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MENOMINEE RESTORATION ACT

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. 1687

A BILL TO REPEAL THE ACT TERMINATING FEDERAL SUPERVISION OVER THE PROPERTY AND MEMBERS OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN AS A FEDERALLY RECOGNIZED, SOVEREIGN INDIAN TRIBE; AND TO RESTORE TO THE MENOMINEE TRIBE OF WISCONSIN THOSE FEDERAL SERVICES FURNISHED TO AMERICAN INDIANS BECAUSE OF THEIR STATUS AS AMERICAN INDIANS; AND FOR OTHER PURPOSES

SEPTEMBER 17 AND 26, 1973

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

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MENOMINEE RESTORATION ACT

MONDAY, SEPTEMBER 17, 1973

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

The subcommittee met, pursuant to notice, at 9 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk, chairman, presiding.

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

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

Senator ABOUREZK. The Indian Affairs Subcommittee will come to order.

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

Senator ABOUREZK. This is an open hearing to consider S. 1687, legislation introduced by Senators Nelson and Proxmire to repeal the Menominee Termination Act and to restore Federal services to the Menominee Indians.

The history of the Menominee since the Termination Act was passed is eloquent evidence of a need for participation by Indians in determinations as to their future. I am a vigorous supporter of the policy of self-determination and nowhere has this policy been less in evidence than in the history of Federal actions with respect to the Menominee.

We cannot return to 1953, but we can attempt to rectify the injustices which, in all honesty, we must lay at the feet of Congress and the Bureau of Indian Affairs. The present status of the Menominee illustrates the magnitude of the error perpetuated in the name of termination. In the State of Wisconsin, according to the last census, the employment rate is 58 percent, while for the Menominee it is 46 percent. Eighteen percent of the Menominee earn less than $3,000 per year, while only 8 percent of Wisconsin, as a whole, earns less than $3,000 per year. Thirty-eight percent of the Menominee earn between $3,000 and $6,000, while only 13 percent of the total Wisconsin population must survive at that level. The average per capita income for Menominee is one-third that of the average Wisconsin resident.

This bill is not, however, a relief or welfare act. The results of the Federal policy in termination have threatened the important character of the tribe itself. Lands have been forced away from the tribe, important services which we take for granted, such as education and health, have been denied them and it is time that the Federal Government reassumes its responsibilities.

At this point I shall order the bill and the departmental report to be made part of the official record.

[The text of S. 1687 and the Department of the Interior report follow:]

93D CONGRESS
1ST SESSION

S. 1687

IN THE SENATE OF THE UNITED STATES

MAY 2, 1973

Mr. PROXMIRE (for himself and Mr. NELSON) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Menominee Restoration Act".

SEC. 2. For the purpose of this Act—

(1) The term "tribe" means the Menominee Tribe of Wisconsin.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Menominee Restoration Committee" means that committee of nine Menominee Indians who shall be elected at a general council meeting called by the Secretary pursuant to section 4 (a) of this Act.

SEC. 3. (a) Effective on the date of enactment of this Act Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin.

(b) The Act of June 17, 1954 (25 U.S.C. 891–902) is hereby repealed. There are hereby reinstated all rights and privileges of the tribe or its members under Federal treaty or otherwise which may have been diminished or lost pursuant to the Act of June 17, 1954 (25 U.S.C. 891–902).

(c) Nothing contained in this Act shall diminish any rights or privileges enjoyed by the tribe or its members now or prior to June 17, 1954, under Federal treaty or otherwise. Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied.

SEC. 4. (a) Within fifteen days after the date of enactment of this Act the Secretary shall announce the date of a general council meeting of the tribe to elect the Menominee Restoration Committee. Such general council meeting shall

be held within sixty days after the date of enactment of this Act. All living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954 (25 U.S.C. 893) and all descendants, who are at least eighteen years of age, of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting. The Secretary shall approve the Menominee Restoration Committee if he is satisfied the requirements of this section relating to the general council meeting have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act.

(b) The membership roll of the Menominee Tribe of Wisconsin which was closed as of June 17, 1954, is hereby declared open. The Menominee Restoration Committee, under contract with the Secretary, shall proceed to make current that roll in accordance with the terms of this Act. The names of all enrollees who are deceased as of the date of enactment of this Act shall be stricken. The names of any descendant of a person who is or was enrolled shall be added to the roll provided such descendant possesses at least one-quarter degree Menominee Indian blood. Upon the installation of elected constitutional officers of the Menominee Indian Tribe of Wisconsin, the Secretary and the Menominee Restoration Committee shall deliver their records, files, and

any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll shall be performed in such manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within sixty days after an appeal is initiated.

SEC. 5. (a) The Menominee Restoration Committee, under contract with the Secretary, shall conduct an election by secret ballot for the purpose of determining the tribe's constitution and bylaws. The Secretary shall enter into such contract with the Menominee Restoration Committee within ninety days after the enactment of this Act. The election shall be held within one hundred and eighty days after the enactment of this Act.

(b) The Menominee Restoration Committee shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and bylaws as drafted by the Menominee Restoration Committee which will be presented at the election, along with a brief impartial description of the constitution

and bylaws. The Menominee Restoration Committee shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and bylaws. Such consultations shall not be carried on within fifty feet of the polling places on the date of the election.

(c) The Menominee Restoration Committee, under contract with the Secretary, shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as members of the tribe's governing body. The Secretary shall enter into such contract with the Menominee Restoration Committee within sixty days after the tribe adopts a constitution and bylaws pursuant to subsection (a) of this section. The election shall be held within one hundred and twenty days after the tribe adopts a constitution and bylaws.

(d) In any elections held pursant to subsections (a) and (c) of this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and bylaws and the election of the tribe's governing body, so long as, in each such election the total vote cast is at least 30 per centum of those entitled to vote.

(e) The Act of June 18, 1934 (25 U.S.C. et seq.) shall not apply to any election under this Act.

SEC. 6. (a) Subsections (c) and (d) of this section shall not become effective until two years following the enactment of this Act.

(b) The Secretary shall negotiate with the elected members of the Menominee Common Stock and Voting Trust and the board of directors of Menominee Enterprises, Incorporated, or their authorized representatives, to develop a plan for the assumption of the assets of the corporation.

(c) The Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (b) of this section, accept the assets (excluding any real property not located in or adjacent to Menominee County, Wisconsin) of Menominee Enterprises, Incorporated, but only if transferred to him by the board of directors of Menominee Enterprises, Incorporated, subject to the approval of the shareholders as required by the laws of Wisconsin. Such assets shall be subject to all valid existing rights including, but not limited to liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this section shall be subject to foreclosure or sale pursuant to the terms of any obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United

States in trust for the Menominee Tribe of Wisconsin and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) The Secretary shall accept the real property (excluding any real property not located in or adjacent to Menominee County, Wisconsin) of members of the Menominee Tribe, but only if transferred to him by the Menominee owner or owners. Such property shall be subject to all valid existing rights including, but not limited to liens, outstanding taxes (local, State, and Federal), mortgages and any other obligation. The land transferred to the Secretary pursuant to this section shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the Menominee Tribe of Wisconsin and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(e) The Secretary and the Menominee Restoration Committee shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services are not impaired as the result of the transfer of assets provided for in this section.

SEC. 7. The tribe's constitution shall provide that the governing body of the tribe, after full consultation with the Secretary (1) shall makes rules and regulations for the operation and management of the tribal forestry units on the principle of sustained-yield management, (2) may make such other rules and regulations as may be necessary to protect the assets of the tribe from deterioration, and (3) may regulate hunting, fishing, and trapping on the reservation. Fishing by non-Menominees on Legend Lakes, LaMotte Lake, Moshawquit Lake, and Round Lake shall be regulated by the State of Wisconsin, and the State shall stock these lakes in the same manner as other lakes regulated by the State of Wisconsin.

SEC. 8. In recognition of the special educational needs of Menominee students and of the responsibility of the United States for the impact that members of the Menominee Tribe have on local educational agencies, Congress declares it to be the policy of the United States to provide full financial assistance for Menominee students to those local educational agencies which enroll two or more members of

the tribe who reside on the reservation or within the boundaries of Menominee County.

SEC. 9. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 1687, a bill "To repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes."

We recommend enactment of this bill if amended as suggested herein.

S. 1687 would extend Federal recognition to the Menominee Indian Tribe of Wisconsin, would repeal the Act of June 17, 1954, whereby Federal services to the Menominee Tribe were terminated; and would reinstate all rights and privileges of the tribe and its members which may have been lost or diminished pursuant to that Act.

Section 4 directs the Secretary to call an election among the Menominee people of a Menominee Restoration Committee, which would implement this Act. Inter alia, this Committee would bring current the June 17, 1954, Menominee roll. Descendants of persons on that roll would be added thereto provided they had one-quarter degree Menominee blood or more.

Section 5 directs the Committee, under contract with the Secretary, to conduct an election to determine the tribe's constitution and bylaws; i.e., the Committee will draft these documents and submit them to the tribal electorate for approval. The Committee will also hold an election for members of the tribal governing body.

Section 6 provides that 2 years after enactment the assets of Menominee Enterprises, Inc., may be tendered to the Secretary and if tendered shall be accepted. Such assets transferred would be subject to all outstanding obligations, including taxes, but land would be taken in trust and thus freed of all obligations accruing after the date of transfer. Land transferred by individual Menominees would be handled the same way vis-a-vis prior obligations.

Section 7 vests management of Menominee lands in the tribe, which is to deal with all related subjects in its constitution. However, regulation of fishing by non-Menominees on lakes within Menominee lands shall be regulated by the state of Wisconsin, which shall stock these lakes like any other public lakes.

Section 8 declares it to be the policy of Congress to provide full financial assistance for Menominee students to those local educational agencies which enroll 2 or more members of the tribe who reside on the reservation or within the boundaries of Menominee County.

I. BACKGROUND

S. 1687 would restore the Federal trust relationship with the Menominee people of Wisconsin. This relationship was terminated on April 30, 1961, pursuant to the Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891-902), as amended. This Act--the Menominee Termination Act--was the first legislative yield of House Concurrent Resolution 108, passed by the 83rd Congress on August 1, 1953, which had as its primary goal the phasing out of Federal supervision and control over Indians.

The Menominee Termination Act provided that the Menominee Tribe should formulate and submit to the Secretary a plan for the future control of tribal property and of service functions conducted at that time by or under the supervision of the United States, including but not limited to services in the fields of health, education, welfare, credit, roads, and law and order. The resulting plan relied upon securing state legislation to furnish aid and protection to the Menominees in their new form of governance.

To implement the Menominee plan, the State of Wisconsin created Menominee County and Town, whose boundaries are coterminous with the previously existing reservation. All of the social service functions which had been administered by the Tribe and the Bureau of Indian Affairs were assumed by Menominee County and Town. Menominee Enterprises, Incorporated, which was also created by the State of Wisconsin, assumed the ownership of the land and assets that had been held in trust for the Menominee Tribe by the United States Government. Each person whose name appeared on the final tribal roll was given an income bond and 100 shares of stock in Menominee Enterprises, Incorporated, as evidence of his participation in the ownership of the land and assets that had been held by the United States.

In order to help the Menominees solve the problems they faced after termination, significant Federal and State financial assistance have been made available including some $2 million provided under special authorizations contained in Public Law 87-432 (76 Stat. 53) and Public Law 89-653 (80 Stat. 903). Since termination, aid has amounted to approximately $20 million in State and Federal funds.

In addition, the State of Wisconsin enacted special statutory provisions to attempt to alleviate certain organizational, administrative, and financial difficulties that were found to exist. A special Wisconsin legislative study group was set up to monitor progress and problems, and to make recommendations for legislative action that might be needed to correct the problems.

Even with these special efforts, serious financial and other problems have plagued the Menominees since termination, and they and their institutions are now gravely threatened by insolvency and the loss of their land base. Menominee Enterprises, Inc., has already had to dispose of some land, its most valuable asset and one to which the Menominee people have a deep attachment, in order to meet its ongoing operational requirements and its tax liability obligation to Menominee County.

To further complicate the financial problems besetting Menominee Enterprises, the sales of its products--primarily lumber produced at its saw mill--have been declining steadily from a high point of $4.1 million, with a profit of $744,000, in 1966. Even if this trend were to be reversed, rising costs for Menominee Enterprises, Inc., and in the lumber industry as a whole make a dramatic upswing in profits unlikely. It is apparent that the costs of running Menominee County will not be able to be met out of the profits of the saw mill, but most likely will be met by further sales of the land assets of the corporation. Dissipation of the land base will reduce the amount of land that is available for sustained management for forest products, thus jeopardizing the operation of the saw mill. The prognosis for the Menominees, then, is bleak: financial chaos or stopgap transfusions of increasing amounts of public moneys without any real chance of altering the downward spiral. Needless to say, the toll of this decline on the morale of the Menominees has been severe.

