbered in the counties in which their reservations are located and consequently they do not have an effective voting block and are virtually helpless at the polls. With all the special interest groups just waiting to rip-off the Indians resources, the Indians would be economically annihilated in a matter of time.

But this was not enough. Congress passed HR108 in 1955 which was a policy to terminate Federal supervision of Indian Reservations. It should be colored the palest of colors on the bar chart because, of course, this included eliminating Federal protection of Indian rights which was minimal enough and should have been strengthened not terminated. It resulted in a death blow to reservations such as the Klamaths and Menominees which has since proven to be a catastrophe. A review of the Congressional record shows that termination bills were introduced into Congress as early as October 7, 1949. Testimony by the sponsoring Congressman (references: Hon. George W. Malone of Nevada who submitted a termination bill, and a Hon. Hugh Butler of Nebraska who attacked Eleanor Roosevelt's praise of the Wheeler-Howard Act) showed they were uninformed as to the desires and wishes of the Indians themselves and based their entire approach on the conclusion that Indians wanted to be assimilated into the white society and, therefore, had no need for a separate government because State and local governments would provide them with better living conditions, i.e., housing, roads, sewers, etc. This was of course entirely inaccurate and one need to read the resolution passed by 467 Indians in 1961 representing 90 bands and tribes geographically covering all Indian country at the American Indian Chicago conference to get insight to the Indian philosophy. The seven day conference was concluded with a document entitled a "Declaration of Indian Purpose". The "Declaration" began with the following words:

"In order to give due recognition to certain basic philosophies by which the Indian people and all other people endeavor to live, We, the Indian people must be governed by high principles and laws in a democratic manner, with a right to choose our own way of life. Since our Indian culture is slowly being absorbed by the American society, we believe we have the responsibility of preserving our precious heritage; recognizing that certain changes are inevitable. We believe that the Indians should provide the adjustment and thus freely advance with dignity to a better life educationally, economically and spiritually".

In spite of such proclamations by the Indians the termination era continued to ascend and tribes such as the Colvilles came dangerously close to terminating. Congressional testimony for Tribes thought to be ready for termination was confused with many arguments pro and con. Congress was at a loss to determine what was the best course of action and as a result chose the safest path, that is to do nothing. The intense activity by the Indians pointed out a need that has yet to be filled, that is, a formalization mechanism for Congress and the Executive branch to get an accurate grass-roots input from the people involved. This need is not unique to Indians as in this day and age of proliferation of information and data all issues considered by Congress must inherently use efficient methods to collect and analyze the desires of the people in order to be truly responsive to their constituency. We hope you will conclude, as we the Indians have concluded, that such a mechanism must have certain characteristics that will be described in this testimony.

In 1968 the Civil Rights Act was passed which you will notice in the chart is shaded because it is both favorable and unfavorable to Indians. It is favorable because it provides a method to rescind PL83-280 which would, in effect, allow Tribes to take over jurisdiction of their Reservation again. It is unfavorable because it confuses the dual citizenship capacity of the Indian between his rights

as an individual and his rights as a tribal member of a Sovereign tribal government. Again because the necessary coordination with tribal governments was not accomplished before enactment of the bill we are confronted with many undefined areas that must be cleared up before actual implementation of the bill can take place.

In 1970, President Nixon set a policy of "Self-determination without termination" which again established the rights of Indians for self-government. His speech on July 8 of that year was received by Indians throughout the continental U.S. by signs of general approval and rising expectations. It appeared at the time that we finally reached a period where the U.S. government was prepared to fulfill its long standing commitments to the first people of this continent. But in a typical bureaucratic confusion we have yet to see these words culminate in action beneficial to the Indians. Instead we have seen power plays within the government between the true advocates (sometimes Indians, sometimes not) and those who are merely looking out for their own self interests (usually non-Indians but sometimes not). As a result we have a promise but no performance and many of our young Indian people have become justifiably impatient after almost 200 years of frustration and have taken actions that are not typically the Indian way. This culminated in the Trail of Broken Treaties which led to the takeover of the BIA building in Washington, D.C. and to the takeover of Wounded Knee, S.D. We can easily surmise that these demonstrations will continue if no meaningful action is taken by the Federal government. Sadly enough the public tends to overlook the real issues and only concentrates on the newsworthy militant methods. However, the very fact that you are holding this hearing on BIA reorganization, Mr. Chairman, is an indication that real action is possible and we sincerely hope that you have the endurance to bear with us and help us develop a satisfactory solution to our problems.

The chronology of Indian issues indicates some fundamental desires of the Indian people that, for the most part, have been ignored by the Federal government. These can be simply stated in a definition of a criteria for a BIA organization that would fulfill the Indian desires. In summary:

- (1) The BIA should be service oriented rather than management-oriented.
- (2) The BIA should support tribes develop a self-governing organization but not intervene with its operation.
- (3) All policies established for Indians should have a formalized mechanism for obtaining direct Indian input.
- (4) The federal government should establish an independent trust counsel for the protection of Indian rights and resources.
- (5) More efficient & direct congressional control should be developed for establishing policy & related budget appropriations through a grant approach and annual reviews.
- (6) A program evaluation system should be implemented which provides feedback to the Indian constituency on the success (or failure) of the programs.

The "Declaration of Indian Purpose" of the previous decade is a clear statement of purpose and sets the stage for procedural implementation of Indian "Self-determination" in this decade. A specific section of the "Declaration" now twelve years later is as appropriate today as it was then: "It has long been recognized that one Commissioner cannot give the personal attention to all tribal matters which they deserve. He cannot meet all callers to his office, make necessary visits to the field, and give full attention to the review of tribal programs and supporting budget request. In view of these conditions, we most urgently recommend that the present organization of the BIA be reviewed and that certain principles be considered no matter what the organizational change might be".

"The basic principle involves the desire on the part of Indians to participate in developing their own programs with help and guidance as needed and requested, from a local decentralized technical and administrative staff, preferable located conveniently to the people it serves. . . . The Indians, as responsible citizens, as responsible Tribal Councils want to participate, want to contribute to their own personal and tribal improvements and to cooperate with their government on how best to solve the many problems in a business like, efficient and economical manner as rapidly as possible. . . . We believe that where programs have failed in the past, the reasons were lack of Indian understanding planning, participation and approval". The philosophy inherent in this Indian approach has made little impact on the BIA for ever a decade. The BIA continues to attempt to

manage Indians rather than assist them manage their own affairs. A recent example of this is the proposed "Regulations for the use of Water on Indian Reservations located in Washington, Oregon, and Idaho, subject to the Portland Area Office, BIA". This proposed regulation was presented at a Treaty Water Rights meeting held June 11 & 12, 1973 at the Yakima Indian Reservation. None of the Indian Community involved had an opportunity to provide an input to this regulation or ever was asked whether such a regulation was wanted by the Indians. Yet they were given until July 15, 1973 to provide comments. This regulation as proposed reverted back to the 1887 allotment Act for its authority and smacks of rank paternalism to the Nth degree. It essentially gave the Secretary or his designee the authority to allocate rights of appropriation among Indian and non-Indian users of water that rises upon, borders, or traverses Indian reservations. This entire approach is based on the premise that the Indians are incompetent and not capable of handling their own affairs through self-government.

Yet the many arms of the BIA in their typically inconsistent implementation of Congressional actions have shown that they can be advocates when it suits them. In the last few years they have, in certain areas, contracted with tribes for performing services such as education, employment and health. By assuming the administrative and management responsibility most tribes found a vast improvement in the services provided to their own people. More jobs were found, more people became aware of the benefits of education and overall more responsiveness given to tribal members needs because the Tribe had direct control over the programs and could innovate when necessary to accomplish the task because they were not constrained by administrative procedures or a passive attitude.

The "Indian Action Team" is one of the most progressive examples of what can be done. The tribes which have contracted for these programs have successfully trained Indians in such specialized areas as engineering, architecture, building trades, heavy equipment operation and many other skills. As a result of this program Indians are building new homes for their fellow members, constructing new roads, managing reservation resources, planning new Indian businesses and for the first time generating new permanent jobs for other Indians. In the future, it is planned that Indian schools, day care centers, health clinics will be developed and operated by Indians. In a very short time Indians have moved rapidly and positively to accept the challenge of managing their own affairs.

The Bureau of Indian Affairs has been shown to be inconsistent and arbitrary in its dealings with Indians. It has operated through "administrative convenience" rather than in fulfillment of federal government commitments, the U.S. Constitution and Law. The need to reorganize the Bureau so that it serves the interests of Indians, protects Indian rights and fosters Indian self-determination is permanent.

The Bureau of Indian Affairs must first and foremost work to protect the interests of Indians from encroachment by State, Federal and private interests. The Bureau must, therefore, have independent legal authority apart from the Justice Department and the Department of Interior to protect the natural resources of Indian Tribes. The conflict of interest demonstrated time and time again by lawyers appealing Indian cases has served land interests, private enterprises, state and federal government agencies more often than the Indian. Such an independent legal capability is mandatory in order that the Bureau actually protect the interests of Indians. A battery of lawyers experienced in Indian law and knowledgeable about federal trust responsibilities would insure proper protection.

The Bureau must institute the practice of supplying technical assistance and services to Indians. The historical practice of managing the affairs of Indians is no longer appropriate or wanted by Indians. Many tribes are rapidly moving to assume control over programs formerly managed by the Bureau. The success of independently developed and operated tribal programs and enterprises is increasingly visible. Such progress is hampered by the control and management minded Bureau.

The Bureau should establish a series of offices devoted to technical services at the National level. Among these offices should be an Office of Trust Services, an Office of Economic Development, Office of Education, Office of Legislation and an Office of Natural Resources. These and other such offices should be replicated at district offices located near Indian populations.

The Bureau as a technical services agency should serve all Indians including reservation, non-reservation and urban Indians. To promote *systematic* participation of all Indians in the policy development process of the Bureau a nation-wide decision-making mechanism should be established as a part of the Bureau reorganization. This mechanism should be organized to include district, regional and national components. As a three part process Indians would be engaged at these levels in defining legislative concerns and programmatic interests as well as entering the Bureau policy arena. Perpetual review and examination of Bureau policy would be independently initiated by Indians providing a safe guard against abrogation of federal Trust responsibilities and federal commitments. A system where Indians play a direct role in the operation of the Bureau will insure continuing relevance of Bureau Operation.

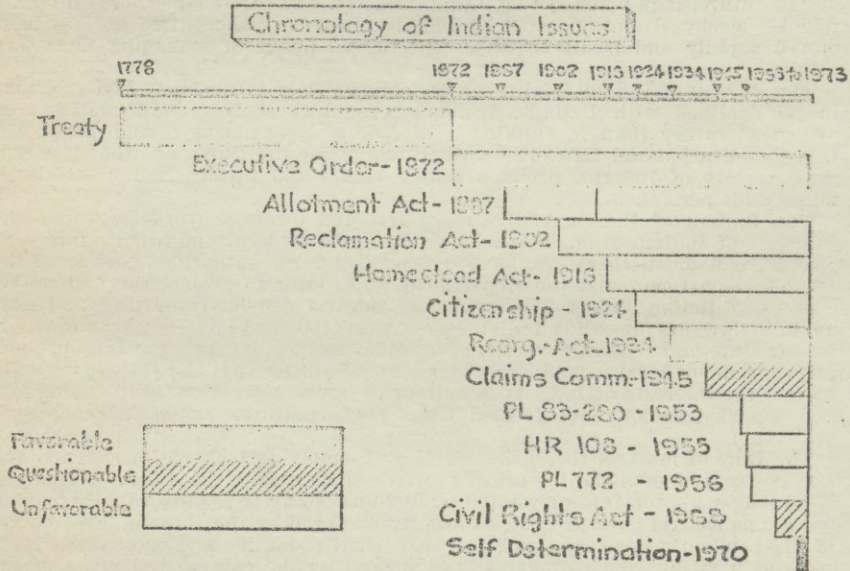
A Bureau of Indian Affairs organized in the fashion described above will insure maximum development of Indian human and natural resources in a manner acceptable and suitable to Indian desires. Self-determination will be maximized and the future of Indians will be properly enhanced and adequately protected and held in trust.

Mr. GEORGE. I know everybody has summarized Indian problems over the last few years and it has been boiled over time and again but Representative Lloyd Meads at a Northwest review last winter up in Seattle—and in preparation for that we put together what we call the chronology of Indian issues and we tried to summarize on 1 page the total Indian problem. And if you wish, I will let you have this after I am through, Senator.

Senator ABOUREZK. We would like to have it.

Mr. GEORGE. In talking from this chart, though, we have a series of things established over the last 200 years from 1778 to the present.

[The chart referred to follows:]



Initially we started that with treaties and Executive orders which established the sovereignty as indicated by Mr. Cordova and the right to self-government.

And initially Indians did determine their own policy such as they were at the time. However, most of the acts of Congress since then have taken away piece by piece the right to self-government.

I would like to indicate where our tribe, our reservation—this has been very detrimental to the development of the progress in our tribe.

The first major one that happened was the act of 1887. If you looked at the Colville reservation you would see that we have a checkerboard ownership pattern.

The Allotment Act was the initial start of that. The Reclamation Act continued that and the Homestead Act made it even worse.

So, in the period of 1887 to 1916 we totally, on a national scale, lost 9 million acres which is part of the congressional record.

From the original termination bill that I am aware of in 1949 the Colvilles themselves lost over 300,000 acres due to the homesteading and allotment changeover and that type of thing.

So, now we are faced with the situation of not being able to manage our own land in the way it should be managed because we have deeded land and trust land checkerboarded throughout the entire reservation.

We do not have an adequate vehicle for consolidation of this land; when we want to manage it in a solid block of contiguous property we find it very difficult to buy large blocks of land, especially when it has depreciated to the point where it is in terms of forestry or any other appraisal.

The Citizenship Act and to some extent the Civil Rights Act later on created the problem indicated before by Mr. Cordova, that we do have a dual citizenship problem and it has to be clearly defined what the role of the tribal government is, such as the role of the Federal Government. Otherwise you have a conflict of authority.

Now, these acts we have been referring to have all been detrimental but in 1934 we had the Indian Reorganization Act which was the re-establishment of the right to self-government.

However, it was not carried out in a proper way from the Indian viewpoint from the standpoint that it was not well coordinated with the Indian community.

On our reservation we had—according to the people that were aware of the situation at the time, they did not understand the meaning of the IRA and the people in the adjacent communities, the non-Indians were very quick to assess that if the tribal government had full authority to govern its own affairs and it were strong in doing so they would not be able to rip off the Indian community the way they have been doing.

So, they convinced all the Indians that this act was selling the reservation and that type of thing. So, in the Colville case we voted down the IRA.

As you probably know it was only a year's time before you could sign up as an IRA tribe. One of the things that could be done is to open up the option to tribes to become an IRA tribe.

The Colvilles might choose at this point to become an IRA tribe. We find it difficult in our development, every time we deal with the outside community in finance or whatever it is we have to justify ourselves as an entity. We do not have the legally/federally clearly defined as a corporation or whatever you want to be.

In 1945 the Claims Commission was created and it was good from the standpoint that it gave us a vehicle for making claims against the mismanagement of the Government.

However, there was no provision for return of land. We were forced to accept dollars and in most cases this was appraised back on the 1800 value and not today's value.

The Toas Tribe and the Yakima Tribe have indicated that they would prefer land especially when they are faced with the situation of land consolidation for better management.

There are many smaller tribes such as the Lunis who have military reservations adjacent to the reservation that could become part of the reservation and they could develop an economic enterprise much more suitable.

What I am suggesting is a basic mechanism for the return of some of the Federal surface lands or the land consolidation bill, or whatever has to be created in order to enable this.

There are vehicles that exist already that have not been either advertised or carried out. The Farmers Home Administration had \$10 million appropriated every year for Indian tribes to purchase land and to my knowledge this has not been utilized by the Indian tribes because we have not been aware of it. And, if they do become aware of it the \$10 million might not be enough.

There is another vehicle available right within the BIA, the 10 percent administrative fee program which last year the BIA finally decided after many years to let us spend that money locally that they were charging us for managing our own timbers.

However, they put constraints on it and one of the worst constraints was it did not allow us to buy land for consolidation purposes and even the Forest Service, which is another bureaucracy that exists in the Government, flatly has stated in the congressional hearings that land consolidation is fundamental to good management and good forestry packages.

This would be just the administrative procedure to open up that channel. Public Law 83-280, which allowed five States to take over jurisdiction of Indian reservations has been very detrimental.

Senator METCALF. Now, you skipped the enactment of the Indian Claims Commission, didn't you? I wanted to ask you why you think it is questionable.

Mr. GEORGE. I think it is questionable only because it paid off in dollars and not in return of land. What I meant is that there was no option given to the Indians and in many cases they prefer land because—like the Pueblos they are faced with checkerboard ownership or adjacent land.

Senator METCALF. It was at least better than no legislation whatsoever.

Mr. GEORGE. Oh, certainly, I am not trying to detract from that at all.

Senator METCALF. Every 5 years there are a handful of us on this committee that continually are under attack saying, well, let us get rid of the Indian Claims Commission. It was only created to last for 10 years or so. And now we have had it for a couple of decades.

And when you come in and say, that is of questionable value to the Indians, it is not very helpful to us in presenting to the Members of

Congress arguments for the continuation of the Commission until they have done their job.

Mr. GEORGE. OK. I think the real fundamental problem other than the fact of our self-government problem is the fact that in 1945 the Indians were not asked whether they wanted to receive dollars or not. It was set up strictly to pay it off.

Senator METCALF. I remember when the Colville came in and they said we want to get out from under all this business. The Colvilles have been ambivalent in their attitude toward the legislation we have adopted but whenever any entity of the Government takes anything, whether it is recreational areas for parks, land for highways, we condemn land for housing and redevelopment, urban renewal; we do not say, well look, we will give you some land over here adjacent thereto. We say we are going to pay you dollars and I am in favor of that; I am not in favor of trading timber for any of the national parks or wildlife refuge for land for a dam for instance.

But, we had the additional difficulty, and you know this as well as I, that people had different operations. Cities had gone up on some of this land that we had taken and there was not any other way; we just could not give you back that land.

Now, there is nobody around here, I do not think, that is more sympathetic to the idea that we should get as much land back in Indian ownership and tribal ownership as possible in these areas.

And, I can match any horror story in Montana that you can develop for me in Washington. But, it seems to me that the Indian Claims Commission Act was a generous act and it should not be marked as a questionable act because it was the best we could do.

Mr. GEORGE. OK, that is about three questions that I would like to answer.

Senator METCALF. I was not asking, but go ahead. I want you to make comments.

Mr. GEORGE. I would like to comment, whether it is an answer—I agree, Senator, that in 1945 at the time there was not a good mechanism for giving Indian input. If I am not off in my history we did not have an NCAI at that time, did we?

Mr. DELORIA. 1944.

Mr. GEORGE. OK, it was very close.

Senator METCALF. It was in 1953 when they first came to Congress. If we had one we wouldn't have had Public Law 82-280, but go ahead.

Mr. GEORGE. I would like to answer backward if I could. In the State of Washington and in the Colville Tribe we did have the north half which was paid off in dollars in what they called an appraised value of \$1½ million for 1½ million acres.

Now, if you think that is equitable at today's standards or any standards. I do not think it is equitable. We were not asked at any phase of the progress at the initiation of the Claims Commission or during the actual proceedings. This happened as an Executive order which was confirmed as I remember by the Congress.

However, they did not get any testimony like we are seeing today. This is a first in terms of getting input before the action takes place.

In answer just briefly about the Colvilles, you realize that it was about a 50-50 split pro terminating, against terminating. So, it just

happened that they got it by a very slim majority of 1 that the council was of a terminating mind.

But that has all changed at this point and it has in the last 3 or 4 years.

Now, Public Law 83-280 should be canceled. I feel that this is one of the detriments that we have in the State of Washington. We get a good thing going such as selling cigarettes in the State, even though for all practical purposes they have lost the case in the U.S. Supreme Court and they continue to confiscate our cigarettes.

So, we cannot have a situation like that and still hope to develop our reservations because I am sure they will follow that up with groceries, or with liquor, or with anything else we try to develop. All those we were legally able to sell but the State continues to fight us and we frankly just don't have the resources to fight for this many years.

Part of the problem has been the fact that the House still has not canceled House Resolution 108, the termination policy.

We have, I would venture to guess, daily discussions at our council over that—why they have not. It sort of reflects that attitude of the administration and Congress to the tribes if they do not feel it is necessary to follow up and cancel that.

I realize that Senators voted to cancel it, but the House has not.

We have a situation with the Colvilles because of that resolution and because of the garret we were given to receive title back through Public Law 772 of the 818,000 acres that was not homesteaded or given away at some point in time we had to develop a termination bill as you know in the early 1960's.

Well, through all the hearings that the Congress held the termination plan was never carried out. However, we still have a situation where in order to buy land back we have to—by that bill we have to get approval by either the counties and the commissioners for both of those counties who are not going to let us buy any land back.

All this points to just a few things that could be done which I think would clear up a lot of the development problems that we have. Right now we have requested that the Secretary of Interior come up with a clear description of our title to our natural resources.

Now, I am sure that the Colvilles are unique in the situation because every Executive order is somewhat written in the same way. It should be a clear definition by Congress that the tribes do have title to the property and the resources.

They also should have clear descriptions of what their jurisdictional rights are for the reservation. I think our first step would be canceling Public Law 83-280.

I have already mentioned the possibility and I think you refuted that of the Claim's Commission authority being synonymous to land return but there are other methods like I don't think I completed the description of the BIA 10 percent fee.

If that was to allow land purchase, that would go a long way in solving part of the problem.

The last thing that I would like to offer as a suggestion that can be done is to expand the IRA Act to not only include local tribal governments to be organized and properly and federally recognized, but

to recognize district, regional, and national intertribal council, if you want to look at it that way, or elected representatives of tribes of Indian organizations that had its direct input to policymaking for the Indian people.

And I think setting up this Commission is a good step in that direction so I wholeheartedly support this Commission idea.

I would like to point out that I think it is Congress' responsibility to select these people, the Indian people, that participate in this Commission.

I think we have had enough bad experience with the administration, not only this one but the previous ones, that we would not like to trust them with appointment of the Indian members.

Thank you.

Senator ABOUREZK. Thank you very much.

Senator METCALF. May I make a comment? I think that your enumeration of some of the changes that need to be made and your suggestion as to what has been done in the past and whether it is good, bad, or indifferent, or helpful, or sometimes detrimental, has been important and is an eloquent argument for the establishment of such a Commission to look into all these myriad of laws affecting the Indians.

So, you and I can probably sit down and name a dozen other laws that need to be investigated or looked into. But, I think Public Law 83-280 of 1953, I agree, should be repealed; it should never have been passed.

But, we should take a hard look at all these things and I am going to bring this out, Mr. Chairman, if I may, a couple of more times. I was a firm, long-time advocate of the Public Land Law Review Commission and I said, well, look, we have a whole lot of land laws all over the books and we do not know whether the mining laws conflict with the reclamation laws and so on.

We should review all those laws that have been passed by Congress because as a result for many years we were sort of in a limbo and every time you tried to introduce a bill to correct something somebody would say, well, that is under consideration by the Public Land Law Review Commission, let us wait until we get their report.

And, while I am in accord with the chairman of this committee and I think I am in accord with you in the fact that we should establish such a Commission, I want to disclaim all the way around that we need to have some reform before the final report of this Commission comes in. It is not going to keep us from passing the needed legislation, would not you agree to that?

Mr. GEORGE. Oh, yes, definitely.

Senator, can I add one point?

Senator METCALF. There is a disclaim in there but I want to have it understood. Go ahead.

Mr. GEORGE. I meant to mention in justifying the Federal Government's staying in the forestry business, I think one of the first things you ought to do is to review the past history. We can quickly summarize that; where the Forest Service has a published record of their annual reports in 1971 they were in the hole by \$200 million. The previous 10 years to that they averaged a loss of \$7 million.

Granted, they do subsidize campgrounds and that type of thing but they have been losing money at an increasing rate on an upswing market in the logging industry. And, I am just pointing that out because Kenneth Smith has, and other tribes have sawmills that are extremely profitable and logging operations that are extremely profitable. So, I would not think it would be all bad to return some of this forestry land back to the Indians.

Senator METCALF. Yes, I am in accord with you. When the land is still in the control of the Federal Government and has not reverted to private ownership there should be something done along with the Indian Claims Commission's award to substitute land for dollars.

I am just trying to point out that it is a very difficult situation when you have to move cities and towns and established farm sites and so forth. And, over the years we have been out of it; we have not gotten anything out of it.

The traditions compensate the people, when the land is taken the tradition is to compensate the people from whom the land is taken with dollars.

Senator ABOUREZK. But the Senator from Montana brings up a very specific problem. I know that from the number of trips that I have made with respect to the Wounded Knee situation.

Many times I have talked to the dissident group in South Dakota and the recommendation each time is that all the land be returned intact.

And, in response to a question that I posed to those people who recommended that as to what would happen to the people who bought the land in good faith or inherited the land in good faith or whatever, however they came into possession of it now the fact remains that none of those people who own the land today in South Dakota for example, took it forcibly from anybody else; they bought it in good faith, or whatever.

And, in my opinion, what you would do is if you tried to return the land intact even granted that may be the morally proper thing to do, you would start the Indian wars all over again and I do not think anybody could refute that. You go out and try to take some land away from a guy who paid hard cash for it and tell him it belongs to somebody else and he would get his gun out and challenge you on that fact.

Mr. GEORGE. Senator, do not get me wrong. I was referring only to public domain land, Forest Service land and that type of thing; I was not referring to private ownership at all.

Senator ABOUREZK. Oh, yes, thank you.

Mr. DELORIO. Mr. Chairman, we will hear from Mrs. Vivian One Feather.

Senator ABOUREZK. I might say that Senator Bartlett just came into the room.

Senator, this is a panel situation and please feel free to break in any time you feel like it. We have just been having a dialog; there are no formal questions and answers and really no formal statements. So, whenever you feel like saying something, why, ask away.

Mrs. ONE FEATHER. My husband Gerald is unable to be here today to submit this testimony but he has written it out and asked me to read it to the committee here today.

It starts with:

I would like to take this opportunity to thank the committee for allowing me to submit this testimony.

My name is Gerald One Feather, Oglala Sioux Indian, a former tribal chairman and currently, Chairman of the Landowners Association on the Pine Ridge Indian Reservation.

I would like to impress upon this committee that undertaking major reforms in Federal-Indian relationship is the most challenging business in this country.

We can look at history and find very limited legislative acts enhancing the growth of Indian people.

This lack of laws insuring the protection, development, and service of Lakota Indian people has directed a continuous upheaval in Lakota Indian communities.

In the past, Lakota Indian people have had only one option for their protection and survival as an Indian community in America and this has been the Federal courts.

They have been consistent in maintaining the Federal-Indian relationship.

Right now it is vital that this Federal-Indian relationship be reviewed, researched and given new dimensions to insure that the legal relationship is a firm basis upon which to rebuild any growth of the Lakota Indian people.

There has been oversight and lack of understanding of the Lakota Indian community by the Federal Government for generations.