II. RECOMMENDATIONS

We believe that the only certain solution to the grim situation with which the Menominees are faced is to restore the trust relationship with them, thus opening the way for provision of the full range of assistance for which Federally recognized Indians are eligible. We believe that most Menominees have also reached this conclusion. Restoration is a particularly apt course to adopt in this instance because of two characteristics of the Menominees' situation. First, it can be argued that the Menominees did not willingly enter into termination. The Act of June 17, 1954 (68 Stat. 250), which authorized the Menominee termination, also provided for a per capita distribution of $1,500.00 to each Menominee enrollee out of a special Menominee fund in the

Treasury and out of the Menominee judgment fund (which emanated from a decision of the Court of Claims (119 Ct. Cl. 832 (1951)) that the United States had mismanaged the Menominee forest reserve. The implication, if not the actuality, of this linkage of per capita payments and termination is that the former depended on the latter: i.e., that funds coming to the Menominees were to be held hostage until termination was agreed to. Thus, the Menominee termination can be viewed as an instance of "forced termination", a policy which the President soundly rejected in his Indian message of July 8, 1970.

Secondly, unlike many other terminated tribes, over the years since termination the Menominees have remained a remarkably cohesive Indian group with their own government and have maintained a strong attachment to their former reservation land. By preserving their land base virtually intact, the Menominees have steered clear of the difficulties which might impede their restoration if their land had been largely sold and divided into patches.

However, we do not support the manner in which S. 1687 would restore the Federal Indian relationship with the Menominees. Section 7 of the bill would create a unique Federal relationship with the Menominees whereby the Secretary of the Interior would play only a consulting role in the tribe's management of its trust assets. Ordinarily, of course, the Secretary would have approval authority over such management, for the Secretary, as trustee, has the responsibility to hold the tribal assets and to take all necessary steps to protect them so that, should the trust be dissolved, he could pass them on to the beneficiaries in an unencumbered state. We believe that the normal trust relationship should apply to the Menominees. This is not to question the judgment of the Menominees; indeed, as we have stated, they have done a creditable job of managing their affairs since termination. Rather, the rationale for our adopting this position is simply that it is the only one whereby the Secretary can properly fulfill his duties toward the Menominees' trust assets. Accordingly, we shall offer certain amendments to be discussed in the proper portions of this letter.

Section 3 of the bill extends recognition to the Menominee Tribe as of the date of enactment of the bill and repeals the Act of June 17, 1954. The section also protects the rights of the members of the tribe. While endorsing the reinstatement of the Menominee Tribe, we wish to point out that the Menominees agreed in a general council meeting on October 27, 1934, to accept the provisions of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, commonly known as the Indian Reorganization Act, the document that is the basis of government for most of the tribes recognized by the Secretary of the Interior. Since that action has not been repudiated

by the Menominee people, they would still be subject to its provisions when they are reinstated. In addition, we believe that the general policy of this Department with regard to the provision of Federal services to Indians - that such services are a function of the Indians' having trust land bases - should be adhered to vis-a-vis the Menominees. Thus, should the Menominees have decided, at the end of the two-year negotiation period with the Secretary of the Interior, provided by section 6 of this bill, not to turn assets over to the Secretary for the establishment of a reservation, we believe that their Federal recognition should lapse. To carry out these recommendations, section 3(a) should be stricken and the following should be substituted in lieu thereof:

> "Sec. 3(a). Effective on the date of enactment of this Act, notwithstanding the provisions of the Act of June 17, 1954, chapter 303 (68 Stat. 250; 25 U.S.C. 891-902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the Act of June 18, 1934, chapter 576 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, are made applicable to it. Provided, however, That extension of Federal recognition to the Menominee Indian Tribe of Wisconsin beyond the two-year period provided in section 6 of this Act shall be contingent upon the establishment of an appropriate tribal land base to be held in trust by the Secretary of the Interior pursuant to that section."

We recommend the addition of a new provision to section 3 to enable the Secretary to grant to the Menominee tribe, upon its request, funds appropriated to carry out Indian programs administered by the Secretary. Such funds could be spent by the tribe for the general purposes for which they were appropriated. This authority is the same as that which the Secretary would have with regard to all tribes if S. 2038, the Indian Tribal Government Grant Act, recently proposed by this Department, is enacted. We believe that the Menominees' more than ten years of complete self-government are a strong indication that such a provision could be a most useful one for them to have in dealing with the Federal Government after their restoration. Accordingly, we recommend the addition of a new subsection 3(d):

> "In providing to the Menominee Indian Tribe of Wisconsin such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section,

> the Secretary of the Interior is authorized, from the funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the Menominee Indian Tribe of Wisconsin and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated."

Section 4(a) Authorizes the Secretary of the Interior to set into motion the action that will result in the election of the Menominee Restoration Committee. This committee will initiate the return of the Menominees to the trust relationship with the United States. We believe that such a committee is needed and that the best means of ascertaining the preferences of the Menominees as to its composition would be through a secret ballot election held under the supervision of the Secretary of the Interior. (The nomination process could be handled via a general council meeting called for that purpose.) Although we recognize that restoration should proceed as rapidly as possible, we believe that the time limits imposed by the bill-- the Secretary is directed to announce within 15 days of enactment a general council meeting of the tribe to elect the committee, to be held within 60 days of enactment--may be too short to allow for notification of all interested persons. We suggest that these time frames be extended, so that there can be no question about sufficient time for notification of all Menominees.

We have an additional problem with this subsection, specifically in its provision which includes, as persons eligible to vote in the meeting to elect the Restoration Committee, descendants of persons named on the final 1954 Menominee roll. We cannot with certainty identify such persons, even in the longer time period which our amendment suggested in the previous paragraph would afford. In addition, since section 4(b) imposes a one-quarter blood requirement for enrollment of descendants, this provision would allow descendants who will not qualify for membership to participate in the election of the Committee. We believe that the only practical recourse at this point is to limit voting for the Restoration Committee to living enrollees on the 1954 roll. To implement these recommendations, subsection 4(a) should be stricken and the following new subsection should be substituted therefor:

> "Sec. 4(a) Within thirty days after the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Menominee Restoration

Committee. Such general council meeting shall be held within ninety days of the date of enactment of this Act. All living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891-902), as amended, shall be entitled to attend, participate, and vote at such general council meeting. Within sixty days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Menominee Restoration Committee from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. All living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954, as amended, shall be eligible to vote in said election. The Secretary shall approve the Menominee Restoration Committee elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act."

Section 4(b) of the bill provides the procedure to be followed in bringing the Menominee roll current. The subsection sets the criteria for enrollment, including a one-quarter blood quantum requirement. Subsection 4(b) requires that the roll be prepared by the Menominee Restoration Committee under contract with the Secretary of the Interior and that the tribe maintain that roll under whatever procedure it sets out in its constitution and bylaws. During the early stages of the roll preparation, prior to assumption of the task by the tribe, all appeals of enrollment questions would be directed to the Secretary of the Interior and his decision on such appeals shall be final.

We recommend that this section be amended to endow the Secretary, who must approve the Menominee roll, with the ultimate responsibility for seeing to its preparation. This change can be accomplished by deleting the second sentence of subsection 4(b) beginning on line 15, page 3 and by substituting in lieu thereof the sentence, "The Secretary, in consultation or under contract with, the Menominee Restoration Committee, shall proceed to make current that roll in accordance with the terms of this

Act." We also recommend a clarifying amendment. The sentence beginning on line 19 sets out the persons that may be added to the roll reopened by section 4. We recommend the deletion of the words "a person who is or was enrolled" as they appear in line 20 of page 3 and the insertion in lieu thereof of the words "an enrollee".

Finally, we recommend deletion of the last sentence of subsection 4(b). This sentence would require the Secretary of the Interior to rule on all appeals of enrollment actions within sixty days of their submission. We recommend this amendment because we believe that the entire enrollment process, including appeals, should be dealt with by the Secretary via his authority to issue rules and regulations under section 9.

Subsection 5(a) outlines the steps to be taken by the Menominee Restoration Committee in calling an election to determine the content of the documents needed to govern the tribe. Under contract with the Secretary--to be entered into by the Secretary within 90 days of enactment--the Committee would be required to conduct such an election within 180 days of enactment. We believe that the impetus for this election should come from the Menominee Restoration Committee, according to its own schedule. Accordingly, we would delete this subsection and substitute the following:

> "Sec. 5(a) Upon request from the Menominee Restoration Committee, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of the Act of June 18, 1934, as amended, for the purpose of determining the tribe's constitution and bylaws."

Subsection 5(b) provides for submission to the voting membership of the tribal constitution and bylaws drafted by the Menominee Restoration Committee. We have no objection to this provision, but point out the fact that this constitution and bylaws will be drafted and approved pursuant to the provisions of the Act of June 18, 1934, as amended, since it is the provisions of that Act that govern the procedure to be followed as indicated in our comments on section 3(a) above.

Subsection 5(c) provides for the election of the tribal governing officials. The election of such officials is a well-recognized internal tribal matter in which the Secretary of the Interior has no part other than to satisfy himself that the provisions of the tribal governing documents relating to such elections are complied with. Accordingly, we recommend that all of subsection 5(c) be deleted and the following be substituted therefor:

> "(c) Within one hundred and twenty days after the tribe adopts a constitution and bylaws, the Menominee Restoration Committee shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. Absentee ballotting shall be permitted. All tribal members who are 18 years of age or over on the date of election shall be entitled to vote in the election."

Subsection 5(e) states that provisions of the Act of June 18, 1934, as amended, shall not cover the elections provided for in the bill. We recommend the deletion of this subsection. Amendments recommended in this report make the tribe subject to the provisions of the Act of June 18, 1934, as amended, making this section inconsistent with that recommendation.

Subsection 6(d) directs the Secretary of the Interior to accept any real property located within or adjacent to Menominee County, Wisconsin, transferred to him by Menominee tribal members to be held in trust for the Menominee Tribe, with said assets to be subject to all valid existing rights. This provision is needed to allow the Secretary of the Interior to accept donations of land from individuals. It should be pointed out that all land transferred under this provision would be a gift to the tribe in that the trust title could be taken only in name of the tribe and not in the name of the individual.

Section 7 of S. 1687 is the means whereby the Menominees would be restored to a unique trust relationship, one in which the Secretary of the Interior was a consultant, rather than the responsible party, with regard to the management of Menominee trust assets. Under section 7 this unique relationship would be embodied in the Menominee constitution. As we have discussed supra, we do not favor such a limited role for the Secretary with regard to Menominee trust assets. If the amendment recommended by this report that makes the tribe subject to the Act of June 18, 1934, as amended, is adopted, the Secretary of the Interior will have full responsibility for the tribal trust land and will exercise that responsibility. Similarly, that Act provides the Secretary with the authority to approve the tribal constitution prior to its adoption. Therefore, we recommend that these portions of section 7 be stricken. The remaining portion of that section deals with the regulation of fishing and lakes by the State of Wisconsin. We question the propriety of legislating directives such as this with regard to a State and believe that this matter is one

best left to negotiation between the tribe and the State. For these reasons, we recommend that all of section 7 be stricken and that subsequent sections be renumbered accordingly.

Section 8 sets our policy consideration for the education of Menominee students. We see no need for such a special provision and strongly believe that Menominee students should be treated the same as other Indian students in like circumstances. Therefore, we recommend deletion of section 8 in its entirety and the corresponding renumbering of subsequent sections.

Enclosed is an estimate of the per year cost to the Bureau of Indian Affairs for the first five full years if the bill is enacted and Federal recognition is extended to the Menominee Tribe. We do not expect to have any capital expenditures for construction on the reservation, nor is there any expenditure to be made to replace, remodel, or improve the existing mill facility.

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,

Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
Washington, D.C. 20510

Enclosure

ESTIMATES (First years)

	Cost
Education	420,000
Road Maintenance	225,000
Welfare and Guidance Services	200,000
Employment Assistance	140,000
Forestry	125,000
Management of Trust Property	75,000
Credit and Financing	49,000
Adult Education	30,000
Housing Assistance	31,000
Agricultural Extension	20,000
Supporting Services	54,000
Total	1,369,000

Senator ABOUREZK. As the first witness this morning we are very pleased to have one of the principal authors of the bill, our colleague, Senator Gaylord Nelson. If you would like to present your statement, we would be very pleased to hear from you.

STATEMENT OF HON. GAYLORD NELSON, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator NELSON. Mr. Chairman, I have a brief statement here. We have representatives here from the Menominee and from the State of Wisconsin.

The Senate hearing on the Menominee Restoration Act is indeed a significant event. When the legislation was first introduced by Senator Proxmire and myself in the 92d Congress, action was not taken on the bill and it died with the Congress adjournment in 1972.