The only major recognition given to Lakota Indian communities was within the traditional framework of treaty signing.

At that time, the headmen of various bands representing social units of Indian people were asked to sign on behalf of the people they represented.

Thus began the legal relationship between the Indian people and the Federal Government.

As reservations were established under treaty provisions, and changes were made by Indian people with regard to residency, the social system and the political process of the Lakota Indian people remained intact.

Then, during the 1930's, the political system of the Lakota people was institutionalized with a parliamentary type government wherein all the authority was delegated to a tribal council without the separation of powers concept as in a democracy, and without any relationship to the traditional political system.

Institutionalizing this political system only created conflict in the social and economic growth of the Lakota Indian people.

To begin, the land which is individually owned remains under trust status and as such, the Superintendent in the Bureau of Indian Affairs has trust responsibility over the affairs of that trust property and also the individual.

Therefore, when the tribal trust was created in the 1930's, by the IRA, this created a major conflict in the land-economic development of the reservation.

In many instances, the individual trust was sacrificed at the expense of the tribal trust when the Federal Government neglected to develop individual resources.

Even though changes were made in residency by the allotment of lands on the reservation, the community social system was intact until these last 10 years when housing developments physically removed people into new areas creating artificial communities without any social basis.

It seems to me that the question at hand is that the Federal Government has to recognize:

One, they have trust responsibility over individual property that necessitates certain legal relationships.

Two, tribal land responsibility is a separate category that should be dealt with in a separate manner.

Three, to allow the allottees in these communities under the individual trust concept to have the opportunity for self-determination as the opportunity for self-determination is given for the tribal trust.

Sacrificing the individual owned land by no development, no resources, and no opportunities should be investigated and a new plan of opportunity be created for these individuals.

Another major conflict inherent from the creation of the tribal trust and the individual trusts is the process of self-determination.

On the one hand, the tribal constitution exercises powers over the community without any recourse to due process of law.

In many tribes, community powers were never implemented and never supported by the Federal government as a basis for economic-community development.

What the Secretary of the Interior has allowed himself to deal with is an artificial form of government which is labeled "tribal" and has no social and economic basis for its existence.

For a reservation to grow independently in self-determination, the question of individual economics has to be resolved and for the tribal government to grow, an economic base for its existence has to be created.

The third conflict inherent in a reservation community is the Indian culture and its quest for cultural self-determination which permeates into economic, political, and social development.

In the last 100 years, there has been no policy for the bi-cultural development in the development and education of Indian people.

The individual Indian has no options in his own culture for personal growth because all options presently exist only in white America which the Indian can accept at the expense of his own personal disintegration.

What is needed is the types of opportunities that can be made available to the Indian person within the confines and framework of his own geographic Indian community.

As we look to the existence of Indian people today, we hear voices in the wilderness calling for the traditional philosophy of Indian life as the basis for the development of a new generation of people.

It is proper at this time that Congress take the necessary time to study, review, and pass the necessary legislation that will insure the consistent growth of, on the one hand—the individual trust, and on the other hand—the tribal trust.

Also, Congress should take a new look at the development of human resources by investigating the cultural base of the Indian people and developing the necessary legislation that will insure cultural self-determination.

Thank you.

Senator ABOUREZK. Senator Metcalf?

Senator METCALF. Mr. Chairman, I feel Mrs. One Feather has made an excellent statement.

Do you feel that one of the ways in which Congress can do what you are suggesting in your concluding paragraph "* * * take the necessary time to study, review, and pass the necessary legislation" is establishing the Commission that is the subject of the resolution before the committee today?

Mrs. ONE FEATHER. That is correct.

Senator METCALF. OK.

Senator ABOUREZK. Thank you.

Senator Bartlett.

Senator BARTLETT. Do you feel it is important in the establishment of the Commission that there will be more Indians than are listed in the bill, that is the five?

Mrs. ONE FEATHER. That there should be more Indians?

Senator BARTLETT. There are 5 Members in Congress from each house, a total of 10, and 5 Indians, is that correct, Mr. Chairman?

Senator ABOUREZK. Yes.

Mrs. ONE FEATHER. Five people plus 5 is 10; that makes an adequate number for any committee.

Senator BARTLETT. It is 15. Do you favor having any members appointed by the executive branch, recognizing that in the past any legislation required support of the executive branch normally, as well as the legislative branch?

Mrs. ONE FEATHER. I think that the two previous speakers on this panel pointed out that the executive branch has not done a very good job in appointing Indian people to committees and I would certainly hope that Congress could do better.

Senator BARTLETT. Do you favor having the executive branch maybe use a little better judgment in their appointment or do you favor them making appointments, having the right to appoint?

Mrs. ONE FEATHER. Having the right to appoint. They seem to decide that themselves if they do have the right. I feel that—

Senator BARTLETT. Let me ask you again then because I do not think you are answering my question.

My question is the Commission calls for appointments to be made by the Congress and both Houses, and also appointments to be made by the Indians. Do you favor having any made by the executive branch of the Government?

Mrs. ONE FEATHER. Personally, I would say no.

Senator BARTLETT. How do the rest of you feel on that?

Mr. DELORIA. No, I stand for the separation of power, Senator, and I feel this is a congressional committee and should be appointed by the Congress; the Congress should take full responsibility.

Senator BARTLETT. The question is whether it would be congressional and an executive as other studies have been. There have been commissions where the executive branch has appointed members and you see, one of the reasons for that is because any action that is going to come in the form of legislation is not going to be passed if it only has support from Congress.

Mr. DELORIA. I would compare this Commission to the Senate Indian Committee that investigates the conditions of Indians from 1928 to 1932, and that committee held hearings and then presented its recommendations, you see.

Senator BARTLETT. Well, this committee can hold hearings as it is right now, any time it wants and it continually holds hearings and has held hearings but it requires both.

The administration has introduced a series of bills over 2½ years ago, I think none of which are now law and this committee is beginning to report them out this year. Before this committee did not report very many out and one or so passed the Senate but did not become law, so it is important that there be some agreement between the two branches in order to have a law passed.

That is the reason. How do you feel, sir? The reason I am asking for a yes or no, we have got a rollcall in 4 minutes.

Mr. STEVENS. No for me.

Mr. VOU. No.

Mr. ADAMS. Well, I think that the administration, if they make an appointment, that does not insure executive support anyhow. I think one of the things that has to be done is a real examination of the quality of the existing program's administrative structures.

Senator BARTLETT. I am hurrying you up because I have got to go. Do you favor the executive branch having that right?

Mr. ADAMS. I am in favor of the Congress taking this in its hands and exercising a responsibility that perhaps has been deficient and—

Senator BARTLETT. You are then in favor of the executive branch not having the right of appointment?

Mr. ADAMS. All congressional appointees, no executive appointees.

Senator BARTLETT. Thank you.

Senator ABOUREZK. We will adjourn just temporarily for about 10 minutes until we vote.

[Recess.]

Senator METCALF [presiding]. Senator Abourezk will be right back. The subcommittee will be again in order.

Mr. Deloria, after the suspension for the vote as I understand it, Mrs. One Feather is through and so the ball is back in your park.

Mr. DELORIA. All right, Senator.

Our next witness will be Mr. Leo Vocu. Before we go on and before you run away again I would like to remind the Indian members here that you are the first Member of Congress to introduce a resolution on policy in 1956 when you came to the Indian Convention as a young Congressman. And, I think all of us that have been in the business for a while regard you as one of the leaders and this hearing is a culmination of part of your work, Senator.

So, before you go away we would like to recognize your work.

Senator METCALF. I am not going to get away, but I take even more pride as a freshman Congressman vehemently objecting to the passage of House Resolution 108 and Public Law 280.

Mr. DELORIA. We will have Mr. Vocu.

Senator METCALF. We are delighted to have you here.

Mr. VOCU. In talking with the executive committee before I left Pine Ridge they support the idea of the creation of this Commission and can see a lot of possibilities.

They did express a fear of it in 2 years' time bogging down with a lot of detail and expressed the thought that it may have to every 2 years extend its life as the Claims Commission has had to do.

Of course, therefore, the extension of the Claims Commission was because we have larger claims that are not necessarily settled yet.

We see the role of this Commission in doing a lot of good in the area of regulations and policies. And, I would like to give a small example here. In 1958 the Oglala Sioux Tribe created a land acquisition enterprise.

The purpose of this was to stop the individual Indian lands from going out from trust ownership. It was going out at that time at a very, very fast rate and the tribe could see that in a very few short years there would be no such thing as individually Indian owned lands. So, they created the enterprise and at the time declared a moratorium on land sales to non-Indians.

And, one of the things that they have run into, they asked FHA for a \$4 million loan to buy up the lands that were up for sale at that time. The tribe did get \$1.9 million and have since bought several thousand acres.

Now, the \$2.1 million of the loan is due and someone in FHA in reading the small regulations finds that you must have a mortgage, and our Tribal Council which, by the way, since 1935 has only been elected once—our people have consistently defeated any attempts to amend the constitution.

But our constitution says in no way can tribal lands be mortgaged. So, we see one of the roles of this Commission in checking those types of regulations or policies whichever the case may be.

Wednesday I had a chance to fly in a helicopter with Secretary Morton over the reservation. And, one of the areas that we were able to look at from the air was the eastern portion of our reservation, as he asked the question, whose farmland is that below us. And, there were thousands and thousands of acres of wheat land which is of course Bennett County.

I think one of the things that was mentioned earlier here—on the Colville we have somewhat the same situation where the reservation was set aside for our people and then the Allotment Act came and I believe the last of the allotments came in 1914.

Soon after that almost the whole county, or one of the richest farm counties, the only rich farm county on our reservation, which is Bennett County, was thrown open for settlement.

This is when the original confines of the reservation, the already shrunken land base, has shrunken more. And since then over half of Washiba County is now gone.

During World War I half of Washington County was taken for a gunnery range. I think the Commission could well look into these types of things even though they are now old and indeed in the past.

I would hope that the life of the Commission—not everything else dies on the vine or waits until the Commission comes to some conclusions.

There is on our reservation even yet, in spite of all the programs that we have got, about 55 percent unemployment. There are still many houses which are very, very substandard.

We still have an infant mortality rate which is ridiculous and I think we still rank about second to Indian reservations in suicides.

We have a very, very serious alcohol problem and I think some of these things need to be taken a good look at now and if the Commission comes up with a recommendation for the general reorganization of the type of the last 3 years of the reorganization, it seems to me only Indian people suffer from this.

I would hope and I think that Senator Abourezk knows my feeling; I have mentioned it, I think, at a hearing here as well as at Pine Ridge that there is a very, very real need for a very good comprehensive work program right now.

There is several hundred thousand dollars being spent on our reservation Indian programs, I have nothing against this. We need to keep the youth busy during the summer months, but I see 55 percent of our adults unemployed.

It just seems to me that the money could better have been spent on the adult than the youth. I do not know how it is going to look.

Some man came out from one of the—I think it is one of the accounting firms and in checking the programs he made the remark that where were all these minibikes coming from.

We are getting quite a population of minibikes; our youths there are saving their money but they are putting it all into minibikes.

We have got some pollution there that we never had before, a sound pollution. I just believe that for all the money that is being spent it

could very well be dealt with with adults that need it very much and certainly they would not spend it on minibikes.

I would hope that this type of legislation comes about soon. The thing that is needed, of course, that would solve over half of the problems on the reservation is employment and the only way we can do that is with programs or a very good program. And, the only way we can have those programs is with money and only Congress can come up with money.

With that, Senator, I will close.

Senator ABOUREZK [presiding]. Thank you very much, Leo.

Can I ask this? First of all I guess I had better make a short announcement. I have to leave here to catch an airplane within just a very few minutes and I am grateful to Senator Metcalf, who has agreed to continue the hearings after I have gone, as chairman, and who used to be chairman of this subcommittee.

Senator METCALF. Quite a few years ago.

Senator ABOUREZK. Well, he knows how to do it; I guess I do not have to remind him.

Senator METCALF. Before I got outranked.

Senator ABOUREZK. But, I do want to ask you a question before I leave. First of all I thank all of you very much for your appearance here and your comments and your advice, which this committee values very much.

Are you satisfied with the manner of selection of this Commission and the numbers on it, keeping in mind that it is a congressional study and one that we expect to have Indian participation in. It is not, in my opinion at least, an Indian study by Indians necessarily but it has to have full Indian participation because you cannot go ask non-Indians, white people, what the Indian problem is, you have to ask the Indians.

But, keep in mind that this is a congressional study, the objectives that we try to outline: Are you satisfied, and if not, what are your recommendations to change the selection of Commission members?

Mr. DELORIA. Senator, I would just eliminate all the categories you have there and leave it to the wisdom of the congressional members chosen as to how they are going to pick the Indian members. I do not think you should have two reservation and one tribal member; I think what you are going to look for is people who have put in a lifetime of work with tribes or with their communities.

I think too often Indian programs have been sabotaged in the past because we ourselves have insisted that certain categories of representation be present and consequently the concern becomes more of who represents Indians than whether they know what they are talking about.

Senator ABOUREZK. I think that is a good point. In my effort to try to balance this thing so much I think I have overlooked that and I think that is an excellent suggestion.

Mr. DELORIA. I have a theoretical suggestion to make also, one that probably a lot of Indians will not agree with. I would recommend a non-Indian executive director for a number of reasons.

First, if an Indian is chosen to fill that slot, you are going to consume 6 months of the committee's time with Indian politics necessary to choose a person to do it.

Second, as the Commission starts issuing its reports, Indians will be afraid to criticize the Commission's report for fear of discrediting the Indian Director.

Third, I think that you are going to have to have a person eminently familiar with Congress because in a sense what you are examining is how congressional policies that have been put into effect have been thwarted by the administrative arm of Government or have been suggested and never received adequate support.

Consequently, I think that the major emphasis in the reports should be that this is Congress assuming their plenary responsibilities for Indians and I recommend to the committee a non-Indian staff on this, because if you—

Senator ABOUREZK. You mean non-Indian staff director.

Mr. DELORIA. But then if you come up with something we do not like then we will feel free to come into Washington and make our wishes known.

Senator ABOUREZK. That is an interesting viewpoint and one that has a lot of merit. Knowing something of Indian politics myself, I have always thought that the tribal politics ought to be a training ground for presidential candidates and I think you may have an excellent point there.

Senator METCALF. Anybody that can survive a tribal election of the Blackfeet or up around the Fort Peck Reservation or down around the Flathead could survive a Democratic National Convention.

Senator ABOUREZK. I think so.

Mr. STEVENS. I would like to briefly comment and say the number of Indians represented on this board or this Commission I feel—I am concerned about easterners mainly because I am from the East and as you can see the makeup of this Commission, this panel here, there is only one Indian, I mean only one eastern Indian on it and I feel that there should be more eastern Indians because there are say 30 percent of the Indian populations are in the East and I think equal representation should be had. I think one is not sufficient, or one-half might be. This is the only thing I have to question.

Senator ABOUREZK. I think that what that reflects, John, is the makeup of the subcommittee staff when they select the witnesses; they are all western staff members.

Senator METCALF. May I comment for just a minute?

We are genuinely concerned about the fact that we have not expanded a lot of our services to nonreservation Indians and those of us who come from reservation States—and now I wish Senator Bartlett was here because he comes from a nonreservation State—many of us who come from reservation States are just as concerned as you are and I do not know whether our concern would be reflected by the kind of people on the board but one of the major things that we have to look into under this Commission, it would seem to me, is how we can expand our services to which all Indians are entitled away from this reservation locked in concept.

Mr. STEVENS. I do not represent the nonreservation, I represent Indians who are living on reservations and they are in the eastern part of the United States. But, there are Indians who are nonland based and also living in this area and I think this is what I wanted to say, that another member should be on here who represents them.

Senator METCALF. Thank you.

Mr. ADAMS. I would not want to see the Commission locked in legislatively to a non-Indian staff director although I do think you should consider applications.

Senator METCALF. Could we just leave it open?

Mr. ADAMS. Yes, rather than put a provision in the bill, and other than that I would hope that would not carry the same philosophy to the appointment of the new Commissioner.

Mr. DELORIA. I do not know what would be the best way to expedite the rest of it in view of your plane?

Senator ABOUREZK. Well, do not expedite, please continue after I am gone because we want it for the record and Senator Metcalf will be here to egg you on, I guess.

Mr. DELORIA. I would like to give testimony now, then to make certain recommendations to you.

Senator ABOUREZK. Please do.

Mr. DELORIA. One of the things that I would like to see written into the bill is provisions for the Commission to consult with other congressional committees other than Interior on matters before the committee, specifically the Senate Foreign Relations Committee in regard to interpretation of Indian treaties, the Senate Judiciary Committee in regard to problems of the jurisdiction, and the Ways and Means Committee and the House and Senate Finance Committee in regard to the problems of Indian taxation.

I think if some arrangements can be made in this resolution we can consult with those committees and when we reach a clarified position with respect to what Indian rights in these areas are that these committees can take some action.

Senator ABOUREZK. If I might respond to that, I am sure that the Commission will no doubt consult with all of those committees and hopefully more.

And, if I might give you my vision of what this Commission is going to be and what it is going to do, it is that it will have a very small staff, a skeleton staff, but that it will hire as consultants the best people that we can find in these United States, whether Indian or white, who really can study the area of the Indian affairs and the Indian policy and then come up with legislative recommendations to the best of their ability.

And we envision—for the most part a consultant study and we would go to law schools and lawyers who are expert in the area of analyzing treaties for example. We would go to people who are housing experts and so on and so on until we have drawn in each area that the Indians are concerned with.

And, those experts should not only draw from their own knowledge but they would have to draw upon the experiences and the knowledge of the Indian people themselves who are affected with the government policy.

It has to be that way or otherwise the Commission will not work.

Mr. DELORIA. The second recommendation I would like to make is in regard to the subsections, duties of the Commission, that a new subsection be added dealing specifically with investigation and compilation of the history of the relationship between the Indian tribes and the Federal Government in the field of claims.

This would encompass all of the claims of the last century. It would analyze the theories of law contained in the Indian Depredation Act under which our tribes were held liable for monetary damages for their injuries caused to citizens of the United States.

At the present time and in past Congresses there have been pieces of legislation dealing with the depredation to the United States at the Sand Creek, Wounded Knee, and most recently the Fort Sill Apache.

The whole area of Indian claims on this particular field should be examined by the Commission.

At the present time under subsection 5, Indian Claims Commission, a tribe can theoretically sue for any cause of legal or equitable course of action or any claim not presently recognized in law or equity. And, I would maintain that these depredations committed by the United States during the Indian wars should come under subsection 5.

The Fort Sill Apaches have a case in the Court of Claims on appeal and this subsection was narrowed so that their claim was not recognized.

I think a lot of the activism around the country stems from the fact that there is a feeling of betrayal by Indian people, that these particular massacres and this particular treatment never received any acknowledgement by the United States.

Senator METCALF. Do these have to have a special section? Do you have the Commission's jurisdiction to look into that?

Mr. DELORIA. I do not see any reference to the Court of Claims or the Claims Commission here, Senator.

I also point out the Wichita Tribe has frequently had legislation and they were denied entrance into the Indian Claims Commission, on the jurisdictional question, I think you should look at the administrative practices of the Interior Department in view of the expanding number of accounting claims that tribes have filed up to 1946 and the present liability of the United States in terms of maladministration of tribal funds and resources so that the accounting claim, the Commission should take a special look at this and I think that would help to clarify a lot of Federal policy problems.

Senator ABOUREZK. I think the Senator from Montana has an all-inclusive clause that he might want to just enunciate now.

Senator METCALF. I was just talking to Mr. Gerard that it should be clear that such a Commission would have jurisdiction to look into the whole spectrum of Indian legislation, Indian policy, and Indian programs and if it will not specifically provide it in the statute it will be part of the report to be sure that we do give those because all this is so interrelated, as you know even better than I, that a half job is not worth setting up a Commission.

Senator ABOUREZK. I think I will instruct the staff at this point to develop the language, just an all-inclusive clause that will not limit but that will study the entire spectrum of Indian policy without exclusion of any one thing and these items enumerated are not exclusionary.

Mr. DELORIA. I would feel comfortable with that, Senator, in view of the way the courts have handled subsection 5 in the Claims Commission Act, which is to narrow its scope.

The next thing I would like to comment on is the particular emphasis on land reform responsibilities of the United States. I think

Wendell George brought it up initially in his discussion with Senator Metcalf on the fact that tribes can only get money back instead of lands.

And, I think the concern here, Senator, is during the 1930's with the Indian Reorganization Act there was a substantial amount of sub-marsh land purchased and this was to go back to tribes.

There are some Federal lands directly adjoining the reservations that I do not think anybody wants to move the people out of Seattle or Billings or most of the big cities you cannot live in anyway. I do not know why any Indians would want the cities back.

Senator METCALF. Mr. Deloria, I have consistently had a series of bills and had hearings before this committee trying to get the return of that land that is being held in trust and was purchased for the Indians under I think trust relationships.

We have some Fort Peck land and we have several bodies of land in my State and as far as I know the only land we have returned, except for small parcels, is under Chairman Haley's vigorous two bills last year, and Chairman Haley returned the land for Florida and the rest of the time we failed.

But, I see nothing in this bill that would prevent a study of a recommendation by the Commission for the return of those lands.

Mr. DELORIA. Senator, I think if you study the question you will find that the Interior Department already has the authority to return some of these lands and I think it is very demeaning to Congress that they keep presenting you people with bills to restore 10 acres of school land and 5 acres of this; this is what I am asking you to investigate.

Senator METCALF. Did we not have a study on that and have them make a report. I am in complete accord with you and there has to be some clarification of the Interior's authority or ours.

Senator ABOUREZK. I would like to break in at this point; I have to leave now but I hope you keep bringing these points up because it is entirely possible that we will not, or the Commission itself will not, or one of the staff will not think of it at the time. So, we are happy to have these on the record and I hope you will continue to do so.

Once again, I would like to thank you for appearing today and I want to excuse myself and turn the chair over to Senator Metcalf.

Senator METCALF [presiding]. Go ahead, Mr. Deloria.

Mr. DELORIA. The final thing I would like to recommend to the Commission is to take a special look at is the possibility of setting up separate Federal courts to litigate matters pertaining to Indian tribes with respect to the treaties and self-government.

This idea was originally proposed in 1934 and is title 4 of the Indian Reorganization Act. At the present time I think Hank Adams estimated something like—I do not know—he can give the figures—a substantial portion of travel incomes devoted to continual litigation of taxation problems, or problems of hunting and fishing, problems of treaty interpretation. And, it just goes on and on and on.

And, I think that in addition to studying the constitutional rights of Indian tribes, the rights under treaties and statutes, the Commission should explore the feasibility of setting up the special Federal court where Indian questions can be litigated.

In the Indian Claims Commission Act the Claims Commission itself is given powers of investigation so, those cases were not supposed to

drag for 20 years; they were supposed to employ a staff of people to find out what the conditions were when the claims arose and the work could have been covered in a much shorter time than it has been, but there have been no efforts by the Indian Claims Commission to develop a staff to investigate the nature of those cases and push them to some type of a conclusion.

So, I think we have a special court of Indian affairs where the work of the Commission, the policies and determinations that you finally come up with in this study, this can be made a part of the current record of the relationship of tribes with the Federal Government.

So, we do not have to litigate the question of hunting and fishing rights on the reservations or immediately adjacent; you do not have to continually investigate the rights of tribes to tax their own members to be exempt from State taxation.

And, I think we can clarify an awful lot of things for the future if in addition to studying all of the relationships and responsibilities of the United States the Commission goes one step further and tries to find out how to eliminate a lot of the problems that we have suffered in the past by creating special additional institutions in the legal field where these questions can be automatically handled and we will not have great time delays and we will not have continual litigation on the points.

Senator METCALF. Now, this subject matter was the reason that I raised the question: Do we wait? In the State of Montana, for example, and you are familiar with the line of cases or with the case that went to the U.S. Supreme Court, Indians are substantially deprived of civil rights. They do not have a court for any civil jurisdiction. In some of the places, in the State of Montana, Indians have ceded to the State district court jurisdiction over juveniles and some of the criminal jurisdiction and the supreme court in the State of Montana says you cannot do that and that has been stated by the Federal Government.

I do not believe that some of those Indians, especially those juveniles, can wait 2 years. I have assigned a member of my staff to go out and make inquiries and try to make some suggestions and I hope that before this year is out I will have not a solution but at least a proposal that will raise the question on that.

So, it is a serious question. But, I would like to have it resolved before this Commission comes in with its review.

Mr. DELORIA. I would be glad to draft up something to present to the committee.

I would like to turn now to Governor Stevens if there are no more questions of me.

Senator METCALF. Senator Bartlett.

Senator BARTLETT. I noted on this analogy of Indian issues that Mr. George presented that some of the various acts were labeled as advantageous, questionable, and unfavorable.

And, our distinguished chairman of this subcommittee the other night introduced Senator Ervin and received an award from the National Congress of American Indians for his part in the Civil Rights Act of 1963.

And, I notice that that is shown on here as unfavorable. I just wondered why.

Mr. GEORGE. Well, it is not meant to be unfavorable, totally, I mean. In my other copy here I have it shaded, so, it is partially favorable and partially unfavorable. The unfavorable part of it is merely the fact that we have a dual citizenship problem and unless it is clearly defined what the role of the tribal government is versus the role of the Federal Government, you are just going to run into conflict of authority and I do not know that the bill itself is so much at fault as the implementation of the bill. That is really the only point.

Senator BARTLETT. What correction would you suggest?

Mr. GEORGE. Well, I think this Commission is ideal to start solving that problem, is to get the Indian people together and start thinking the problems out and start working. This is the right direction, there is no doubt about it.

Senator BARTLETT. How do you gentlemen feel about how the Indian members of this Commission should be appointed?

Mr. GEORGE. I feel that Congress should maintain the authority to appoint members to this Commission. I think the basic problems started with Congress with the treaties and Executive orders that it either created or had to ratify, and the very nature of the Commission is to go back and see what was intended with those agreements.

So, I don't feel that the administration really has any business in the middle of this Commission.

Senator METCALF. Congress, you know, isn't very well equipped, with 100 Senators and 435 Members of the House of Representatives, to make appointments. We sort of have as many varying ideas as the Indian community has on some of these appointments.

However, we can say that the Speaker shall, with the concurrence of the majority leader, or something like that, make that appointment, and I would think that we could have recommendations from the various Members of Congress.

We really aren't equipped, that is Congress isn't. We just don't have the directional authority to do that.

Senator BARTLETT. What I was getting at, the thrust of my question was not that the executive branch should appoint the Indian membership of the Commission, but whether or not some Indian groups, or some other—there should be some Indian input there that would be separate from either branch.

Mr. GEORGE. You mean elected tribal people?

Senator BARTLETT. Not necessary existing tribal leaders, but perhaps elections for membership, some way where the selection would be by Indians, rather than through the Members of Congress, or others.

Mr. GEORGE. I think ultimately, if you were to have a formalized mechanism for providing Indian input, you would want it through some sort of elective or—getting a good cross section of the Indian people.

Senator BARTLETT. This is the thrust of my question, how would you suggest, or what groups, in what way would the elections be held?