This year, however, there has been much progress toward righting the wrong which was perpetrated on the Menominee people through the termination of their tribal status in 1969. The bipartisan nature of the sponsors of the 1973 Restoration Act, along with the vigorous support of the legislation by the administration, the Interior Department, and many independent Indian and citizen organizations, has significantly enhanced, I think, the chances of passage of the Restoration Act in the 93d Congress.

In 1960, as Governor of Wisconsin, I opposed the policy of termination on the grounds that it clearly would not work and would serve only to place the Menominee Indian Tribe at a distinct disadvantage in meeting the needs of their people.

The withdrawal of Federal recognition and assistance for the Menominee Tribe in 1960 brought suffering and hardship on the Menominee people. The tribe's health and educational facilities were deemed to be inadequate to meet State standards, and had to be closed down. The sanitation system had to be extensively renovated at the tribe's expense, and the requirement for payment of property taxes further reduced the ability of the tribe to meet the needs of its people.

In 1965, in order to relieve some of the financial burden of the tribe, then-Congressman Melvin Laird and I sponsored legislation to provide $1.8 million in Federal assistance to the Menominee Indians. While that legislation did pass the Congress, it only partially alleviated the problems brought on by a lack of funds.

Since the withdrawal of support for the Menominee Indians, we have witnessed the disastrous long-range effects on the tribe, which have strengthened the urgent necessity for the Congress to reverse that termination. The statistics of Menominee termination have been recited many times before: 25 percent unemployment, a per capita income of one-third the State average; lessened educational, health, and housing opportunities; and a serious depletion of the assets which made the Menominee Indian Tribe rich both in heritage and in resources. The need to pay property taxes on previously tax-exempt land, as well as the necessity to provide social services, have combined to bring the Menominee Indian Tribe to the brink of bankruptcy. It has been necessary to sell some of the tribal lands to outside developers and to reduce the tribe's most vital resource, its forests, to meet the financial demands of the tribe. A report prepared by the Bureau of

Indian Affairs in 1973 reached the following conclusion, after an exhaustive study of the economic condition of the tribe:

> Our study of the situation has led us to the same conclusion that has been accepted by most Menominee, that is, the return of the Menominee Tribe to the trust relationship with the Federal Government is the only solution to this almost hopeless situation.

The expressions of support that have been offered for restoration of the Menominee Tribe have been greatly appreciated by those of us working for the passage of this legislation.

Melvin Laird, the President's domestic adviser, and formerly a Congressman who represents the Menominee, on September 5 stated that,

> The proven reliability and willingness of these people to accept the responsibilities of self-government proves that restoration of the Menominee Indian Tribe is not only advisable but well deserved.

Senator Henry Jackson, the chairman of the Senate Interior and Insular Affairs Committee, offered his support in a speech before the National Congress of American Indians. "No other tribe has met with more disastrous consequences than the Menominee Tribe of Wisconsin. The Menominee have a valid claim for corrective action. That claim cannot, in equity and good conscience, be ignored."

I simply say I endorse the quotation of Senator Jackson. It is a correct evaluation and, of course, the fact is that the whole policy of termination has been set aside now and they have terminated only two tribes, the Calumet and the Menominee, with disastrous results for the Menominee.

The cosponsorship of 24 Members of the Senate from both parties, the support of the Secretary of the Interior Rogers Morton, and the endorsement of Wisconsin Governor Patrick Lucy, have attested to the widespread public support for restoration.

Perhaps more crucial, the Menominee people themselves have worked long and hard for the passage of the act. Members of this committee have all been contacted by representatives of the Menominee Tribe, as well as by various other Indian and citizen organizations. In Wisconsin, efforts have been underway to assure that the Menominee people fully understand the meaning of restoration, and the responsibilities which will be placed upon the tribe once Federal recognition is restored.

The public accountability of the Congress demands that we take a long and hard look at the Indian affairs policies of the U.S. Government. The tragedies of Wounded Knee and the occupation of the Bureau of Indian Affairs represent not only individual acts of destruction which cannot be condoned, but also evidence of a deep-seated frustration on the part of the American Government to effectively serve the best interests of the Menominee people.

This obligation to look to the changing of our Indian policies must be directed toward a recognition of both the increased self-determination which is necessary, and also the expanded role of the Federal Government in protecting the natural resources, cultural heritage, and economic opportunities of the American Indians.

The U.S. Congress can take an effective step toward meeting its obligation to the American Indians by restoring Federal recognition to Wisconsin's Menominee Tribe.

Thank you.

Senator ABOUREZK. Thank you very much, Senator Nelson.

Senator Jackson has a brief comment he would like to make and I would like to ask you one or two questions, if I might.

Senator Jackson.

Senator NELSON. Perhaps Miss Deer and Sylvia Wilber could join me at the stand here?

Senator ABOUREZK. They will be up here on the panel later on.

As one of the Senators from Wisconsin, I want to ask you what is the nature of the support up in Wisconsin for this?

Senator NELSON. If you are asking the question respecting the Menominee themselves——

Senator ABOUREZK. Yes.

Senator NELSON. The Tribal Council supports the position, but I would rather that Ada Deer address herself to the position of the members of the tribe themselves. I would guess that most everybody, I think everybody that I know of who has some understanding of the problem and has been associated with the problems of the Menominee, endorse restoration. I do not know of anybody who takes a position to the contrary outside of tribal members.

Senator ABOUREZK. I want to thank you very much for your testimony.

I want to give Senator Jackson an opportunity, because he has to go to another meeting right away.

STATEMENT OF HON. HENRY M. JACKSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator JACKSON. I want to associate myself with the able and distinguished Senator from Wisconsin and to express my support for the legislation now pending before the subcommittee.

In 1953, the Congress passed House Concurrent Resolution 108 expressing the "sense" of Congress in support of ending Federal supervision of Indian people "as rapidly as possible to make the Indian . . . subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards, and to grant them all the rights and prerogatives pertaining to American citizenship."

Of all the past failures of the Federal Government in its relationship with the American Indian, none has been more obvious than the termination policy embodied in House Concurrent Resolution 108. In 12 different instances, the United States has terminated services and trust protection over Indian tribes and their natural resources.

This policy has worked a serious injustice to the American Indian people. As a statement of national policy it is inaccurate and misleading. All Indians are citizens, and had been for decades prior to the passage of House Concurrent Resolution 108. In general, the Indian people have the same rights as any other citizen. The characterization of the Indian people as wards may have simplified passage of that unfortunate legislation by appealing to some latent emancipation philosophy in the Congress, but the term was not accurate. What the United States sought to do was to end its responsibilities as a trustee—not to in any way "free" the American Indian people.

During the 92d Congress, the Senate adopted a resolution which I offered to repudiate termination as the national Indian policy. Unfortunately, this resolution was not acted upon in the House. In this Congress I have reintroduced that resolution, and I hope that the 93d Congress will act to remove this cloud which has darkened U.S.-Indian relations.

Nowhere has the poverty of termination as a policy been more evident than in the case of the Menominee Tribe of Wisconsin. Prior to being terminated, the Menominee enjoyed relative prosperity. This was due, in large part, to their magnificent forest and other natural resources and their management of a sawmill operation. This management operation had met with some measured success and the tribe had been able to reimburse the Federal Government for the services it had provided.

The history of the actual termination displays one of the most irresponsible actions ever undertaken by the Congress and the Bureau of Indian Affairs during that period. The Menominees had recovered a substantial judgment against the United States for mismanagement of their forest reserves. When the tribe sought legislation to distribute the judgment funds, however, it was apparently used to blackmail them into agreeing to termination. I think this is the key point, how this was done and how it all got started.

With termination, however, came social and economic disaster. Faced with huge, new tax burdens, the sawmill operation has foundered—tottering on the brink of total collapse. So severe is their plight that the United States and the State of Wisconsin have been forced to expend $19 million to keep the tribal operation functioning. These problems will not be solved unless positive action is taken now. In view of this history, it is little wonder that significant and important legislation, such as the Indian Financing Act and the Indian Self-Determination and Educational Reform Act, are greeted with apprehension in the Indian community. The history of termination is still very much with the Indian people. I have joined as a cosponsor of this legislation, the Menominee Restoration Act, because I am fairly convinced that the Menominee have a valid claim for corrective action which cannot, in good conscience, be ignored. By restoring the Menominee to a federally recognized status, their social and economic plight can be relieved, and a past injustice can be redressed.

I commend both Senators from Wisconsin for the vigorous way in which they have pushed pending legislation. I vigorously support this legislation and earnestly hope for its early passage.

Senator NELSON. Mr. Chairman, I would just like to say that the tragedy, one of the ironies of the situation is when I came down here as Governor in 1960, my advisers who were dealing with the question and Menominee tribal leaders had all the same information, made all the same predictions of exactly what was going to happen. So it was really an unnecessary tragedy because we had enough information then to know that the policy of termination would not work.

Thirteen years later we are back here now asking the Federal Government for restoration.

Senator ABOUREZK. Thank you.

Senator Bartlett.

STATEMENT OF HON. DEWEY F. BARTLETT, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator BARTLETT. Mr. Chairman, I am pleased to be listed as a cosponsor of the bill which will reinstate the Menominee Tribe. In Oklahoma we have three tribes that have been terminated, and we are in the process of contacting the tribal leaders and the tribal organizations to have resolutions passed in support of reinstatement if that is their desire. With that resolution we will proceed as you have with the Menominee Tribe, to support the reinstatement of these three tribes. I hope they do desire it because I think it will provide for them opportunities that they do not now have.

I share the comments that were made by the chairman about House Concurrent Resolution 108, which was adopted, I believe, in 1954.

I feel very strongly that self-determination is the proper goal rather than termination, and I believe, too, that House Concurrent Resolution 108 should be repudiated and the goal of self-determination for Indians should be expressed as the sense of Congress.

I am very pleased to welcome those who will be appearing before the subcommittee today. I am further pleased that they also feel very strongly on this and I am hopeful, along with the rest of the committee, that there will be much publicity, much enthusiasm, and a movement generated to increase the support that presently exists for reinstatement. I think that, based on true justice, it will receive strong support. Thank you.

Senator ABOUREZK. Thank you, Senator Bartlett.

Another distinguished colleague has just arrived. Senator Proxmire, we would be pleased to hear your statement at this time.

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

Senator PROXMIRE. Mr. Chairman and members of the subcommittee, I am glad to testify this morning in support of S. 1687, the Menominee Restoration Act. I introduced this bill on May 2, 1973, in the hope that favorable congressional action would reverse the injustice which terminated the Menominee Tribe in 1961 and restore them to a trust relationship with the Federal Government. The Menominee are convinced that unless this bill is passed, they will be unable to survive as a people. I share that belief.

These people of Algonquin ancestry lived for hundreds of years on the land now constituting Northern Wisconsin and part of Michigan's Upper Peninsula. As white settlers moved into this area, Menominee land holdings were gradually diminished under a succession of treaties made with the U.S. Government. In return the Federal Government gave the Menominee a small section of their once vast lands as a homeland, a reservation to be held in trust with the Government of the United States in perpetuity.

In 1961 the Federal Government and the Indians lost this special relationship when Congress passed legislation to provide for termination of the Federal trusteeship. Although termination was apparently well-intentioned, adequate consideration was not given to the various treaty obligations and responsibilities that the Federal Government had toward this particular tribe. Furthermore, the ability

of the tribe to sustain itself as a social and economic unit was grossly overestimated.

The effects of termination on the Menominee people have been carefully documented, most recently by the Bureau of Indian Affairs in its report on "The General Economic Situation of the Menominee Indian Tribe of Wisconsin" which was issued on April 6, 1973. A brief look at this situation is enough to prove termination has had disastrous consequences for this once relatively prosperous tribe.

First, the Menominee have lost their liquid assets. Prior to termination, a judgment against the Bureau of Indian Affairs had ordered payment of $10 million to the tribal treasury. Half of this money was distributed to tribal members on a per capita basis. The remainder was soon exhausted since the tribe was required to pay the cost of termination itself. The other pretermination assets of the tribe were not enough to put them on a sound financial basis.

Second, the ending of the BIA services cost the Indians their school and hospital. Now most of the children must go to neighboring Shawana County for their education. The Indians are having difficulties obtaining adequate health and dental care.

Third, the Menominee Reservation became Wisconsin's smallest county and responsible for meeting State standards in all the services they provided. This required large initial expenditures which the county was unable to raise through its taxing power. Since termination the Federal Government has spent over $12 million and the State of Wisconsin over $7 million to keep Menominee County functioning. It has cost the American taxpayer almost $20 million to support a tribe that before termination was able to pay most of its own support.

Finally, one of the most serious effects of termination has been that the Indians were forced to sell their land. In an effort to expand the tax base and raise needed money, the Menominee have sold thousands of acres of their homeland. Unless Congress acts to restore the tribe to tax-exempt reservation status, the possibility of having to sell even more of this land remains. That necessity would virtually guarantee social extinction for a people whose heritage is so closely bound to the land of their ancestors.