Mr. GEORGE. As I am sure you are aware, we have a proliferation of Indian organizations right now. I don't know that you would be able to, in a very short period, get agreement between all of the organizations.

Senator BARTLETT. We may not pass this in a very short period, either.

Mr. GEORGE. I agree that there should be Indian input, and that people on the Commission, Indian people, should be generally accepted by the Indian community, but I don't think you are going to get 100-percent acceptance. Just so it is the majority.

Senator BARTLETT. I am still getting at the point of whether the Indian membership should be selected by Indians rather than Members of Congress or by anybody else, if possible.

Mr. GEORGE. The reason I didn't feel it was a bad approach to let Congress select it is because by its very nature we have an appeal channel through Congress. We have a very good working relationship with Representative Meades, with Senator Abourezk, and with both of you gentlemen. We feel more comfortable working with you than we have in the past with the administration.

Senator BARTLETT. The question I am really getting at is whether it would be from Members of Congress, from the leadership of Congress, which it would be, or from Indian groups.

Mr. GEORGE. I don't think there is anything in this bill that keeps you from going to the Indian people and asking for a candidate.

Senator BARTLETT. I am asking you whether you would rather see the selection come from the Indians—in other words, whether the selectees would somehow be from Indians, or from Congress.

Mr. GEORGE. The only thing that I see with having the Indians totally responsible for selecting its five people is that it would become a popularity contest, which a lot of times, as in any election, is not based on ability, but based on popular politicians.

Senator BARTLETT. In that case would you say that you think half of the Indians would be advisable to have selected from the Indians themselves, one, five?

Mr. GEORGE. I think the mechanism for the Indian community, would be for the Indian community to come up with a list of qualified candidates, that they thought was qualified—it might be more than five, it could be 10 or 20, or some number like that, and leave the ultimate decision to the Congress to choose who they think is qualified.

Senator BARTLETT. Do you mean by that that the Congress would then have to confine themselves to that list?

Mr. GEORGE. Well, if they could. If they found out they couldn't then this would have to be adjusted.

Senator BARTLETT. Just to comment on that point, I know when I was Governor—we have had another Governor since then in Oklahoma that had quite a bit of difficulty with this business of appointing from a list, because then the person that is making the appointment doesn't really make the appointment, but I am talking about the advisability, whether you think it is advisable that there be some Indian selection of Indian membership, and how much? Certainly I feel that if it is a progression of selection, I would invite, as I already have, suggestions from Indians. I would certainly appreciate this from each of you.

I think that if the congressional leadership is charged with the responsibility, they should be perfectly free to make that choice, the same way that I would say that if there were some way for Indians to make that choice, that should not be from a list submitted by Congress. They should be completely free, with their responsibility going with that selection.

Mr. GEORGE. Yes, that would be a compromise. Ideally, I would be for selecting all of the Indian members by the Indian community. However, I just feel it would be cumbersome at this point. I think as we progress that could happen. For an organization providing the Indian input for a policymaking body, I would like to suggest that we try on maybe at least one member.

Senator BARTLETT. Do any of the rest of you have any thoughts on this subject?

Mr. ADAMS. Senator, I think when you get to a question of what Indians are going to appoint members, you just find yourself faced with a multitude of problems, and even if you designate a particular organization, like the National Tribal Chairmen's Association, you have in the last year on administrative appointments found the executive board of the National Tribal Chairmen's Association at odds with a lot of the other tribal chairmen on the executive board.

So, even going into these organizations to designate that they would select a person just creates a difference and dispute in the organizations without really getting anyone who the organizations agree on.

The National Tribal Chairmen's Association is probably the best example, but the same situation exists in NCAI. The unanimity of selection is seldom there, unless it is, you know, like the president of NTCA, or something like that, if it is defined that closely. Then it is no selection at all, anyhow.

So, I would suggest the 10 Members, congressional Members on the committee, just receive advice and suggestions and nominations, but make their decisions and selections themselves.

Senator BARTLETT. Thank you.

I might comment, I had a rollcall and I had to leave in a hurry. However, I was the last vote, so I barely made it.

This is a Senate joint resolution which requires the President to sign it if it is going to become law and be implemented, and so this can be a completely legislative effort, as you would want it, but I think, without involving the Executive in it, in the input of it, where he might have some choices to make, I think it is sort of human nature that there might not be the interest in the bill, or in the resolution, joint resolution, that there would otherwise be, just for your information.

Senator METCALF. Thank you very much, Senator Bartlett.

Mr. Deloria.

Mr. DELORIA. Chairman Metcalf, I would like to present Governor John Stevens now.

Mr. STEVENS. Thank you very much.

I have submitted my brief statement, and I would just point out some of the highlights in my statement.

Mainly, discrimination against eastern Indians in legislation, and also in policy of the Federal Government.

I feel that the Federal Government has denied use of different services without probable cause.

I feel also that policy that the Federal Government has introduced, such as Indian Health Services—that legislation spells out they are supposed to deal with all Indians, and yet we have tried to get the

services in these communities, but they keep telling us we are not federally recognized.

But we could also look into the records and law, and Congress has no law or bill that has been introduced determining these terminations of these tribes.

They have also neglected to provide educational funds for these communities, such as Johnson-O'Malley.

I feel these funds are meant for all Indians. I feel that the Federal Government has discriminated in job opportunities for Indians.

I feel also that at the land that the tribes own in the Northwest has dwindled to a point that most of them don't have any land at all. At one time we owned millions of acres of land, and now a lot of tribes have 2 to 4 acres of land existing on their reservations, and these are the questions that I hope that this Commission will address itself to, and I hope—I am in agreement with this resolution, and I hope that at least one eastern Indian will be represented on this Commission.

That is all I have to say, sir.

Senator METCALF. Thank you very much, Mr. Stevens.

[The prepared statement of Mr. Stevens follows:]

PREPARED STATEMENT OF JOHN STEVENS, COMMISSIONER OF INDIAN AFFAIRS

My name is John Stevens. I am a member of the Passamaquoddy Tribe and commissioner of Indian affairs for the State of Maine. Before being appointed to my present position, I was governor of the Indian Township Passamaquoddy Reservation for 18 years. I have lived with and known the problems of Eastern Indians all my life.

If the proposed commission does its job properly, it will find that eastern Indians suffer the most brutal discrimination of any Indians in the United States. If the commission does its job properly it will have to answer some difficult questions. Why, for example, do eastern Indians who constitute 30% of all the Indians in the United States, own less than 2% of the Indian land in the country. Why are eastern Indians subject to State taxation and State hunting and fishing laws while western Indians are not. Why are eastern Indians who suffer the same hardships as other Indians denied access to the Federal Indian services which are designed to lessen those hardships.

If the commission looks into these questions, it will find a history of excuses and broken promises. It will find that eastern Indians lost their land because the Executive Branch of Government stood by while the States committed wholesale violation of the laws which Congress passed to protect all Indian lands. It will find that the Executive Branch has also turned its back while State government taxed eastern Indians and stole their hunting and fishing rights. And the commission will find that the Executive Branch, like a thief who commits murder to cover his original crime, denied eastern Indians Federal Indian services as a way of justifying its earlier failures.

The executive branch has been waiting for a long time for eastern Indians to disappear. The forced death marches, which are now known as the "trial of tears" are only one part of the story. Today, the Government pretends that we are gone by denying us what it calls "Federal recognition." If this Commission does its job properly, it will find that the Government recognized eastern Indians long ago and that eastern Indians are already eligible for full Federal protection and support. My own tribe was recognized nearly 200 years ago, and we are still waiting for the Federal Government to fulfill the promises which it made us during the Revolutionary War. Hopefully if this Commission is successful, we will not have to wait another 200 years.

Senator METCALF. Mr. Deloria.

Mr. DELORIA. Mr. Chairman, the next witness will be Mr. Kenneth Smith, general manager of the Warm Springs Tribe in Oregon.

At this time, Mr. Chairman, if I could, I have got to catch a plane to Denver, if I could be excused, and let Mr. Smith carry on as chairman of the panel.

Senator METCALF. Well, before you leave, then—I am not going to keep you very long—I want to compliment you very much for putting together a splendid panel of somewhat, sometimes diverse interests, and yet a representative group, and with the usual tact that you have shown you have brought in a most persuasive argument for this legislation.

Thank you very much for your efforts, and thank you for helping us in working out our problems of the future.

Mr. DELORIA. Thank you, Senator. I hope we can get this resolution enacted into law as soon as possible.

Senator METCALF. And get the Commission appointed by whatever way we can get it appointed, and get a little appropriation to put it underway.

Thank you very much, Mr. Deloria.

Mr. Smith, you are the new moderator and master of ceremonies. You are also recognized.

Mr. SMITH. Thank you, Senator Metcalf.

Senator Metcalf and Senator Bartlett. I appreciate the opportunity to participate in the panel discussing Senate Joint Resolution 133, which would establish the American Indian Policy Review Commission.

Although I have not studied the resolution in detail, it looks like a definite step in the right direction of improving Federal policies and programs of benefit to Indian people.

I know the past has been very frustrating to Indian people, but believe it or not there have been some successful policies and programs.

I would like to just mention some of the accomplishments of the Warm Springs Reservation of Oregon, which I am sure any other reservation could accomplish if given the finances and the right structural organization.

The Warm Springs Reservation was created by the treaty of 1885. It is composed of about 638,000 acres, and approximately 355,000 acres of this is in timberland, so we are very fortunate to have a major resource. There is about 19,000 acres in dry farming pasture, and about 1,300 acres under irrigation, and of course the men use grange lands, and the tribe owns approximately 88 percent of the land on the reservation, and I suppose the reason would be because no one wanted in the—in the 1930's no one wanted the sagebrush and rock and timberland, and this is why we have very little farmland, this is the reason why we are not fractionated as some of the other reservations, plus we have had a very progressive land purchases program in the last 10 to 15 years of repurchasing some of the allotments back in feedback in property.

On our reservation we have an enrollment of about 2,030 members that belong to the tribe. We have approximately a potential work force of about—a little over 500 people, I think it is about 525 now.

I think there were three key events that I might mention that I think protected our progress.

First of all, I think the first one came as the Indian Reorganization Act, which is the type of organization we have in running a business.

Number two would be retaining capital rather than distributing it in dividends, and of course the third one would be to having a comprehensive study just like we are doing here of our natural resources and health or human resources, just like our library organization.

And of course we were organized under the 1934 act, which is a very good act, and this enabled us to handle our own affairs and our own business.

At the top of our organization we are composed of a tribal council. Below the tribal council they have hired a general manager, which is the position I hold at the time being, and under me we have the various departments as in a municipality. We are no different than any county. We have our own law and order system, our education programs, our welfare programs, health programs, and in the middle we have our administrative organization, the housekeeping organization, our data processing, accounting, budgeting, and so forth. And on the right side we have various enterprises that we have went into.

So, we would like to think that we have made a little buffer between our political and running our business, and I might say, let's face it, that I don't think any tribal council can politically run a business, and we have got to have a separation, and we feel that we are successful in running it this way.

The other item is that we are retaining capital. In 1958 we lost our fishing sites along the Columbia River, and of course this isn't losing the rights, but we lost the sites, and we realized about \$4 million at that time. This, I might say, is unjust compensation.

Of course, the tribe realized they would never recover the value of the salmon caught which was used for food and sold commercially, so we held a series of meetings and just like any other tribe then the council had great pressures of course to distribute the money, but the council was very strong and the leadership at that time said, "No, we are going to put three-fourths of that money in the bank and distribute one-fourth," and I think this was a very wise decision because we were able at a latter date to invest in our reservation, toward our housing programs, our education programs, industrial, legal, and so forth.

So, that decision has paid off.

Of course, the third key event was acquiring basic information, I think, just like this committee is going to do. You have got to know something about your reservation, something about your natural resources, what you can develop, something about your people, what they are lacking, their needs and so forth.

So, with these three things, I think the Warm Springs Reservation has progressed through the last 15 or 20 years, we have made progress in education. I think at the start we initiated our own scholarship program in 1955. Before then there was no Federal program, we had no other money available.

Again, the tribe itself initiated it, and our housing program. The tribe again initiated by investing \$1 million dollars in 1966 to build homes, because there was no Federal money, or you had to go through gads and gads of redtape to get it.

But recently we were fortunate to be doing business with HUD, so hopefully in a few more years we might have some of our housing problems solved.

Of course, with the development of the timber industry, the recreation, and community, the tribe has created multiple job opportunities as well as business opportunities for members of the tribe, and I think this was a key thing in our development; in a short period of time we increased our payroll from a few thousand dollars to approximately \$3.2 million in 1971, and in 1972 it increased to \$4.8 million, and will exceed \$5 million in 1973.

Presently we have approximately 750 employees in our low months, and presently we have about 955 employees at the end of June.

So, you can see it is a very large organization.

The first large enterprise we developed was in operation in 1935. We purchased an allotment at that time for \$3,500, and in 1961 the tribe purchased it back for \$160,000. You can see it was quite a profit. And in 1963 the membership voted to invest \$750,000 of their own money into building Kaneda Village complex, which is a resort, and we opened in 1964 and we have been very successful since, financially.

Presently, we have approximately \$1 million invested in the village. In 1965 we started planning for the second phase, and after 5 years of planning and 1½ years of construction, we finally opened that up on June 30, 1972, and this is composed of a large—90 rooms, two restaurants, convention facilities, golf course, and so forth.

The basic financing of this package came from EDA, the Economic Development Administration, and they financed basically the total, although the tribe did participate in the construction costs, and participated in the working capital and the startup costs which amounted to about \$750,000 in this project.