The economic situation in Menominee County is appalling. Average unemployment is 26 percent compared with less than 5 percent for the State of Wisconsin as a whole. Almost 40 percent of Menominee families have incomes below the poverty level compared with Wisconsin's 7 percent, and 25 percent of the families are on welfare as against 3 percent for the State.

There is no possibility of improving this situation short of restoration. The Menominee are unable to raise the capital to expand their industry or the money to increase the tax base. Without restoration, Menominee Enterprises Inc., which controls the tribal assets, could fail within 2 years.

Mr. Chairman, I am happy to say that these facts are no longer a surprise to members of this committee. The disillusion which has followed the policy of termination has been a good thing. It has enabled us to see the reality behind the illusions. Now is the time for us to acknowledge our mistake and take positive action to correct it.

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In a major address on Indian Affairs which he delivered in July of 1970, the President of the United States put forth a new policy to determine Federal-Indian relations:

> We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support.

By acting favorably on the Menominee Restoration Act, Congress has the opportunity to implement this policy of Indian self-determination. Passage of this legislation cannot confer the spirit of self-determination on the Menominee. It is a spirit which they already possess. Until now they have fought the battle for their own survival almost single-handedly. The Menominee Restoration Act is a landmark for congressional recognition of Indian determination for survival as a unique cultural group. I am hopeful that passage of this bill will open a new era in Federal-Indian relations, a relationship grounded not in paternalism, but in partnership, not in suspicion, but in trust.

I urge this committee's prompt action to effect restoration without delay.

Senator ABOUREZK. Thank you very much, Senator Proxmire. As one of the principal sponsors of the bill, along with Senator Nelson, I might ask you the same question I asked Senator Nelson. What is the nature of the support for this legislation within the Menominee themselves?

Senator PROXMIRE. I think the Menominee Indian people, of course, can indicate that much better than I could. But I could tell you that over the last almost 20 years, since this whole situation developed back in 1954, I have felt very, very strongly that the majority of Menominee people did not want termination. It was not representative on their part when the termination was first agreed to and it was under terms that were very difficult. Now I think there is just a very decisive and overwhelming—I am positive now—overwhelming feeling on their part that they would like the restoration of their tribal status.

Senator ABOUREZK. Thank you very much.

Senator Bartlett.

Senator BARTLETT. I have no questions.

Senator ABOUREZK. I want to thank you very much for your appearance and I appreciate your support for the legislation and the work you have done on it.

Senator PROXMIRE. Thank you. I remember going back in the middle fifties, I cannot give you the exact year, but I remember having a discussion at that time with a Congressman. Congressman Melvin Laird had just been elected to the Congress and he and I discussed this on what had been the Menominee Reservation at that time. At that time there was just clear sentiment expressed against the termination and, of course, it has been growing since.

Senator ABOUREZK. The next witness is Mr. Philip Lerman, representing the Governor of Wisconsin.

STATEMENT OF PHILIP E. LERMAN, REPRESENTING THE GOVERNOR OF THE STATE OF WISCONSIN, HON. PATRICK J. LUCEY

Mr. LERMAN. Chairman Abourezk, Senator Bartlett, I am here at the request of Patrick J. Lucey, Governor of Wisconsin, to submit testimony on his behalf concerning S. 1687, the Menominee Restoration Act. I am chairman of the Wisconsin Department of Industry, Labor and Human Relations, a State agency which is actively involved in the dav-to-day problems of Wisconsin's Indian population. Before reading Governor Lucey's statement I would like to make a brief personal comment.

In my official capacity, I must often deal with the effects—such as high unemployment—which the policy of termination has had on the Menominee Indians of Wisconsin. I do not think it an exaggeration to say that this policy has been, in every respect, a disaster. From my perspective, the sooner the Menominee Restoration Act gets enacted into law, the better for all concerned, in particular, for the members of a tribe which has been victimized for more than a decade by an approach to its problems which can only be called bankrupt.

Now, on behalf of the Governor, let me read his statement.

Chairman Abourezk and members of the Indian Affairs Subcommittee:

As Governor of Wisconsin, it is important for me to address the questions raised by S. 1687, the Menominee Restoration Act.

For many years I have felt that termination was a fundamental mistake, that it has benefited neither Wisconsin nor this Nation—and that it has actively hurt the people it was meant to help, the Menominee Indians themselves.

The legislative, administrative, and legal questions involved in restoration are dwarfed by the existing problems of the Menominee—problems which I believe are, to a large extent, the legacy of termination. One of the justifications for that policy in 1954 was the presumed prosperity of the Menominees. Today, no one would make that same claim. From 1967 to 1973, unemployment in Menominee County ranged from a low of 21 percent to 30.6 percent, in June 1973 the highest unemployment in the State of Wisconsin. Per capita income is the lowest in the State, and per capita welfare payments the largest. In 1970, 42 percent of Menominee County Indians had incomes below the poverty level; this may be contrasted to a statewide figure of 7 percent.

Termination may not be the only cause of these sorry statistics, but it has surely not helped. As a result of termination, the Menominees have been forced to pay tax costs formerly assumed by the Federal Government. Necessary services, such as health care, have been curtailed. Tribal assets, held in the joint stock company of Menominee Enterprises, Inc., have been tragically depleted. Menominee land has passed out of tribal hands, and development meant to expand the county's tax base has brought environmental damage.

As the Bureau of Indian Affairs reported last year:

> Most people who are knowledgeable about the Menominee situation are of the view that the Menominee Tribe and its related institutions cannot continue to

exist under the conditions in which they now find themselves. Menominee Enterprises, Incorporated, has already had to dispose of land, its most valuable asset; an asset to which the Menominee people have a firm attachment, in order to meet its ongoing operational requirements and its obligation tax liability to Menominee County . . .

Our study of the situation has lead us to the same conclusion that has been accepted by most Menominees, that is, the return of the Menominee Tribe to the trust relationship with the Federal Government is the only solution to this almost hopeless situation.

Restoration is not a magic wand that will immediately solve all the problems of the Menominees. But it will make possible the solution to those problems. It will relieve the pressure to sell Menominee lands to non-Menominees. It will remove the crippling property tax burden on the financially weak MEI, and return jointly owned Menominee land to a Federal trust. It will bring an infusion of new Federal funds for schools, health care, roads, and other important public services. It will assure the Menominees a real choice over their own destiny, rather than the illusory choice provided by an economic situation which offers them few real alternatives.

But the impact of restoration will not be limited to the Menominees. It will also affect non-Menominees who live in Menominee County, the State of Wisconsin, and to some extent at least, adjacent counties.

There has been concern expressed that restoration will have an adverse impact on non-Menominee property taxpayers who live in the county. From everything we have been able to determine, these fears are groundless. In fact, there is a real possibility that property taxes will go down as a result of the federalization of county and town roads, new Federal welfare assistance, and Federal impact and Johnson-O'Malley funds for pickup of educational costs.

From a State perspective, there are a number of important questions concerning the organization of government in Menominee County which must remain unresolved until the process of restoration has begun. All of these questions have been thoroughly examined over the past few years by the Menominee Indian Study Committee. The most important of them is: Should Menominee remain a county, in the same form as it is today?

In earlier testimony concerning this matter, I have urged that the language of the Menominee Restoration Act provide our lawmakers with flexibility in establishing the post-restoration governmental structure for what is now Menominee County. I have also asked that language concerning a 2-year postponement for the transfer of MEI assets be removed from the act. I would like to reiterate those concerns today. They are reflected in the amended version of this act which has been recommended by the Indian Affairs Subcommittee of the Committee on Interior and Insular Affairs of the House of Representatives.

I do not foresee any major problem posed for the State by restoration. One potential problem, the possible alienation of Menominee Corp. securities over the next 2 years, has already been dealt with by State action extending the length of time under State law upon which absolute restraints on the sale of such securities may be placed, a copy of this law is attached. Let me assure you that any difficulties which do come up will receive my prompt and thorough consideration. I am committed to making restoration work, for the

Menominees, for the adjacent counties, and for the people of the State of Wisconsin.

At the time it was first proposed, termination was thought to be the "answer" to the "Indian problem" in this country. Today we know this is not the case. Termination, like so many of the policies which preceded it, has proved to be, at least in the case of the Menominees, short-sighted and ill-conceived. I urge you to act promptly to reverse this legacy of empty promises and policies, and assure the Menominee Indians of Wisconsin of the support and dignity which they deserve.

Senator ABOUREZK. Thank you very much, Mr. Lerman.

Senator Bartlett.

Senator BARTLETT. How many members of the Menominee Tribe are there?

Mr. LERMAN. There are between 4,000 to 5,000 Menominee. I believe the records show there are about 2,600 to 2,800 living in Menominee County. The 1970 population census showed 2,607 and there has not been much change.

Senator BARTLETT. The Governor's remarks indicated that there apparently has not been too much progress in industrial development or education.

Mr. LERMAN. That's the understatement of the year, sir.

Senator BARTLETT. Could you state for the record some of the programs that might be possible with reinstatement?

Mr. LERMAN. Certainly. One would be the infusion of education funds and we feel probably an additional $250,000, $300,000 pumped into the county.

Secondly, it would restore the Menominee to the status enjoyed by other Indian Tribes in our State and other States who would have access to vocational-technical school funds, who would have access to higher education funds, who would have access to employability training funds.

At the present time, I must say in all candor, that there are times when we engage in certain kinds of subterfuges in order to assure some kind of support and employability for Menominees which other Indians enjoy. These kinds of funds would be restored to the Menominees which would enable them to broaden their economic base, or certainly broaden the opportunity for establishing a sound economic base.

Senator BARTLETT. In other words, the opportunities for other Indians in other parts of the country in education, vo-tech education, and the establishment of industrial development parks, general economics, is not available to the Menominee?

Mr. LERMAN. It is as though they were nonpersons when out side by side with other tribes in the State or in other parts of the country, and funds which are available, Federal funds, are not available to Menominee.

Senator BARTLETT. Do you have either figures or a statement as to how the Menominee Tribe has changed in its economic status from the time it was terminated until the present time?

Mr. LERMAN. No, I don't have it right offhand. I am certain that representatives of the Menominees who are here today, Miss Ada Deer, would have that kind of information. We could put together a kind of

informational package if we went back far enough in the statistical bank. We do know that the per capita income is down. We do know that what ever economic base there was in their lands and forests have been somewhat eroded in the last 13 years. We would assume that these kinds of figures would speak for themselves.

Senator BARTLETT. Thank you, Mr. Chairman.

Senator ABOUREZK. Thank you, Senator Bartlett.

I have one question. Under Wisconsin law how will the future status of Menominee County be determined?

Mr. LERMAN. The laws of the State and the constitution of the State of Wisconsin provides each county, the residents of each county, to determine their destiny within the framework of that law. We believe that that question, which still has to be settled, could be adequately settled by the existing law of the State and the State constitution.

Senator ABOUREZK. Do you know the statute?

Mr. LERMAN. I do not.

Senator ABOUREZK. I wonder if you could provide it for the record later on?

Mr. LERMAN. We can provide it later on, sir.

[Subsequent to the hearing the following information was supplied for the record:]

STATE OF WISCONSIN,
OFFICE OF FEDERAL-STATE RELATIONS,
Washington, D.C.

WISCONSIN CONSTITUTION

ARTICLE XIII

"Division of counties. Section 7. No county with an area of nine hundred square miles or less shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same."

(Wisconsin Statutes, 1971, (31st Edition), page 53.)

Senator ABOUREZK. And the constitutional provision that you would draw on?

Mr. LERMAN. Article XIII, section 7 of the State constitution.

Senator ABOUREZK. Which statute? Can you cite the statute now or do you have to wait for that?

Mr. LERMAN. I have to wait for that.

Senator ABOUREZK. Thank you very much for your testimony. Give my regards to Goveror Lucey.

Mr. LERMAN. Thank you. I shall, sir.

Senator ABOUREZK. The next group of witnesses will be led by Ms. Ada Deer, who is the chairperson of the Menominee Common Stock and Voting Trust. You have some people with you. If you would, please come forward and bring your panel.

STATEMENT OF ADA DEER, CHAIRPERSON, MENOMINEE COMMON STOCK AND VOTING TRUST; ACCOMPANIED BY SYLVIA O. WILBER, CHAIRPERSON, MENOMINEE ENTERPRISES INC.; THEODORE BOYD, VICE PRESIDENT, MENOMINEE ENTERPRISES INC.; BEN MILLER, CHAIRMAN, MENOMINEE COUNTY BOARD; ROBERT DEER, VICE CHAIRMAN, BOARD OF DIRECTORS, MENOMINEE ENTERPRISES, INC.; ERNEST BLACKHAWK NECONISH, MENOMINEE TRIBAL MEMBER; AND ANDREW J. PYATSKOWIT, ASSISTANT DIRECTOR, MENOMINEE COUNTY EDUCATIONAL COMMUNITY

Ms. DEER. Senator Abourezk, Senator Bartlett, members of the committee and friends, we are going to do this in a little different manner.