Also, in 1967 the tribe purchased a lumber company at Warm Springs, and this whole package cost us \$3.9 million, and we financed this whole total package 100 percent with First National Bank. At the time we did not put a cent in it. The negotiations were such that we were going to build the sawmill, but there was a mill on the reservation and of course we forced the price down and negotiated to where it was feasible to buy the old plant and remodel it.

So, in 1967, after we purchased it, we ran through a good year, then we had a bad year, we lost a little money, but all of a sudden the market came up, which we expected, and in 1972 we have paid off the total debt of the money we borrowed, scot-free, and also gave the tribe a half a million dollars on their dividend.

And then just looking at this year's operation, we are in another good market; the mill has so far made a little over \$4 million in 6 months, and this is besides the stumpage that our mill is paying. We try and keep this as a separate operation.

So, you can see it was a very successful venture.

We have other ventures on the reservation. We are getting into—we have an assembly plant that we started on our own, and so forth.

So, as you can see, we have got 950 jobs, and we have got 500 people to fill them, so what we can say now in Warm Springs is that anybody that wants a job has got a job, if he wants to work; and we have other programs, such as our credit operation; we have pension programs, summer programs, and so forth, so you can see, we operate as a pretty well diversified operation, and we feel that the tribal corporation is carrying out their obligation and efforts.

First of all, we are providing unemployment and business opportunities on the reservation, a means for members to obtain training and education, and also a means for members to obtain a home, and I think the rest is sort of up to our members in what they want to do with that.

So, I think this committee will agree that the Warm Springs people are moving ahead basically because of their own initiative.

Looking at the other side of the fence, we still have many serious concerns.

Basically, the Government should be carrying out its trust responsibility in a more responsible and effective way. The Bureau of Indian Affairs has been very short in funding the resource side of their budget. I feel this is their main responsibility—the protection and maintenance of the physical resources of the reservations.

For example, they are just now starting to provide funds for the protection of our water rights. They should have done this many years ago.

My major and immediate concern is the leadership and organization of BIA. I know there are a lot of good and dedicated employees in BIA, but without proper direction they cannot possibly carry out the responsibilities that are placed upon them. I hope the administration will make some decisions and get on with the operation, rather than delaying the decision.

The other concern about the resolution that I have, and it is a study at this time, and I hope it isn't a study that is going to be stuffed away on the shelves and draw dust, and I am just hoping with this level type of committee that it will do some good, and be carried out rather than just being stuck away as another study, because I think the Indians are a little tired of all kinds of studies being made and nothing is being done.

I would like to commend your committee for your interest and concern with the problems of the Indian people. I believe the American Indian Policy Commission, if established as a result of your initiative, would be a major step in bringing new and helpful direction to Indian programs.

Thank you.

Senator METCALF. Senator Bartlett.

Senator BARTLETT. Mr. Smith, I was very impressed with your comments about the accomplishments on the Warm Springs Reservation. I think this could very well serve as a challenge, not only to various Indian groups, but to various other Americans.

What is the breakdown of the Indian employment between the lumber mill and other businesses? Do you have any kind of a quick breakdown?

Mr. SMITH. Yes; the Kaneda Lodge is running about 40 percent Indian, and the way we rate this, we have "Indian," "Other Indians," from other reservations, and married into, and we are running about 40 percent with those three items.

In our forest industry we are running about 31 percent, and the first impression, like people say, is: Why aren't you running more?

Senator BARTLETT. Which was that?

Mr. SMITH. The lumber mill, we are running 31 percent.

In 1967, before we took it over, we were only running about 2 to 5 percent. Today we are running 31 percent.

In the rest of our operations we are running about 85 percent, so overall we are running about 50 percent.

Senator BARTLETT. I assume on the lumber operation, in addition to the Federal market, you have also expanded it?

Mr. SMITH. Right. We are in the plywood business and we are expanding as we go along, and of course we are cutting our timber on a sustained yield basis, so we are limited in the number of logs that go into our mill.

Senator BARTLETT. Are you processing the cuttings or doing anything at all with the chips?

Mr. SMITH. Yes, we are selling the chips to another mill that is processing.

Senator BARTLETT. Are you engaged in the reforestation?

Mr. SMITH. Yes, and this was an item I think Wendell commented upon that we have been all working on, that the Government and the BIA, that they weren't putting enough money back into the forestry that we were taking out, and it is just recently that they were able to use the 10 percent to put back into the forests, and I am sure that if the Government hadn't come through that again the tribe would have had to take the initiative and say let's put 5 or 10 percent of our money back in so we will have a forest 40 years down the line.

Senator BARTLETT. The lodge business is very competitive in most areas, and you have had only 1 year to operate, but how would you fare in that?

Mr. SMITH. The lodge, we have got two phases, and under those two phases, probably three or four. Right at the moment the lodge itself, naturally, lost money the first year, and this has been indicated. The second year it will lose a little bit less, and hopefully by the third year we will start to break even.

But we know for sure that we need more additional units, which means we need more money to build additional units to make it economical as a project, at least to get an investment back from the project.

Senator BARTLETT. What have you found from your accomplishments in more jobs and better jobs, the percentages of your Indian people and other Indians? In other words, has there been an increase in the average number who have finished the eighth grade, finished the 12th grade, finished 2 years of college?

Mr. SMITH. I think so. I think with the better economy, with the better jobs and more pay, with most of the people working, they have better homes, a chance of a better life, and vice versa, I think they complete more of their schooling, and of course we still have problems with dropouts, but that percentage has been declining through the years.

Senator BARTLETT. Have you found that in the various enterprises, the businesses of manufacturing and lumbering, that the most important ingredient is management?

Mr. SMITH. Yes, it is, very definitely, and this is why we are a little bit different. I would like to say we go out and hire the guy that can do the job—that is qualified. In the lumber mill, we have a

nonmember running it. In our lodge complex we have a nonmember running it, because at this time we don't have anybody qualified to run those types of operations.

Senator BARTLETT. Is it part of your program that if you have a nonmember, I assume who are a white man or woman, do you try in time to replace him or her with a member?

Mr. SMITH. Yes, we are trying to encourage our younger people, and we have been trying to initiate some management programs, and you know, the Federal programs, there seems to be all kinds of programs to train an Indian to be a carpenter or mechanic, but there are no programs as such where you can train an Indian to be a manager.

Senator BARTLETT. Are you able to use that advantageously, some EDA programs, in addition to the one you mentioned, not the lodge, but with an industrial site development or sewer systems, or water systems?

Mr. SMITH. No; right at the moment we are using Public Health money for our utility operations, and our only loan with FDA was the money we used at the Kaneda complex.

Senator BARTLETT. Mr. Chairman, thank you.

Senator METCALF. Thank you very much for your explanation. I think you have made a contribution to the witness who also made a significant contribution.

I will suggest that I will quote you many, many times as we go forward into distribution of Indian judgments and so forth, because it has been long my thesis that sometimes the distribution per capita payments destroys the opportunity for such organizations as you have had. So, I am going to continue to watch and take an interest in the activities of your reservation, and I certainly applaud it, the whole Indian community down there.

Now, you are off the air as a participant, and back on as the master of ceremonies and Mr. Interlocutor.

Mr. SMITH. Right. I wasn't introduced to everybody here, but I think to my far right and to your far left I think we have Mr. Hank Adams who is the National Director of the Survival of American Indians Associations, Nisqually, Wash.

Hank.

Senator METCALF. We are delighted to have you with us.

Mr. ADAMS. Thank you, Senator.

I would like to submit to the record a discussion draft which we submitted to various Members of Congress earlier this year, in relationship to some of the issues being raised in the context of the Bureau of Indian Affairs' building takeover last November, and the issues raised at Wounded Knee, and this is a joint resolution to establish a national commission on Indian rights and treaties, and we discussed it with a number of Members of Congress, and it is in many respects similar to the commission proposal here in the resolution.

Senator METCALF. Do you want it introduced at this point in preference to your remarks?

Mr. ADAMS. Yes.

Senator METCALF. It will be incorporated as part of the record at this point.

[The joint resolution referred to follows:]

[93d Cong., 1st sess.]

JOINT RESOLUTION To establish a National Commission on Indian Rights and Treaties

Whereas the American Indian Tribes have certain rights and obligations under treaties entered into with and other laws of United States;

Whereas it has become a matter of national concern whether rights and obligations under these treaties and other laws are adequately protected and enforced by legal processes;

Whereas it is desirable to establish a commission to review the scope, adequacy, currency and enforceability of existing Indian treaties and other Federal, State, and local laws relating to the rights and obligations of Indian people;

Whereas it is desirable for a commission to make recommendations as it deems appropriate for remedial action by the President, the Congress, the States and the Indian Tribes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(a) There is hereby established a National Commission on Indian Rights and Treaties (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of nine members who are specially qualified to serve on the commission by virtue of their education, training or experience. At least six members of the Commission shall be of American Indian ancestry. The Indian members of the Commission shall include the Chairman of the Navajo Tribal Council, the Executive Director of the National Congress of American Indians, the Chairman of the National Tribal Chairman's Association, and the President for the Institute of Development of Indian Law. All other members of the Commission shall be subject to confirmation by the Senate Interior Committee.

(c) Any vacancy in the Commission shall not affect its powers.

(d) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(e) Five members of the Commission shall constitute a quorum.

DUTIES OF THE COMMISSION

SEC. 2 (a) The Commission shall conduct a comprehensive study and investigation of all treaties between the United States and the American Indian Tribes and other laws affecting the rights and obligations of Indian people. The study and investigation shall include, but not be limited to, the following:

(1) an evaluation of how the administration of treaties and other laws has affected land ownership of the Indian people, the development and conservation of their natural resources, and their opportunities for advancement in health, housing, education, employment and economic status;

(2) an investigation of the causes of social unrest pertaining to Indian treaties and laws affecting Indian people;

(3) an inventory of all Indian treaties and treaty provisions, whether or not formally ratified, and all violations of treaties which have occurred or are occurring, the reasons for the violations and the parties responsible;

(4) an evaluation of the effectiveness of remedies available to deal with any violations of treaties and other laws affecting Indian people, including the Indian Claims Commission, federal and state judiciary, the Congress and the Executive;

(5) an analysis of the relevance of Indian treaties to modern times and a recommendation on whether Congress should approve entering into new treaties with the Indian tribes or pursue alternative avenues for defining the relationship between the Government and the Indian tribes;

(6) consideration of the impact of state and local laws affecting the rights and obligations of Indian people, including tax, criminal and other laws;

(7) an evaluation of the administration of law by the various Indian tribes;

(8) an analysis of the need for any institutional changes to improve the administration of Indian treaty rights and any other programs affecting Indian people.

(b) As soon as practicable, the Commission shall publish in the Federal Register a list of subjects which it proposes to study and investigate. The Commission shall afford an opportunity for any interested person to submit views concerning any subject on the published list.

(c) The Commission may transmit to the President and to the Congress such interim reports as it deems advisable and shall transmit its final report to the President and to the Congress not later than two years from the date of approval of this joint resolution. The final report shall contain a detailed statement of the findings and conclusions of the Commission together with recommendations for legislation and administrative action as it deems appropriate.

(d) Upon completion of its final report the Commission shall work to advance the implementation of its recommendations, and may issue any progress reports it deems appropriate.

POWERS OF THE COMMISSION

SEC. 3 (a) The Commission, or any two members thereof as authorized by the Commission, may conduct hearings anywhere in the United States and otherwise secure data and expressions of opinions pertinent to the study. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within a reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpoena or order issued under this subsection, to invoke the aid of any district court of the United States to require compliance with a subpoena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and who is authorized by the Commission to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under paragraphs (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(7) to establish any regional or local offices it deems necessary;

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpoena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey an order of the court may be punished as a contempt.

(c) The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information it deems necessary to carry out its functions under this joint resolution. Each department, agency, or independent instrumentality shall cooperate with the Commission and, to the extent permitted by law, furnish information to the Commission upon request of the Chairman or the Vice Chairman when acting as Chairman.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest, it is authorized to publish the information in the form and manner deemed best adapted for public use.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. Each member of the Commission may receive compensation at the rate of \$100 for each day the member is engaged upon work of the Commission, and

shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. § 5703) for persons in the Government service employed intermittently.

ADMINISTRATION

Sec. 5 (a). The Commission is authorized, without regard to the provisions of Title 5, United States Code, governing appointments in the Competitive Service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of the title relating to classification and General Schedule pay rates, to appoint and fix the compensation of an Executive Director. The Executive Director, with the approval of the Commission, may employ and fix the compensation of any additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18, section 532 of such title.

(b) The Executive Director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 3109 of Title 5, United States Code, but at rates for individuals not to exceed \$100 per diem.

(c) The head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to assist in carrying out the duties of the Commission under this joint resolution.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services. Regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments made to or on behalf of a Commission employee. Regulations of the Administrator for the administrative control of funds shall apply to appropriations of the Commission, but the Commission shall not be required to prescribe any such regulations.

(e) One year after submission of its final report, as provided in section 2(c), the Commission shall cease to exist.

AUTHORIZATION

SEC. 6. There are authorized to be appropriated such sums, not to exceed \$3,000,000, as may be necessary to carry out the provisions of this joint resolution.

Mr. ADAMS. Yes: but I would want to state my belief that Senate Joint Resolution 133 is substantially better, a great improvement on our proposal of early March.

Senator Bartlett might be interested to know that in that proposal we recommended that the President appoint all members, and also provided for specific appointments of Indians representing major national Indian organizations.

However, we have retreated from that position and don't support it. We do support the general outline contained in your resolution 133.

Additionally, I would like to note a different activity that some of us are working on right now, and I would like to submit this into the record. It is a letter addressed to Gov. Daniel J. Evans, chairman of the National Governors' Conference, and it proposes a study in cooperation with the Governors of the 50 States, particularly relating to Federal-Indian-State relations, and the role that the States are going to have to play in the future of Indian people.

I would read a paragraph from this:

The timeliness of this activity draws focus from the fact that June 2, 1974 will mark the half-century or 50th anniversary of the general grant of citizenship to all American Indians born in this country. Where the "Course of Human Events" has carried or left Indian people in the 20th Century does not require substantial new study. The causes for basic failures of the American nation,

the States, and Indian communities, collectively, to develop any substantial dimensions for a promising future or large segments of the Native American population at this point in history do require examination.

And I would submit this letter for the record, also.

Senator METCALF. We are very pleased to have that as part of the record and for ready reference and consideration of this legislation.

[The letter referred to follows:]

SURVIVAL OF AMERICAN INDIANS ASSOCIATION,
Washington, D.C., July 6, 1973.

Gov. DANIEL J. EVANS,
National Governors' Conference,
Olympia, Wash.

DEAR GOVERNOR EVANS: We respectfully submit for your consideration a proposal which we hope you may recommend to other State governors for response and appropriate action.

Simply, we propose that the National Governors' Conference act, by whatever formal or informal methods available to it, to commission, endorse or actively support establishment and operation of an *ad hoc* national Native American or Indian research and study group for the central purpose of formulating a comprehensive analytical report on inter-governmental relationships for presentation and consideration at your annual conference next spring.

The timeliness of this activity draws focus from the fact that June 2, 1974, will mark the half-century or 50th anniversary of the general grant of citizenship (U.S.) to all American Indians born in this country. Where the 'Course of Human Events' has carried or left Indian people in the 20th Century does not require substantial new study. The causes for basic failures of the American nation, the states, and Indian communities, collectively, to develop any substantial dimensions for a promising future for large segments of the Native American population at this point in history do require examination.

Importantly, the ideas, alternatives and imperatives for action, viable plans, workable solutions or effective approaches for eradicating major problems—chronic or worsening—need to be set forth for review and consideration in developing public policy, and for creating the promise of a future for American Indian people.

What shall be the relationship of Indian tribes or communities to others in your proposed plan for a "New Coalition"? What is the anticipated role of autonomous Indian communities in the framework of the "New Federalism"? In 1973, we must ask these, and numerous other, questions with the given knowledge that there has been extensive deterioration in the traditional federal-Indian relationships—while there has remained a general adversary relationship between many tribal and state governments. Conflicts continue to evolve frequently without easy remedy as a natural incident of the established mutually-exclusive existence of tribes and some states, or by virtue of an absence of relationships between their respective, crucial and coordinate, governmental functions and lawful authorities. Many Indian families and individuals suffer daily injury to their lives as result of changing and confused responsibilities and relationships of the various tribal, state and national governments.

There is need to nationalize understanding and concern for many diverse, common, or particular Indian community problems and issues, which too long have been regarded as matters warranting little more than localized, if any, attention. At that level, real Indian needs and aspirations too easily can be subordinated to, or overpowered by, interests of various non-Indian groups, or the policies and plans of other governmental entities. It is another problem when Indian conditions are dealt with only incidentally to the operation of national policies and programming formulated without particular regard to the specifics of local community needs, or the results of application to particular Tribes. Such general application to Indian people in the abstract can strongly control the activities of specific Indian communities and forcibly determine the forms of tribal governmental structures and administration—irrespective of priorities, preferred plans or programming of the respective tribes and communities.

The unique status of Indian tribes in the American governmental system provides legitimate basis for the respective States to be as much concerned with

the affairs of Indian people beyond their boundaries as they might be attentive to Indian advancement within the state borders. In some sense, the federal government has operated only as the constitutional instrumentality of the several States in the making of treaties with tribes. You, of course, are fully aware of the fact that a number of states entered the Union on equal footing with all other states—by conditionally by virtue of compacts with the other states and by “irrevocable ordinance with the people of the United States” that federal rights, status and limited sovereignty of Indian people would remain undisturbed within the new states as established. An inter-state review of the application of these established compacts and ordinances seems long overdue.

However, our proposal is predicated upon a belief that the governors of states can and should play a positive and affirmative role of assistance to Indian communities in their general reconstruction and advancement to a greater extent than has been generally true of the past. The affirmative actions which various States have taken in recent years in behalf of their respective Indian populations and tribes should also be given attention on an inter-state or national basis.

The *ad hoc* research and study group, as we contemplated it, would make a comprehensive written report of information, analysis, and recommendations to the governors and State governments. It would attempt to influence future positions and actions, but it would, in the first instance, attempt to represent or reflect general Indian attitudes, viewpoints and positions regarding present conditions and hopes for the future.

The structure of the research and study group is indefinite at this point. However, the *Institute for Development of Indian Law* (IDIL) in Washington, D.C., under direction of author-lawyer Pine V. Deloria, Jr., has stated its willingness to become associate sponsor of such a project and to assume responsibility for fiscal management of funds secured for its conduct or operations. At this point in time, it is anticipated that I would be available for assuming project leadership and be designated its national coordinator.

The anticipated budget requirements for the project would amount to an approximate \$175,000.00, directed toward completion within a 9-month period. Projections are based upon an outline wherein the United States, from the East Coast to Alaska, would be divided into five study regions. Each region would be allocated \$20,000.00 for use under direction of assigned research specialists. Another \$25,000.00 would be allocated separately to the national coordinating office in Washington, D.C. The additional \$50,000.00 would be committed for production of from one to three documentary films for public education and classroom uses, with the documentaries giving particular emphasis to contemporary Indian life, diversity of Indian community activities and endeavors, and general Indian aspirations at point of having been “American citizens” for a half-century.

The cost outline is relatively modest when compared to various other “task force” activities; for example, the non-Indian prepared “Report Without Recommendations”, “*Our Brothers' Keeper*”, issued in 1969; or even compared to the development of evidentiary reports in the civil lawsuit, *United States v. Washington*, now awaiting trial and involving a single Indian-related issue within a single State.

We believe that the project can itself raise all necessary funds from a variety of sources—if the National Governors' Conference directly associates itself with the project operation in some significant way. If such direct association is not possible within your framework of operations, there should be other ways of demonstrating active support—providing there is any interest in our proposal at all. As one alternative, even your own independent expression of endorsement and support could be helpful for getting the project underway, particularly if the product and results of the research and study activity would receive definite invitation for presentation to the Governors' Conference's major business sessions next spring.

If the proposal receives Conference support, we would anticipate it to proceed with substantial voluntary contributions of work and other participation in its development and results. We would make careful review of information and reports already developed by various State Indian Commissions and Governors. Advisory Councils, and would be responsive to requests and suggestions for special or specific areas of study which might be made by tribal leaders and state officials. While maintaining numerous liaisons with various executive, administrative, legislative and institution officials, however, the study project

and its primary personnel would remain independent of the respective state, tribal, and federal governments whose roles, actions and relationships are being examined.

I trust you shall transmit copies of this communications to other appropriate persons, and we shall appreciate the most immediate response.

Respectfully yours,

HANK ADAMS, *National Director.*

Mr. ADAMS. And I would note that I have discussed this letter proposal with Governor Evans prior to his becoming chairman of the National Governors' Conference, and he was quite supportive of the idea, and of the idea of involving Governors and the executive branches of the 50 States, in fact, in the concern for Indian people.

The other proposed resolution we did have substantial discussions with the White House, particularly in early March, and they weren't as enthusiastic about that, but they were enthusiastic about this Governors' study.

Some of the areas that I would have concern on as an area of study for the Commission is the efficiency, the adequacy of existing programs.

I looked at the administration's bills offered before the Congress, and I am concerned that here again we might have a piling on of new programs, the pouring in of new moneys, without any real concrete accomplishment effected by these new programs.

I would note that right now on reservations, without looking to the larger Indian populations of current interest, the nonreservation Indians, the eastern Indians, on the established, federally recognized reservations, there are 10,000 more unemployed adult Indians today than there were 4 years ago.

In the entire two-term Nixon administration, the Federal Government will have spent approximately \$10 billion in the name of Indian people, and will have 25,000 more unemployed Indian adults on reservations than it had in 1968.

These are matters of critical concern. They are an evidence of the failure of existing programs. I think the statement that Mr. Smith made about the Warm Springs should be examined by Indian people around this country for a good comparison of mismanagement and good management by the BIA.

The proposed Indian Financing Act, for instance, it addresses the concern for development of industry on reservations, but it fails to recognize the gross mismanagement and waste of resources at the current time.

Talking about claims judgments, I did a restudy last December on papers coming out of the Bureau of Indian Affairs building relating to economic development on the Sioux Reservation, and their activities since 1968, and their judgment was placed in banks in the Midwest, and they proceeded with the Bureau, both BIA and Indian development program, industrial development program, and EDA, trying to push in a number of failing companies on the small community that was eager for jobs and economic development.

There was a chance to borrow against these funds that were in the bank but untouchable by the tribe at that time until this last November, and the only thing that saved the tribe from propping up failing industries from California to New York moving into this reservation

was a 49-percent ownership of proposed companies, was that the banks who were being asked to loan these moneys did make some examination into the background of the companies and refused them all.

But every program that was offered, the BIA recommended that the tribe take it on, to put tribal funds in and Federal funds in, and a very small investment from the non-Indian businesses that were trying to locate there, and the tribe, unfortunately, was impressed by all the BIA and the EDA advices, and accepted every one of these businesses, and not one of them were qualified for creating the needed jobs.

Senator Abourezk noted the sentiment at Wounded Knee among different Indian people relating to wanting to get land back.

The first concern I would feel is to see where non-Indians are getting the benefit of Indian-owned resources. It is not just that the lands have passed from Indian ownership, it is the lands still owned by Indians that have the major economic return to non-Indians, not to Indian people.

I was community action program director for a small tribe on the coast of Washington, and although they are on the coastline they have a river through the middle of their reservation, and all their shoreline and the riverfront have been leased to 37 white businesses. There were no Indian-owned businesses in the community whatsoever.

Senator METCALF. Mr. Adams, would you suspend—are you leaving, Mr. George?

Mr. GEORGE. Yes, I have to catch a plane.

Senator METCALF. Senator Bartlett called attention to the discrepancy in this printing. It is different in chronology than the one that you submitted in your statement, I understand, but we will print the one in your statement where you say that the Civil Rights Act is questionable rather than unfavorable.

Mr. GEORGE. That is more accurate, right. If you notice, this is 1963, rather than 1968.

Senator METCALF. It is a beautiful chart, but it is a little bit erroneous.

Thank you very much.

Mr. GEORGE. Thank you.

Senator METCALF. Mr. Adams.

Mr. ADAMS. These businesses did not employ any of the Indians from the nearly 400 people in the small community. The gross income to the non-Indian businesses on lands was just approaching \$10 million in the 7-month fishing season. The total leasing to the tribe was \$8,000, with a \$3,000 fish-landing tax additional to that.

When the Quinaults received their claims judgment, at first they spent 35 percent on a 701 HUD community center, and then the Bureau of Indian Affairs wanted to sink the rest of their award, which was somewhat small—they had \$135,000 left, but the BIA wanted them to put this money into a new water system to serve these non-Indian businesses without any greater economic development to themselves.

The tribe and the Indian community didn't need the water; there was sufficient water sources for them. It was just like in the summer months when maybe 10,000 to 20,000 non-Indian people would pass through the villages as tourists that there would be a drain on the water.

So, the BIA wanted them to use all of their funds judgment remaining to provide water to these non-Indian businesses with no economic return to the tribe.

They did tell the tribe that if they would go ahead and do that, the Quinault community would be able to handle even greater numbers of tourists because there would be more water, and in return the BIA would help the tribe construct a parking lot, and the BIA told the tribe that if you control the parking, you control the economy, and it was all their resources they should be getting, you know, that nearly \$10 million, rather than living in extreme poverty in real deficient housing.

And many of the Indian financing measures that come before this Congress, to me, offer a national spread of the plan which is pretty much giving some new incentives and advantages to non-Indians to come into Indian communities to rake off whatever exploitable revenues there might be with little impact upon the economies of the tribe.

So, one of the things that I think this Commission should examine, even in the reservation context, is the impact upon programmed structures of population increases. When I talk about 1976 there will be 25,000 more unemployed Indians.

There are actually more employed Indians than there were in 1968 but the programs are not keeping pace with the need, and the same is true of housing.

Senator METCALF. I just want to comment that I think you have made a very significant point there. I think that whether or not we have a Commission, we should look into this whole question of the use of Indian resources for non-Indian purposes and non-Indian benefits.

You have given an example, no doubt, on the Crow Reservation, where we have the Yellow Tail Dam. We have suggested that the recreation resources be used by the Indians and that they be given the opportunity to run them.

We not only have that, but the tourists from the East that want to see Indians come down there to that Yellow Tail area.

I know where we have 160-acre allotments it is not enough to sustain a single Indian family, and so, non-Indians have picked up dozens of those allotments and incorporated them into one large ranch for the benefit of ranching operations.

So, Forrest, I think that this committee and this subcommittee should look into that as well as the need for the Commission.

You have raised a serious problem and a serious question and it is well thought out.

Mr. ADAMS. In a study that I did based upon—again, documents spirited out of—it was the Bureau of the Budget at that time—

Senator METCALF. If you can get anything from the Bureau of the Budget, you are entitled to it one way or the other.

Mr. ADAMS. But, it indicated that on leased agriculture and dry farmlands that non-Indians, again on the income produced by Indian agricultural lands, were getting about 56 to 57 percent of the income produced on using just a small fraction of the used land.

I mean like there were about 3 million acres out of 34—3 million acres being leased by non-Indians out of 34 million acres in use by Indians and non-Indians and 57 percent of the income generated was going to non-Indians.

And, we found that the Indians were making their investments on their leased productive land and non-Indians were making their investments in Indian lands at the highest rate of return.