We brought a member, an elder member of our tribe, who will speak briefly in the Menominee language, and then we will have a translation of this by Mrs. Louise Fowler. Each of us then will make a brief statement and we have submitted longer statements and we would like then to have questions from you on the various matters regarding the restoration of the Menominee Tribe.

At this time it is my pleasure to introduce Mr. Ernest Blackhawk Neconish, who is a very disinguished member of our tribe, who has attended many tribal meetings, general tribal meetings, in the past, and has shown much leadership and spirit with the Menominee people.

STATEMENT OF ERNEST BLACKHAWK NECONISH, SPEAKING THROUGH TRANSLATOR LOUISE P. FOWLER

Mrs. FOWLER. He said I want to tell you folks that I love my lands and my waters and I don't like the idea of the non-Indians coming into our land and building homes.

He said, I am glad to be here to talk to you people that know and will understand me.

I would like to have the non-Indians removed and I still love my land and I would like to have help to get them out as much as you can.

I certainly wish you folks would help me get our place back the way it was. It seems like the older members didn't help me to get my place back. I am pleading with you to really help me. I would like to keep our land intact with our tribe. I would like to have your help as much as possible. This is my only wish. That is why I came down here to speak to you.

Long ago when Indians were here before the whites, you took a lot of our land and we were pushed back and we haven't had any help of any kind since.

I am telling you we never were helped before and there are a lot of poor people up there of my tribe that have never really had help of

any kind. But I am pleading with you now, come back and help us as much as you can.

This will be all.

Senator ABOUREZK. Thank you very much.

Ms. DEER. Mr. Chairman and members of the Senate committee, my name is Ada Deer. I am chairperson of the Menominee Common Stock and Voting Trust and legislative liaison for the Menominee Tribe here in Washington. Our people appreciate the prompt reaction of the Senate to the problems of the Menominee and your willingness to hear our case. Together we have the opportunity to save our people from financial disaster and extinction. Because of your help, the Menominee people may once again be able to determine their own proud and self-sufficient future.

Our thanks and appreciation go out to Congressman Meeds for holding his first field hearing as chairman of the House Subcommittee on Indian Affairs with the Menominee people. His understanding and personal commitment to restoration for the Menominee will long be remembered. I would also like to add an additional thanks to the many House and Senate sponsors of our bill. We are very pleased to witness the bipartisan support for restoration. We especially would like to commend our Wisconsin Senators, William Proxmire and Gaylord Nelson, and Senator Abourezk, chairman of this committee, for their interest, dedication, and involvement with the Menominee people.

As Vine Deloria, Jr., national Indian spokesman, author, and lecturer stated in this June 28 testimony before the House subcommittee,

> The treaties of the Menominees would have to be among the most important and binding legal documents to which the United States must hold itself accountable. The testimony on the restoration legislation verifies that this legislation does not violate any existing Menominee treaty rights.

Restoration would not violate any of the Menominee treaty rights and passage of our proposed legislation to repeal the terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin is vital to the survival of the Menominee Indians as a tribe and to the preservation of our remaining tribal assets.

Unless our restoration legislation is enacted, the Menominee people face total disaster, loss of tribal lands, tribal assets, tribal entity, and ultimate dispersal of Menominee people. Such disaster and tragedy can be averted by restoration of the trust relationship of the Federal Government to the Menominee Indian Tribe and to Menominee land as provided in this legislation.

Since 1954 when congressional action brought termination to the Menominee Indians there has been a 20-year period of progressive and continuing decline economically and culturally. From tribal status of apparent wealth and business success—the reason the Menominee Tribe was chosen for termination—our tribe now is encumbered with debt, poverty, lack of facilities, and loss of land.

The wealth of the Menominee Indian Tribe is our land. The land is our most precious asset; it is the tribal homeland; it is the heritage

to be preserved for Menominee children in all generations to come. This is the reservation land established by sacred treaty agreement between the Menominee people and the Government of the United States. As a result of termination, some of this land already has been told to the tribe, and unless restoration is approved, there is little hope that any of the land ultimately can be held.

Efforts were made to make termination work. But the results were a long series of failures. The Menominee people tried. The government of the State of Wisconsin and the Federal Government tried. Almost $20 million in State and Federal grants were spent in Menominee County, but the economic and cultural situation continued to deteriorate.

There are reasons why termination cannot work. Termination destroyed the trust status of the Menominee lands. It ended for Menominee Indians benefits which are guaranteed to all American Indians by the Federal Government. It removed tax exemptions. It encumbered the only tribal industry—the lumber mill—to the point that it cannot operate at a profit. It even denied to Menominee children born after termination their right to be enrolled as tribal members and to be entitled to rights and privileges as tribal members.

We Menominee people want to live on our tribal lands, develop our economic assets, maintain our Indian culture, and achieve self-determination and democratic tribal government. We can only achieve this continuing goal through restoration.

Let me add as a final comment concerning the precedents of this particular type of legislation before you here today. Although the Menominees are one of the few tribes to be affected by national legislation terminating their existence, our case is not unique. To again quote Mr. Deloria—

> Indeed, the precedents for this type of legislation are so numerous, they indicate that one of the major tasks of many Congresses has been to recognize prior inadequacies towards terminated tribes and to bring the victimized Indian Tribes back under federal supervision. Nearly half of all tribes currently recognized by the Federal government have at one time or another allegedly lost their federal support, their federal support, either by decision of the United States Supreme Court or by the action of Congress. These Tribes have eventually been given a clarified status as federally recognized Indian communities, a status the Menominees now seek.

Yes, we seek a status as a federally recognized tribe with Federal services and our land permanently held in trust. But restoration is not a simple matter. Thus, my testimony has been purposely brief because I feel it is important for the Senate Members to address themselves to specific problems and questions they may have. Our panel is composed of Menominee who are informed in many different areas of county and corporate government. We are prepared to answer your questions. Thank you.

Senator ABOUREZK. Thank you very much. Do you want to introduce, in the order that you want, the speakers on the panel.

Ms. DEER. Our next speaker will be Miss Sylvia Wilber, chairperson of Menominee Enterprises, Inc.

STATEMENT OF SYLVIA O. WILBER, CHAIRPERSON, MENOMINEE ENTERPRISES, INC.

Ms. WILBER. Mr. Chairman, members of the committee, I am Sylvia Wilber, DRUMS member and chairperson of the Menominee Enterprises, Inc., board of directors. I would like to express my thanks and the thanks of our Menominee people for the competent, efficient, and thorough manner in which Chairman Meeds and Congressman Lujan conducted House subcommittee hearings on Menominee restoration earlier this year. Their willingness to hold hearings in Keshen, Wis., allowed many Menominee individuals the opportunity to speak their piece that would have been unable to do so had they been conducted in Washington. The House subcommittee's unanimous passage of our bill and the promise of support already received from many of the Nation's Senators have indicated a willingness on the part of Congress to review and rectify the problems that termination has caused our people.

Termination, like the Allotment Act and relocation policy was a radical experiment much touted as the final solution to the Indian problem. Yet termination has a vague concept and indefinite plan when imposed on the Menominee 12 years ago. Have no delusions that the Menominees have succeeded within the confines of termination; we are yet experiencing termination's effects and the problems it has caused our people are multiplying with alarming frequency.

My purpose in testifying before you here today will be to detail the situation of our lumber enterprise and illuminate the difficulties we are experiencing that are a direct result of termination. Restoration of our status as a federally recognized tribe, I feel, is the only solution which would reverse the downward spiraling trend that presently threatens to completely incapacitate our tribe and Menominee enterprises.

Menominee Enterprises, Inc., like any other corporation has the commitment to show a profit to its shareholders. However, MEI is unique in that it also has a social commitment to its shareholders, the Menominee people. MEI must manage tribal assets. We must protect the virgin beauty of our timber stands. We must develop new industry and provide as many jobs as is practical and feasible. In short, we must function as a tribal entity and a profit conscious corporation, and these functions are becoming more incompatible as time goes on. This is the situation that plagues the Menominee and more specifically the DRUMS members elected to MEI's board of directors.

The economic, profit-oriented responsibilities facing the enterprise are daily becoming more impossible to fulfill. Keeping our inventory well stocked and expenses down are two of our most imposing problems. The sawmill must be processing an inventory of 3 million board feet of timber a year for all machinery and employees to be working at their full capacity. We need cash to operate the mill. Yet, because we were forced to close for major repairs 9 weeks last year and 2 weeks this year, our inventory has dropped to a dangerous 1.2 million board feet. Fixed costs don't change for Menominee Enterprises and if we are unable to utilize our resources, we alone must absorb the loss. Our answer has been to sell green lumber, for which there is a temporary

market, instead of placing it in drying kilns and eventually realizing a much larger profit for our inventory. The $300,000 in monthly costs necessary to operate the mill, without realizing any profit, is increasingly difficult to earn in a fluctuating lumber market with our enormous fixed, unchanging costs. The additional burden of MEI's property tax obligation means our corporation must earn almost $1 million annually before it can show a profit.

Consequently, we are presently trying to update our mill and meet our expenses with our meager profits. Those profits must be stretched to meet the following expenses. Negotiations for an increase in benefits to millworkers began in July of this year. The resulting union contract calls for an additional enterprise expense of $135,000 for vacations, insurance, and wage benefits. This money was not included in last year's budget. In 1971 we began an extensive modernization policy in the mill and installed a chipper head rig.

A new edger was ordered this year for $30,000 and we have only paid one-third of that sum. The edger ordered in 1972 was not heavy enough and slowed down mill operations; it proved an unnecessary extra expense. We are also in the first phase of changing the mill's wiring system, some of which has been operating there since 1927. Wiring costs this year amounted to $15,000 but are expected to climb to $40,000 before the project is completed in the next 5 years. In addition, the enterprise recently invested in two new boilers to enable us to operate near our capacity, but have not as yet been able to pay the entire sum. Another boiler will soon be necessary as a standby replacement should our main boiler become malfunctioning. A predryer will cost the mill $50,000 for its softwood production since the old one has recently been condemned, yet the enterprise is already hard pressed to find the funds needed to finance its other equipment and employee responsibilities.

We find it increasingly difficult to get funds to meet our financial obligations.

The Termination Act contained provisions for protection of our forests on a sustained-yield basis. That provision has severely limited the amount of profit that MEI can realize when coupled with termination's additional tax obligations. Because of our sustained-yield plan the annual harvest of MEI was restricted to 18 million board feet of timber instead of the 30 million it needs to operate at full capacity.

MEI experienced losses in the years of 1962, 1963, and 1964. The corporation showed a profit in the years 1965 to 1970. This profit resulted in increased lumber cutting to 25 and 30 million board feet during the first 2 years and the selling of our land the last 3 years. Our tribal corporation was originally established to control Menominee assets and in 1970 resorted to selling 5,170 acres of our homeland in order to raise the badly needed cash.

Menominee land sales of any kind represent the most dangerous threat to the continued existence of our tribe. Selling capital assets to raise cash provided no long term solution to our financial problems. The land sale policy was finally halted in 1972 after many demonstrations, objections, and a lengthy court battle. Predictably, profits fell off sharply again in 1971, and in 1972 MEI had a net profit of "0".

Serious unemployment conditions also face our community. Only 46 percent of our Indians age 16 to 64 are in the labor force. Of that 46 percent more than one quarter are unemployed and this percentage often rises to almost half because of the seasonal work provided with the logging industry. This percentage is sure to rise even further when the Community Action programs are withdrawn from the area. Directly attributable to this is the fact that MEI has been forced to economize somewhat over the past 10 years and reduce by approximately one-fourth their labor force. In 1961 MEI employed 236 men as compared to only 175 in 1973. Unless the Menominee people are restored to federally protected tribal status we will soon have to face up to a terrible decision. Shall we concentrate on our economic obligations to our shareholders, or on our social obligations to our people.

The corporate county situation established by the termination plan was set up in such a way that was determined to deny us a voice in our own affairs. Two complicated "trust structures" were incorporated into the termination plan. One was the Menominee Common Stock and Voting Trust, which consisted of seven members and acquired the voting rights of all Menominee shareholders. There were only two things allowed we Menominee under this trust plan: (1) we were allowed to vote for one trustee each year, and (2) at 10-year intervals we Menominee could vote to abolish this trust system if we obtained 40 percent of all outstanding shares of MEI. Such a chance was allowed in 1971.

In 1970 a grassroots organization, DRUMS—Determination of Rights and Unity for Menominee Shareholders—was formed. This Menominee movement was dedicated to the preservation of the Menominee Tribe. DRUMS attempted to rid the Menominees of this outright denial of self-government. Despite the fact that the majority of Menominees who participated in the 1971 election voted to abolish the trust, it was allowed to continue because a majority vote of the outstanding shares was required.

Thus, any Menominee not voting was in effect counted as being in favor of continuance of the trust. Since many Menominee were scattered all over the country and were unreachable, and since many Menominee do not understand all the legal complications involved in exercising their voting rights, and, above all, since the First Wisconsin Trust "bloc voted" 48,000 shares to continue the trust, securing such an absolute majority was next to impossible. However, a hopeful democratic development has been the enlarging of the voting trust to 11 members, and the electing of a majority of DRUMS members to it.

The most blatant denial of democracy which the Menominee have suffered because of termination has been the imposition of the First Wisconsin Assistance Trust which managed and voted the trust certificates of minor and illegally judged "incompetent" Menominees. For all other corporate systems, the parents of the children holding stocks are allowed to vote their shares. But this did not happen with the Menominees. The Menominees were treated differently and for 10 years we were directly controlled by the bloc vote of a non-Menominee bank who voted in direct opposition to the adult Menominee majority.

As Menominees have been coming of age, the power of this trust has declined. But since its inception, the assistance trust has wielded an enormous voting power completely disproportionate to the number of

trust certificates it holds. Because the assistance trust has dominated the election of the voting trustees, in effect, it has indirectly dominated the affairs of MEI. The low percentage of Menominee around the country, the continuing lack of understanding by many Menominee of these intricate corporate practices, and the decision of many of our people to boycott elections which they have regarded as essentially undemocratic.

Another way in which self-government has been kept from us concerns corporate rules regarding the sale of our land around Legend Lake. Article XII of the MEI articles of incorporation requires that in order to "sell, exchange, assign, convey or otherwise transfer" all or any portion of the real property which it owns, MEI must secure prior approval "by the affirmative vote of the holders of not less than two-thirds of the outstanding shares of stock, entitled to vote thereon." If this article had been followed by MEI it would never have received the approval of the Menominee people allowing the trust to sell our land. But the seven members of the voting trust interpreted this article to require only their two-thirds approval. Consequently, the voting trust approved this land sale, and again, we Menominee were denied a voice in one of the most critical decisions ever undertaken in our history. The selling of our land tore at the very heart of the Menominee.

Another problem that hangs heavily on our hearts is that in January 1974 MEI's stocks will become negotiable on the open market, according to termination law. When that happens, control of MEI and our land can easily pass out of the hands of the Menominee people. MEI, if not financially solvent, will be unable to buy the shares of individual Menominees, and the State of Wisconsin or individuals of the non-Menominee public will buy into our Menominee assets. It is imperative that the Menominee legislation pass Congress at the earliest possible date to prevent further erosion of our land and assets when our stocks become negotiable on the open market in January 1974. There is presently a law allowing an extension of 2 years on these stocks. However, we feel the constitutionality of this may be challenged by any one shareholder.

Senator ABOUREZK. Have you asked for an Attorney General's opinion on that?

Ms. WILBER. No. We haven't. At the present time it is signed into law, but our security commissioner has not signed it and unless he does——

Senator ABOUREZK. It might be a good idea to get that opinion. Excuse me for interrupting.

Ms. WILBER. It would undoubtedly be a mammoth task and financial burden on MEI to purchase stocks in the near future. Consequently, there is a serious danger that control of the corporation would not remain in the hands of the Menominees but would be transferred to the State of Wisconsin or some third party or parties.

If the stocks become negotiable, many Menominees may be forced to sell their shares in order to receive welfare or public assistance. Under the present eligibility requirements, recipients for Old Age and Blind Aid Assistance are not allowed more than $750 in liquid assets. Presently, because the stocks are not negotiable, they are not included when determining eligibility for assistance. If the value of the stocks and

other liquid assets exceed the eligibility requirements, Menominees will be required to sell all or part of their stock or dispose of their assets in order to receive aid. Since the right to vote for trustees at shareholders meetings is obtained through ownership of the stock, partial control of the corporation would be held by non-Menominees.

On the one hand, the corporation must necessarily become more aware of the economic pressures in order to survive. To do this would mean developing our nonproductive forest land to ease our tax burden, forsake sustained-yield forestry and allow our mill to operate at full capacity. If we did this, our forest would soon become hopelessly depleted, MEI would be able to maintain only a temporary yearly profit, and the corporation would have failed its social and economic responsibility to the Menominee people.

To prevent this from occurring, the Menominee people in the past 3 years have elected drums supported candidates to the 8 vacancies that have opened on the MEI common stock and voting trust. These candidates have promised to retain the human element in the tribal corporation, to keep MEI aware of its social obligations and Menominee tribe prohibiting all land sales. Drums supported candidates have not only taken control of both the corporation's board of trustees and board of directors, but have changed the attitude of voting participation within the tribe. The last 4 years have witnessed a change from 2 percent Menominee participation in corporate elections, to an astounding 49 percent, equal to the voting turnouts in national elections.

However, complete social obligation would also be detrimental to the efficiency of MEI's operations. To pay full bond interest to the bondholders and adequate salaries to our sawmill workers, while attempting to maintain our assets for our posterity, is an impossibility for a mill with inflated operating expenses and property taxes.

Culturally, our land is not "surplus." From 1854 until termination in 1961, we steadfastly and successfully resisted all efforts to reduce our landholdings by refusing allotment, an experiment that imposed private property ownership on many Indian tribes. Holding our assets and people together was the Menominee's dominant theme for the past 100 years. The cultural values of our people have always been focused on our land as a tribal, and not individual holding. The interests of the tribe have taken precedence over individual interests; thus, selling our land was against every belief and value held by the Menominee people.

Also, we are not a competitive people but wish to look after the welfare of our tribe. Termination has necessitated competitiveness in order to survive and it is destroying our tribal values. To be prepared for competition is not necessarily bad. But when we awoke on that morning 12 years ago, and found ourselves straddled with a corporation, non-Menominee board of directors, and trustees, bearers of foreign sheets of paper called stocks and bonds, and without the tribal rolls for our children to be remembered as Menominees, we were expected to no longer function emotionally, culturally, or legally as Indians.

This sudden change in roles has affected the emotional well-being of the Menominee people. The instances of arrests due to alcohol related offenses is three times higher in Menominee County than in any

other reservation in the State. Less than 24 percent of our children complete high school, compared with over 54 percent for the State of Wisconsin.

Restoration of the Menominee tribe is the only salvation for Menominee Enterprises and the Menominee people. With Menominee lands safely back in trust, the almost $500,000 yearly paid in property taxes can be used to update our mill. Our children and their children can be assured of retaining our most important asset, our ancestral homeland.

With the return of tribal government, MEI will no longer need to function as the sole taxpayer for the Menominee area, and can concentrate on showing our tribe a profit for all people to share.

One great Indian chief, when his people had been beaten down by the U.S. Army and placed on a tiny, barren reservation said "We shall endure." These past 12 years we have endured, but we do not simply want to endure, we want to live. Don't let the Menominee reach the end of the trail. Please reverse our termination and allow our tribe to live.

Thank you.

Senator ABOUREZK. Thank you.

Senator BARTLETT. I would like to say I thought that was a very fine presentation. I appreciate it.

Ms. WILBER. Thank you.

Ms. DEER. Our next speaker will be Mr. Robert Deer, vice chairman of Menominee Enterprises.

STATEMENT OF ROBERT DEER, VICE CHAIRMAN, BOARD OF DIRECTORS, MENOMINEE ENTERPRISES, INC.

Mr. DEER. Mr. Chairman and members of the committee, I want to thank you for this opportunity to testify here today. Since my educational and professional development is in the natural resources area, I will limit my brief remarks to that concern.

The former Menominee Indian Reservation was rich in four kinds of resources: land, timber, water, and wildlife. One might also consider recreational resources as a fifth category. The Menominees have had 12 years of termination now, and it is enlightening to examine the impact it has had upon their natural resource base.

The land is the Menominee's largest natural resource. In 1961, when termination was finally implemented, the title to 234,000 acres of land passed from the Federal Government into a corporate structure. Each Menominee received an income bond and a stock certificate. Generally, the individual Menominee traded his income bond for title to his property which he held as "squatters rights" under the Bureau of Indian Affairs. These parcels varied in size from a few acres to a few hundred acres; some purchases, of course, required several bonds from a family. The individual Indian then held a clear title to his property and could do with it as he wishes. The corporation had the "right of first refusal" when the land was resold, but the fact was established; the mechanism existed whereby the Indian could lose his land. And those who were poor enough did sell out. Others began to speculate. Some of them have real estate licenses. Others challenge the corporation for property so that their self-interest might be served. In any case, the tribe is losing its land.

Another area of land speculation has accrued in the lakes area. An artificial lake development consumed approximately 2.2 percent of the Menominee land base. Those natural lakes surrounding the artificial lake development have, for the most part, had their shorelines sold into private ownership. This, too, has evolved into land speculation and property is being resold at increasing prices.

The point is well made. The Menominee land base is being eroded by the individual Indian and non-Indian. The eventual result of continuing land sales is obvious; we will be a landless tribe.

The Menominee timber resources, 218,000 acres of commercial forestland, is also endangered. Under the present corporate system, timber lands can, with the concurrence of the forestry concerns be withdrawn from the sustained-yield class and be developed as residential or agricultural. This reclassified land can, and has been in the past, sold. Theoretically, then, Menominee forests are "protected" under a sustained-yield management system. Practically, however, the timber resource is being eroded. The eventual result is obvious; and expanding population will consume the Menominee forested land base.

The Menominee water resources are plentiful. The Wolf River with its west branch flows for a distance of 59.4 miles. There are 128 lakes in the county. The Wolf has been designated a potential national wild river under the Wild and Scenic Rivers Act and the National Park Service has attempted to purchase it. The total surface area of water in the county is about 4,000 acres and we have about 400 linear miles of stream length.

However, the water resources are also threatened. A lot of the lakes area shoreline has been sold into private ownership. An artificial lake development has consumed over 5,000 acres of land. The Wolf River is presently leased to the State of Wisconsin on a short-term basis. This lease protects the river and brings in needed revenue to the corporation. But when this lease expires the river will once again face the development threat. And a future Menominee Enterprises Board of Directors might do just that. One did in the past.

The last two classes of resources, the wildlife and the recreational, are also being lost to the Menominees. The corporation has 234,000 acres of land to patrol and protect. We have one full-time and a few part-time wardens employed to enforce the law and protect our rights. It's an impossible job. Wisconsin no-trespassing laws require a posting of every "forty". These signs are torn down almost as fast as they are put up. And the penalty for trespass under Wisconsin laws is minimal.

During the period 1968–70, when the artificial lake development was initiated, hunting and fishing privileges were written into the sales agreement. This action is now being litigated by the local courts since this corporate board believes it to be illegal. However, the corporation has not been receiving favorable decisions at the local level. Yes, the tribe had to go to the U.S. Supreme Court to get back its hunting and fishing rights after the termination agreement was implemented. These rights are supposed to be protected by our treaties. Apparently, they can easily be removed by non-Indians through local courts.

I think the point is well-made; the Menominee natural resource base is steadily being eroded. The question then remains, How will restoration stop this process?

First of all, Federal protection of the land will prevent additional land sales. The title will be held by the Government, Federal protection will also eliminate taxation as the motivating force behind land sales. Once again Indian lands will be held in trust for the benefit of the tribe, and not the individual. Those Indians who wish to do so will be able to place their land back into the trust status. Those Indians who wish to retain title to their land may do so. But they will, of course, have to pay taxes on that land.

Second, the Menominee forests will be protected indirectly through the alleviation of the tax-action pressure to develop the land. Forest management under the sustained-yield basis should be a joint effort between the Menominees and the Government. Such an arrangement should prove beneficial to both parties; the forest will be maintained as a renewable resource and the tribe will derive maximum benefit from its use.

Third, as a Federal reservation, trespassers would not be quite so willing to enter the area. Trespassing onto a Federal reservation is a Federal offense and the penalties are more severe than those administered at the State level.

And last, the competitiveness of private, individual property rights, which has had a negative divisive effect upon the Menominee Tribe, would be alleviated. No longer could the individual gain at the expense of the tribe.

If restoration doesn't occur and present trends continue, then the tribe, its land base, and our resources will eventually be lost. The Menominees will be consumed by tax-pressured development. We will become a playground for the rich recreation seekers. Resorts and second homes will cover the reservation. And given the present energy problems of the Nation, the increasing costs of the scarce real estate commodity, and the uncontrolled inflation, I can see no other conclusion. Without restoration the Menominee Tribe is finished.

That concludes my testimony. If there are any questions, I will attempt to answer them.

Senator ABOUREZK. Thank you very much.

Senator BARTLETT. I might just ask one question. You mention that at the time of termination the Menominee had 234,000 acres, also the timber resources, 218,000 acres, and then later on, in talking about wildlife and recreation, the corporation has 234,000 acres of land to patrol and protect.