Senator METCALF. Or the key waterholes or something of that sort.

Mr. ADAMS. Yes, and irrigated lands were even more distressing.

Senator METCALF. I can think of examples down on the Tongue River Reservation with the northern Cheyennes and the Fort Beltnap Reservation and so forth, that the Indians there are just shut out by non-Indian landowners and of course there on the Tongue River and the northern Cheyenne all the key waterholes are in not even the checkerboard, but, in holdings, are owned by non-Indian people who therefore have control over grazing operations.

It is an important and significant point. I am alarmed; I have not kept track as I did a couple of years ago but I am alarmed at your statement about the increasing unemployment. It was bad enough to start with.

Mr. ADAMS. In that same internal secret memorandum the Bureau of the Budget, which was for the first year of the next administration but it was prepared under the Johnson administration, it projected a minimum of 5,000 more unemployed by 1973. But, it has been substantially greater than that projection and that is just on reservations, that is not even going to the critical unemployment problems that you have among Indian people in other rural areas and in the urban centers.

Senator METCALF. And in Chicago and Los Angeles and other areas where there are substantial Indian people?

Mr. ADAMS. Yes; and I think there has to be a real close examination of the management and the efficiency of existing programs rather than just looking to new moneys as a new program.

And, I think that some of the interest that comes to you concerns, as it always will, discipline—like in the area of Indian education.

I think that Indian people will largely regret a number of the measures both administratively developed programs and new legislative programs in the field of Indian education in a few short years because again it is another piling on without correcting the faults of the existing structures involved right now. And sometimes going to a headstart program and into a special Indian program in a college. You find virtually no difference in the two programs; they are conducted in the same way.

Although the college students frequently do not have any teachers there, but, there is some great deal of ways right now in the education funds being used.

I think there also has to be some examination of the relationships between Congressmen and Indian people, Indian individuals and Indian communities, even what happens when an Indian community or an Indian individual brings a problem to the Congress or to a Member of the Congress.

Pretty much it has been a cycle of referrals so that the problems are referred back to the administrative structures who constitute a major element of the problems.

And, I think that the Congress may have to examine its own rule in responding to some of the problems that are brought to their atten-

tion both for examining and either helping to control the administrative structure or where required to advance new legislation.

Senator METCALF. Mr. Adams, we have a rollcall going again. How much more time do you have?

Mr. ADAMS. Probably about 10 minutes or so, I do not know.

Senator METCALF. The 5 minute bell is going to ring. How much more do we have? Is there one more witness after this?

Mr. SMITH. One more witness.

Mr. ADAMS. And we have no written statement to submit.

Senator METCALF. Well, I will ask to be excused. I have another appointment at 5:30, but I will ask you to be excused at this time. I will return and I hope that you will get together and I will not interrupt anymore and try to put together your statement so that at least we can complete this hearing by 5:30.

I do not want to shut you off but I do want to vote on this housing bill that is now on the floor. I do want to get back. Will that be satisfactory?

Mr. SMITH. Yes.

Senator METCALF. I will be back as soon as I can.

[Recess.]

Senator METCALF. OK, the committee will be in order.

Mr. Adams, you are on.

Mr. ADAMS. OK.

One of the things I think that the Commission has to examine also is some new alternatives of programing in all areas of concern, from education, economic development, and housing.

In the area of housing again you see gross mismanagement and the failure to meet needs. And, for instance, on the Oglala Reservation where having lead substantially—they built 20 self-help units initiating a program in the mid-1960's and only completing in the early 1970's. And on that project the families, the 20 families had to put in their sweat equity or their \$1,000 of labor and still have an obligation against themselves for 15 or 20 years.

And, at the same time, these are in the range of \$10,000 to \$13,000 houses. Over the course from 1965 I think it was, until the present time they had contract carpenters, housing project directors on salary throughout that period even in the periods of no construction and the salary is paid to the chief carpenter, the project director and all, and the salary in that period was of greater amounts over those several years than the full cost of those houses and yet there remains a long term obligation against the Indian families.

And, I think there are some areas where a consolidated programing could be undertaken. At a previous time I have advocated a billion dollar national Indian housing construction and credit authority to just isolate the concerns on Indian housing.

But, having a long term appropriation whereby obligations can be met. But also there are areas in economic development, like in western Washington there are 13 small federally recognized tribes; there are fishing societies.

The area of economic development—most of them are interested in going into fish processing. There are more than half a dozen fish processing plants being considered by these different tribes.

Now, one of the economic facts in the available resources is that six separate processing units, or more than six processing units, cannot be going concerns, profit-producing concerns no the limited resources.

There are some possibilities of consolidating the basic fish resources and coming up with processing units that are feasible, viable and produce both jobs and profits and individual incomes and tribal incomes.

In the area of education I think there should be greater consideration given to consolidation of areas in development of say the school boards perhaps at a State level or a more limited level.

I know in the State of Washington for instance where the counties used to have their county school boards which oversaw the various local school boards, now they have consolidated different counties so that they have only five district school boards in the State plus their individual local one and it has been better in terms of management and in cost savings.

The cost savings can be committed to other needs in the educational field.

Senator METCALF. I promised you I would not interrupt but that is something probably the Commission would take up. But, in Montana we have sought to get as many public schools as possible and have as many Indians as possible members of the school board.

And, if we had such a consolidation as you are suggesting we would have to forego some of the Indian membership on local school boards because they would be outvoted by some of the others.

This is not always a solution.

Mr. ADAMS. Rather, what I am suggesting is like—again going to western Washington, now on the Quinalt Reservation it has been—it is a public school and it has always been an all-Indian school board because it is an all-Indian town and always more than 95 percent of the population have been Indian.

What I am suggesting is that some of the educational concerns could be consolidated in a public education system relating to say five separate Indian reservations rather than consolidation with the adjacent non-Indian population.

Senator METCALF. It is not a panacea, though, it is a matter of local application.

Mr. ADAMS. And it addresses itself to the question of moving away from some situations of the cross continental busing of Indian children to come up with some consolidated public schools for Indian people in a more localized area or region.

And then another concern there has been mentioned that the Civil Rights Act of 1968, a number of Indian people see some benefits in this and other Indian people do not.

The real tragedy of the Civil Rights Act of 1968 at this point has been non-Indians have been moving in to come under its provisions and starting with the dispute between Anne Wanika in the Navajo, most of the cases that have been brought have been brought in behalf of giving non-Indians entry into tribal situations or Indian community functions and it has not really had effective or good application on behalf of Indian individuals protecting them against say abuses of tribal governing authority.

But, another area I think there has to be a real close examination made is in the area of crimes and prison or jailing situations with Indians.

I know in the last year's FBI, reports on Indian reservations crimes of violence are increasing 13 times faster than the general rural American rate and this is a matter of concern to Indian people across the country.

You hear infrequently of the controversy and conflict that develops in for instance a non-Indian murders an Indian like in the *Yellow Thunder* case and the *Richard Oaks* case. But, there is a real concern among many Indian populations that I have been around that Indians are killing Indians at a much greater rate. I think last year 56 Indians killed 56 Indians and there was no Wounded Knee developing from that.

And, in much the same way where Indians are put off into white educational institutions in the areas of crime and punishment Indians are taking a hell of a lot of abuse in white jails and State prisons and there is an inordinate population there with major sentences for some of the most minor crimes.

We have had people in jail for 5 years for selling a clock radio. At the same time you have had non-Indians being repeatedly released. So, I think there has to be some examination and equitable application of the criminal law by State and local authorities both in the context of in the tribe and in the context of State and county government.

But, essentially I think that there has to be a looking toward new alternatives. And, even the mention of the Colville situation wanting termination or not wanting termination, I do not think they want it in either situation, in the situation that existed on the Colville Reservation through the 1950's and up nearly to the present time, nor did they want termination. But, they wanted some alternative to the existing situation and at that point in time Congress was offering termination as the only alternative.

And, I think as we vision a trust, there can be more concrete definitions of trust relationships and trust responsibilities because there is a great need for examination.

I do fully support the enactment of this resolution and the establishment of this Commission at the earliest possible time.

I would yield.

Senator METCALF. Thank you, Mr. Adams.

I think that you, as did Mr. George before you, have enumerated many excellent reasons why we should explore and look into not only legislation but administrative regulations and so forth affecting the Indian people.

Thank you very much.

Mr. ADAMS. Thank you, Senator Metcalf.

Senator METCALF. Mr. Smith.

Mr. SMITH. OK, Senator, we have one more on the panel and he indicated a fairly short comment.

Senator METCALF. He is the witness we have been waiting for.

Mr. SMITH. Mr. Reeves Nahwooksy is a member of the Comanche Tribe of Oklahoma. Right now he is currently the Coordinator of Indian Programs with HUD in Washington.

Senator METCALF. We are delighted to have you here. Thank you for coming, and I am sorry that we always end up with some of our best witnesses late in the afternoon.

Mr. NAHWOOKSY. Thank you, I appreciate that. By necessity I will be brief.

But, in the course of the hearings here I will add a different dimension I think, the dimension of Government looking at this.

And, I can readily agree with the situations that have been enumerated and can relate many myself plus some of the problems that we have in Government in dealing with these.

However, I did want to make a couple of comments; namely, on the selection of the members of the Policy Committee. With respect to Mr. Deloria's statement on non-Indians, I think that the qualifications and what is expected of that Director should be most emphasized more than whether he is Indian or non-Indian, mainly because I think we want a professional person that can really do a job, one who knows the problems that you are dealing with, and then, one who should really have some definite solutions—in a nutshell, one who will get things done in relation to this committee.

I can merely echo support at this point for the effort that the subcommittee is taking in establishing this. And, from my viewpoint I see this as a tremendous benefit, one that would help us to strengthen some of the programs that we are trying to administer in Government. And, I am talking from a HUD viewpoint at this point.

And also, as great as anything, some of the avenues that we as Indian people have to pursue, I think in an effort like this represents change which I think we have to institute among our Indian people not for the sake of it, but to meet the needs that we have.

Also, one of the most difficult things that we have to cope with is faith in a system and I think this committee will enhance that. Not only that, it offers an opportunity to get personally involved in some of the situations.

Senator METCALF. It only offers an opportunity for five Indians to get personally involved. I think Senator Bartlett and Senator Abourezk and I, and others, have expressed some concern about probably or perhaps there isn't enough Indian representation.

Mr. NAHWOOKSY. I think the challenge is for the rest of us to support these five.

Senator METCALF. I see.

Mr. NAHWOOKSY. And the very fact that they are appointed by a Senator or by members of this committee I think gives them stature and I think that means a great deal because some of the problems that we are facing in the Department of HUD, I would definitely make available to the committee.

And, in enumerating some of those, I think one of the greatest barriers that we have is developing enough flexibility in the laws that we are administering and the programs that we are administering to accommodate and adapt to an Indian situation.

And, I am talking specifically of our housing program. We do have a commitment as Mr. Adams enumerated; we have a commitment for a certain number of homes for Indian people. We have not met those commitments.

In addition, in the ones that we do build it gives rise to some of the management problems, some of the financial problems. I think there is an answer to it and I would rely on this committee and my input into the committee to relieve some of that situation.

And, as great as anything is the relationship that we tribes have with the State and that is always one of the controversies and I think that the programs such as HUD encourages State involvement and so on.

There is very little flexibility to adapt that kind of a situation.

Senator METCALF. That is why I welcomed of course Mr. Adams putting in Governor Evans' material and the concern and interest of the Governors and they certainly would have an input into such a Commission as we were seeking to establish, isn't that right?

Mr. NAHWOOKSY. That is true. One of my major responsibilities in HUD is to increase opportunities for Indians to participate in all of HUD's programs and I say that the establishment of a Policy Committee such as this will make it easier for me to do my job and I expect to get full support.

I want to make one last offer, that is that my assistance in providing information and some input into this, and I do not have a written statement, but I would like to have an opportunity to submit something in relation to this in the problem areas at a later time.

Senator METCALF. Yes; at this time, however, I will make a general order that any member of the panel will have an opportunity to revise his or her testimony and to expand it and submit any material that seems pertinent in view of the questions or the proposals of other members.

Mr. NAHWOOKSY. OK, with that I will close and thank you for the opportunity to spend a few minutes with you.

Senator METCALF. A few years ago, I believe it was Dick Shifter who came around and he said, well, there is a bill that Senator Douglas is holding hearings on in the old Supreme Court chambers and he said you ought to go over and testify.

So, Senator Mansfield and I went over and we testified on the Urban Renewal Act or one of those first acts and got some not quite horror but other horror testimony such as has been illustrated here of unemployment in Indian population, and so forth.

As a result, we have put in, I think, almost every bill, a permission or a special section for Indian participation such as HUD, and so forth. And, I think that we should now look and see whether or not we have given them adequate funds because they do not have any taxation bill to enjoy the same rights as other people in the participation of community action programs, OEO programs, health programs, housing programs, and all those that you have enumerated.

This is something that such a Commission would take into consideration; is not that correct?

Thank you very much, thank you all.

Mr. SMITH. Could I just make one more statement, Senator?

Senator METCALF. Yes, I am going to recognize you to close this thing up, Mr. Smith.

Mr. SMITH. OK, I think we have a very fruitful afternoon with the participants and I would like to thank them for coming and discuss-

ing your bill here that you have. And, I think that the consensus of this panel is for the committee to go forward and approve the bill and set up the Commission because it is very much needed.

Thank you.

Senator METCALF. Thank you, thank you all for coming. I think this has been a useful discussion.

The committee will be in recess subject to the call of the Chair, Senator Abourezk, when he gets back from Russia.

[Whereupon, at 5:30 p.m., the hearing was recessed, subject to the call of the Chair.]

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