I am mixed up. Could you tell me, am I correct that 234,000 acres was the amount that the tribe had?

Mr. DEER. That's correct. The tribe has nothing. The corporation controls 95 percent of the land. About 5 percent has passed into individual ownership, both the lake development and individual Menominee. Those are estimates.

Senator BARTLETT. Of the 5 percent the tribe does not have, part of those would be in individual Indian hands and part in others?

Mr. DEER. That's correct.

Ms. DEER. Our next speaker will be Mr. Ted Boyd, who is the vice president of the Menominee Enterprises, Inc.

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STATEMENT OF THEODORE BOYD, VICE PRESIDENT, MENOMINEE ENTERPRISES, INC.

Mr. BOYD. Mr. Chairman, members of the committee, it is a privilege for me to be here to speak on behalf of the Menominee. My name is Theodore Boyd. I am vice president of Menominee Enterprises, Inc. I have held this position for over 4 years now.

Menominee Enterprises, Inc. is basically a forestry and lumber industry. Its success or failure depends upon this basic resource, the timber resource.

Since its inception in May 1961, Menominee Enterprises and the Menominee Indians have been beset with many major problems. These problems have involved problems of organization, financial and even more importantly, cultural and social problems.

This document will attempt to briefly analyze Menominee Enterprises from an operational and financial standpoint. I do believe that the cultural and social factors are so closely related to the financial and operations, from the standpoint of Menominee Enterprises, that they are difficult to separate and they should be, at least to some degree, considered jointly.

My report will review our corporate operations from May 1, 1961, the date of the termination of the Menominee Indian Tribe as Indians, to the present. I would like to say at this point, that most of the figures that I have available are June 30, 1972, figures, the latest audited figures. We do have some interim reporting figures that are unaudited. We are presently in the process of being audited and these figures are not available at this point in time. We expect that they will be available within a few weeks or so.

I do believe the data and commentary contained in my report support the conclusions that the reservation of Menominee Indian Tribe and reservation through the legislative process will be a giant step toward the solution of the many serious problems confronting the Menominee Tribe of Indians.

Many faults can be found with the Menominee termination process. These have been cited by many different more authoritative sources than I. But this is not within the scope of this document. Suffice it to say that Menominee termination was ill-conceived and ill-planned.

Just to review, among the main faults or errors in setting up Menominee Enterprises, Inc., the tribal corporation, with the unreasonable restrictions imposed upon it with regard to the use of corporate assets. Another is the setting up of the financial structure of the corporation. Still another was the inadequate planning for the replacement of the obsolete, outmoded and inadequate plant and equipment that the corporation or tribal operation had, long before termination. These errors have affected the corporation profitability and financial stability.

These factors are mentioned because I feel that they contributed directly to land sales as an ostensible but erroneous solution to the Menominee economic problems themselves. We will get into this in a little more detail a little later on in the report.

I would like to briefly review the financial structure of Menominee Enterprises. At termination in 1971 each of the 3,270 enrolled Menom-

inee tribal members received $3,000 face value, 4-percent income, bond maturing year 2000, plus 100 shares of stock in Menominee Enterprises, Inc. The relatively low-grade bonds resulted in $9,810,000 of bonded indebtedness. This amount, by itself, substantially exceeded the owner's equity in the corporation. No set plan or provision was made for retirement or redemption of the bonds.

As of June 30, 1973, the corporation still shows $8,562,000 in bonded indebtedness. There is still no set plan for retirement of these bonds upon their maturity. It can be seen that the bonded indebtedness has decreased by approximately $1¼ million since 1961, the greater majority of this bond retirement has occurred by allowing the Menominee people to use their bonds as payment for their land, their homesites, which they were required to purchase under the termination process.

I think one of the major problems, one of the problems most grossly underestimated in the termination process was the property tax problem. Though there apparently were attempts to anticipate the problem that real estate and personal property tax expense would create for the corporation, the magnitude of the problem was grossly underestimated. Property tax has been and still is one of the greatest problems of Menominee Enterprises, Inc.

At termination in 1961 and for several years thereafter, Menominee Enterprises paid well over 90 percent of the tax levy for the town and county of Menominee. As recently as 1968 it still paid over 82 percent of such taxes. The property tax burden continues to plague the corporation.

Though the percentage of the town and county of Menominee property tax levy that Menominee Enterprises has been paying in recent years has been declining, the dollar amount, nevertheless, has been increasing. Over the past 5 corporate fiscal years property tax expense for the corporation has increased from $300,100 for fiscal year ending September 30, 1968, to an all-time high of $607,300 for the fiscal year ending June 30, 1972. The high property tax figure occurred while Menominee Enterprises' share of the tax levy had decreased in terms of percentage to about 55 percent. Again, while the corporation's percentage share of the tax levy has been decreasing, its actual property tax expense has been increasing. The trend can be expected to continue on into the future.

Special legislation affording tax relieving aids to the town and county of Menominee have helped relieve the huge property tax burden on the corporation, but these were only temporary in nature. They did not solve the problem, they merely deferred it.

The corporation since 1961 incurred almost $4 million in property tax expense through June 30, 1972. Adding to this the expense for the fiscal year ending June 30, 1973, the figure would be approximately $4.5 million.

I would like at this point to emphasize how the property taxes, coupled with the bond interest, affect the corporation.

Property taxes account for about 10 percent, over 10 percent of the net sales each year, on an average, for Menominee Enterprises. Bond interest expense has averaged about 10 percent each year. Property taxes can be expected to increase so that this is 20 percent of the net sales that nearly makes it impossible for the corporation under present conditions to operate profitably.

In every corporate fiscal year from 1961 through 1972 the property tax expense, coupled with the heavy burden of bond interest expense, has resulted in a net loss from Menominee Enterprises forestry and mills operations. I would like to make it clear that this includes only the forestry and mills operations and not the various land transactions and other income type items.

But I would also like to emphasize that the forestry and mills operations are the Menominee people's bread and butter.

If the corporation did not have the huge property tax burden, the forestry and mills operations would have generated accumulated profits of almost $1,100,000 since 1961. I think that statement says quite a bit. The property tax burden has been and can be expected to continue to be one of the main reasons for the forestry and mills operations failure to show a profit.

I would like to emphasize that it is not the fact that the corporation is required to pay property taxes that is deleterious to it, but rather the magnitude of the taxes that it is required to pay. Few, if any, companies of comparable size are saddled with the burdens of the enormous property tax and bond interest expense. Property taxes are dollars that will mean direct savings to Menominee Enterprises, Inc., if the Menominee Restoration Act is passed. These dollars will represent a major part of the dollars that will enable the company to modernize its facilities and progress toward expansion. It will enable the company to become more cost competitive and profitable. Most importantly, it will help provide the necessary funds for the company to become a viable and financially stable Menominee tribal enterprise.

To briefly review Menominee land sales and its impact, Menominee Enterprises, as it has been mentioned before, is a unique corporation with very unique problems. Unlike other companies it has some very heavy social and financial burdens. One of its great social burdens is the fact that it has accepted the responsibility or attempted to accept the responsibility of being the major source of employment in the county of Menominee. Therefore, its financial stability and growth is most critical to the economy of the entire county. These extremely heavy and unusual burdens, along with management's failure to overcome them and make the corporation a viable enterprise, led directly to the sale of Menominee land.

Menominee land sales were set forth as an ostensible solution to the corporation's cost and profit problems. This was supposed to ease the corporation's property tax burden and generate large profits for the corporation's growth. These assumptions have since been proven erroneous.

The operation of Menominee Enterprises left much to be desired since its inception in 1961. Many mistakes were made from a management standpoint. The non-Menominee managers' failures, in large part can be attributed to their failure to understand or listen to the desires of the Menominee people. The Menominee were generally relegated to menial type jobs by the expert non-Menominee managers who ran the business. And run it they did. They nearly ran it right into the ground. Little or no profits were being generated and many times losses were being sustained. Little progress was made. It seemed and was presented that the only recourse was to sell Menominee land.

While the land transactions appear to be quite handsome on the annual profit and loss statement that was delivered to the shareholders, this seemed to be a good argument for sale and continued sale of Menominee land. The managers in most of the 1960's favored land sales as a means to resolve the Menominee problems. But land sales were effectively a coverup for the deficiencies of the forestry and mill operations.

Menominee land sales created extreme disruption and division within the Menominee Tribe. The Menominee people were extremely opposed to the sale of their tribal lands, but the management chose to ignore this. The Menominee people were unable to overcome the powerful land sale establishment until the 1970's. By that time much land had been lost.

I do have attached to my report two exhibits labeled exhibits A and B, which summarize the results of operations from 1961 through 1972. Exhibit B is a historical and current analysis of Menominee Enterprises.

The profits generated from forestry and mill operations were not enough to cover the burdens of bond interest and property tax expenses. Attempts were made, as I previously mentioned, to cover up the losses and deficiencies of the forestry and mill operations by focusing attention on the profitability of land transactions.

I would like to point out that at September 30, 1969, near the beginning of the intensive land sales year, Menominee Enterprises' average costs of production for 1,000 board-feet of lumber was $94.90. As of June 30, 1972, this figure had risen to $110.19. This is about a 17-percent increase in cost over this period. I believe that much of this cost increase is not attributable to just increases in wages. I believe much of the cost increase can be attributed to a declining morale among the work force which reflected itself in poor production.

If we look at the financial analysis labeled exhibit B, it reveals an extremely low gross profit margin and at times even a loss for the 1969 through 1972 fiscal year period. Another thing that is quite clearly revealed is the general deterioration of Menominee Enterprises' financial condition and operations during the intensive land sales years. Gain, 1969 through 1972. This is especially apparent in reviewing the decline of net working capital, the current ratio, and the gross profit margin.

To summarize, there was a definite reduction in the financial stability of the corporation during these years.

Briefly, going back to this report, we see that the net working capital decreased from 1969, a figure of $1,446,000, to June 30, 1971, this was the peak of the land sales years, to a figure of $767,500. Since that time at March 31, 1973, the company has come back substantially. Our net working capital at that point was $1,094,000. I would like to mention that at termination date the net working capital for the corporation was $2,842,000. That is at the end of the first fiscal year, September 30, 1961, the first fiscal year of operation. The current ratio at September 30, 1969, was 3.9 to 1. It decreased to 1.77 to 1 in 1971, and has risen back up to 2.35 to 1 at March 31, 1973.

Again, at termination this figure was at least 15 to 1. The gross profit margin in terms of percentage in 1969 was .03 percent. In 1972

there was a negative, this is something that is almost unheard of, a negative 2.35 percent. At March 31, 1973, it had risen back up to 8 percent. The industry average for the gross profit margin is 22.21 percent. I believe the analysis and other data tend to strongly indicate that the profits gained through the sale of Menominee land were more than offset by the deteriorating forestry and mill operations. I believe the attitude and morale of tribal members, along with the failures of management, were accountable for this.

During this period the forestry and mills operations, which are the real business of Menominee Enterprises, appear to stagnate and even move backward. In short, the corporation suffered from an operation and financial stability standpoint during the land sale years. This strongly indicates that the sale of Menominee land is definitely not a solution to the problems of the corporation nor of the tribe.

The present operating performance that I referred to before, at March 31, 1973, seems to indicate a process of recovery. The liquidity tests have improved sharply since the cessation of land sales. I believe that these results probably reflect, to a great extent, a renewed spirit among employees and shareholders in general.

I think that several conclusions can be drawn from the Menominee experience with termination. The overall effects of termination have been bad for the Menominee. Sincere attempts have been made to make termination work, but the plain fact is it has not worked. It has not worked because termination involved overall attempts at assimilation of the Menominee into the dominant white society. The Menominee have overwhelmingly rejected assimilation.

It can be concluded that land sales are no solution to Menominee problems, not from a financial nor from a social or attitudinal standpoint. In fact, statistical evidence seems to indicate the long-term effects of land sales are extremely detrimental to the solution of Menominee problems.

It is clear that the Menominee are overwhelmingly in support of a return to reservation status, a reservation status that will allow self-determination.

It is clear that the Menominee desires to retain his land and his identity.

These are factors that will have substantial favorable effects on tribal enterprise operations in the future. These are the factors that will enable the Menominee to progress.

I believe that these problems can be solved and many dreams realized by passage of the Menominee Restoration Act. Thank you.

Senator ABOUREZK. Thank you very much, Mr. Boyd.

[The report submitted by Mr. Boyd follows:]

TESTIMONY ON THE MENOMINEE RESTORATION ACT

A REVIEW OF FINANCIAL AND OPERATING ANALYSIS DURING THE YEARS OF MENOMINEE TRIBAL TERMINATION (1961 - 1973)

RESPECTFULLY SUBMITTED TO: THE U. S. SENATE SUB-COMMITTEE ON INDIAN AFFAIRS

PREPARED BY: THEODORE S. BOYD,
VICE PRESIDENT,
MENOMINEE ENTERPRISES, INC.

SEPTEMBER 14, 1973

MENOMINEE ENTERPRISES, INC.
A FINANCIAL AND OPERATIONAL REVIEW
SEPTEMBER 1973

INTRODUCTION

Since its inception in May, 1961, Menominee Enterprises, Inc. and the Menominee Indians have been beset with many major problems. These problems have involved problems of organization, finance and even more importantly, social problems. The social problem stems mainly from the Menominee rejection of assimilation into the dominant White society. This document will attempt to briefly analyze Menominee Enterprises, Inc. from an operational and financial standpoint. But they are so closely related to the social problem that they are difficult to consider separately.

This report will briefly review termination planning and financial structure of the corporation as it was set up. It will review corporate operations from May 1, 1961, the date of termination of the Menominee Tribe of Indians, to the present. The report will attempt to emphasize the inseparability of economic problems from the various social problems. The social problems involve mainly, the great desire of the Menominee to continue its identity and to retain its land.

The various data and commentary point to the restoration of the Menominee Indian Tribe and Reservation through the legislative process, as a giant step toward the solution of the many serious problems confronting the Menominee.

CORPORATE PLANNING AND STRUCTURE AT TERMINATION

Many faults can be found with the Menominee termination process. These can, and have been, cited by many different authoritative sources. But this is not within the scope of this document. Suffice it to say that Menominee termination was ill-conceived and ill-planned.

Among the main faults or errors in setting up Menominee Enterprises, Inc. were the unreasonable restrictions imposed upon it with regard to the use of corporate assets. Another is the setting up of the financial structure of the corporation. Still another was the obsolete, outmoded and inadequate plant and equipment at, and long before, termination. These errors have affected the corporations profitability, viability and financial stability.

These factors are mentioned because they contributed directly to land sales as an ostensible, but erroneous, solution to the Menominee economic problems. This will be discussed in more detail later.

FINANCIAL STRUCTURE BRIEF

Attermination each of the 3,270 enrolled Menominee Tribal members received a $3,000.00 face value, 4% Income Bond maturing year 2000; plus 100 shares of stock in Menominee Enterprises, Inc. The relatively low-grade bonds resulted in $9,810,000 of bonded indebtedness. This amount, by itself, substantially exceeded the owners equity in the corporation.

No set plan or provision was made for retirement or redemption of the bonds. As of June 30, 1973, the corporation still shows $8,562,000 in bonded indebtedness. As of this time there is no set plan for retirement of these bonds upon their maturity. It can be seen that the (bonded) indebtedness has decreased by $1,248,000 since their issuance in 1961. The greater majority of this bond retirement amount occurred by allowing the Menominee people to use their bonds as payment for land, their homesites, which they were required to purchase under the termination process.

THE GROSSLY UNDERESTIMATED PROPERTY TAX PROBLEM

Though there apparently were attempts to anticipate the problem that real estate and personal property tax expense would create for the corporation, the magnitude of the problem was grossly underestimated. Property tax expense has been, and still is, one of the greatest problems for Menominee Enterprises, Inc. At termination in 1961, and for several years after, Menominee Enterprises paid well over 90% of the tax levy for the Town and County of Menominee. As recent as 1968, it still paid over 82% of such taxes. The property tax burden continues to plague the corporation.

Though the percentage of the Town and County of Menominee property tax levy that Menominee Enterprises has been paying in recent years has been declining, the dollar amount has been steadily increasing. Over the past five corporate fiscal years property tax expense for the corporation has increased from $300,100 for fiscal year ending September 30, 1968, to an all time high of $607,300 for the fiscal year ending June 30, 1972. The high 1972 property tax figure occurred while Menominee Enterprises share of the tax levy had decreased in terms of percentage to about 55%. While the corporation's percentage share of the tax levy has been decreasing, its actual property tax expense has been increasing. This trend can be expected to continue on into the future.

Special legislation affording tax relieving aids to the Town and County of

Menominee have helped relieve the huge property tax burden on the corporation. But these were only temporary in nature. They did not solve the problem, they merely deferred it.

The real impact of property tax expense on the profits of Menominee Enterprises is emphasized in Exhibit "A", attached hereto. In reviewing the exhibit, it can be seen that the corporation incurred almost $4 million in property tax expense from the date of termination in 1961 through the fiscal year ending June 30, 1972. The expense for the fiscal year ending June 30, 1973 will bring this figure up to near $4,500,000. In every corporate fiscal year from 1961 through 1972, the property tax expense coupled with the heavy burden of bond interest expense, has resulted in a net loss from Menominee Enterprises forestry and mills operations. Upon review of Exhibit "A", it can be seen that if the corporation did not have the huge property tax burden, the forestry and mills operations would have generated accumulated profits of almost $1,100,000 since 1961. The property tax burden has been, and can be expected to continue to be, the main reason for the forestry and mills operation's failure to show a profit.

It should be emphasized that it is not the fact that the corporation is required to pay property taxes that is deleterious to it, but rather the magnitude of the taxes that it is required to pay. Few, if any, companies of comparable size are saddled with the burdens of the enormous property tax and bond interest expense. This impact is amply shown on Exhibit "A".

The added burden of socio-economic responsibilities make the situation even more serious.

Property taxes are dollars that will be direct savings to Menominee Enterprises, Inc. if the Menominee Restoration Act is passed. These dollars will represent a major part of the dollars that will enable the company to modernize its facilities and progress toward expansion. It will enable the company to become more cost competitive and profitable. Most importantly, it will help provide the necessary funds for the company to become a viable and financially stable Menominee Tribal enterprise.

MENOMINEE LAND SALES AND ITS IMPACT

Menominee Enterprises, Inc. is a unique corporation with unique problems. Unlike other companies, it has some very heavy social and financial burdens. It has the social burden of being the major source of employment for Tribal members

in the county. Therefore, it's financial stability and growth is most critical to the economy of the entire county. These extremely heavy and unusual burdens, along with the management's failure to overcome them and make the corporation a viable enterprise; lead directly to the sale of Menominee land.

Menominee land sales was set forth as an ostensible solution to the corporation's cost and profit problems. This was "supposed" to ease the corporation's property tax burden and generate large profits for the corporations growth. These assumptions have since been proven erroneous.

The operation of Menominee Enterprises left much to be desired since its inception in 1961. Many mistakes were made from a management standpoint. The non-Menominee managers failures, in large part, can be attributed to management's failure to understand or listen to the desires of the Menominee people. The Menominee were generally relegated to menial type jobs while the "expert" non-Menominee managers "ran" the business. And run it they did, they nearly "ran it right into the ground". Little or no profits were being generated and losses sustained. Little progress was being made. It seemed and was presented that the only recourse was to sell Menominee land.

The land transactions appeared quite handsome on the annual profit and loss statement. This seemed to be a good argument for the sale and continued sale of Menominee land. The managers (in the 1960's) favored land sales as a means to solve Menominee problems. But land sales was effectively a coverup for the deficiencies of the forestry and mills operations.

To say that Menominee land sales created extreme disruption and division within the Menominee Tribe, is putting it mildly. The Menominee people were vehemently opposed to the sale of their Tribal lands, but the management chose to ignore this. The Menominee people were unable to overcome the powerful "land sale establishment" until the 1970's. By that time much land was lost.

FORESTRY & MILLS - OPERATIONS AND ANALYSIS

Forestry and mills operating results are summarized in Exhibit "A". It has previously been mentioned that these operations were not managed as well as they should have been in the 1960's. The profits generated from this source were not enough to cover the burdens of bond interest and property tax expense. Attempts were made to cover up the losses and deficiencies of the forestry and mills operations by focusing attention on the profitability of land transactions, both leases

and sales.

A historical and current financial analysis is attached as Exhibit "B". The report covers the period 1969 and into 1973. This report is quite revealing in several respects.

It reveals an extremely low gross profit margin (and even loss) for the 1969 through 1972 fiscal year period. Another thing that is quite clearly revealed is the general deterioration of Menominee Enterprises financial condition and operations during the intensive Menominee land sales years, 1969 through 1972. The analysis strongly indicates this deteriorating condition. This is especially apparent in reviewing the decline of "net working capital", the "current ratio" and the "gross profit margin". There was a definite reduction in the financial stability of the corporation during these years.

The analysis and other data tend to strongly indicate that the profits that were gained through the sale of Menominee land, were more than offset by the deteriorating forestry and mills operations. This is probably the result of the fact that a demoralized work force highly resented and opposed the sale of their lands. As a result of this, they may have been under-productive and not anxious to see the "land sale management" team succeed. In any event, the attitudes and morale of Tribal members was very low.

It seems more than apparent that the profits that were gained during the intensive Menominee land sales years, was more than offset by mounting losses in the forestry and mills operations. During this period the forestry and mills operations which are the real business of Menominee Enterprises, appeared to stagnate and even move backward.

In short, the corporation suffered from an operational and financial stability standpoint during the land sales years. This indicates that the sale of Menominee land is definitely not a solution to the problems of the corporation and Tribe.

PRESENT OPERATING PERFORMANCE

A look at the financial analysis of the corporation as of March 31, 1973, reveals a general process of recovery and improvement. The liquidity tests have improved sharply since the cessation of land sales. The improved operating results probably reflect, to a great extent, a renewed spirit among employees and shareholders in general.

The attitudinal improvement is undoubtedly the result of the cessation of land sales and a renewed hope for a return to reservation status. It is difficult to put a dollar value on attitudes and people in business terms, but a definite dollar value does exist. This is one of the main things that will cause improved operating and financial results in the future, if Menominee Restoration is achieved.

CONCLUSION

Several conclusions can be drawn from the Menominee experience with termination. The overall effects of termination have been bad for the Menominee. Sincere attempts have been made to make "termination" work, but the plain fact is, it has not worked. It has not worked because termination involved an overall attempt at assimilation of the Menominee into the dominant White society. The Menominee have overwhelmingly rejected assimilation.

It can be concluded that land sales is no solution to Menominee problems. Not from a financial, nor from a social or attitudinal standpoint. In fact, the long term effects of land sales are extremely detrimental as an approach to the solution of Menominee problems. The apparent affect of land sales is to adversely affect the forestry and mills operations and impede expansion projects. During a period of time when the corporation should have been moving forward, it has been moving backward from an operational standpoint. The bulk of this can probably be attributed to land sales.

It is clear that the Menominee are overwhelmingly in support of a return to reservation status, a reservation status that will allow self-determination. It is also clear that the Menominee desires to retain his land and identity. These are factors that will have substantial favorable affects on Tribal enterprise operations and finances. These are the factors that will enable the Menominee to progress.

These problems can be solved, and dreams realized by passage of the Menominee Restoration Act.

Respectfully submitted,

T. S. Boyd

Theodore S. Boyd,
Vice-President & Financial Manager,
Menominee Enterprises, Inc.

EXHIBIT "A"

MENOMINEE ENTERPRISES, INC.

SUMMARY OF FORESTRY & MILLS OPERATIONS

FOR FISCAL YEARS 1961 THROUGH 1972

FOR FISCAL YEAR ENDING -	FORESTRY & MILLS OPERATION TOTAL NET SALES	FORESTRY & MILLS OPERATION NET OPERATING PROFIT	BOND INTEREST EXPENSE	PROPERTY TAX EXPENSE (1)	FORESTRY & MILLS NET (LOSS) (2)
June 30, 1972	$4,865,500	$122,000	$224,200	$607,300	($709,500)
June 30, 1971 (9 mos.)	2,526,300	235,200	349,000	278,800	(392,600)
Sept. 30, 1970	3,394,800	306,000	356,400	315,400	(365,800)
Sept. 30, 1969	3,667,400	363,300	366,400	308,200	(311,300)
Sept. 30, 1968	3,245,300	373,900	374,400	300,100	(300,600)
Sept. 30, 1967	3,561,100	305,900	376,900	330,000	(401,000)
Sept. 30, 1966	4,078,800	744,500	377,400	417,200	(50,100)
Sept. 30, 1965	3,738,100	728,300	378,900	392,800	(43,400)
Sept. 30, 1964	3,184,800	552,900	381,500	332,400	(161,000)
Sept. 30, 1963	3,365,400	607,600	385,600	232,800	(10,800)
Sept. 30, 1962	2,801,600	637,900	388,800	305,400	(56,300)
Sept. 30, 1961 (5 mos.)	1,660,700	218,900	163,100	164,500	(108,700)
				$3,984,900	($2,911,100)

(1) Reported on an accrual basis

(2) This is the net loss before other income and expense items. It is the result of forestry and mills operations alone.

SOURCE: The above figures are taken from detail Auditor's Reports for each fiscal year.

T. S. BOYD

EXHIBIT "B"

MENOMINEE ENTERPRISES, INC.
FINANCIAL ANALYSIS-RATIOS
AT MARCH 31, 1973

	FOR FISCAL YEARS ENDING -					
	Sept. 30 1969	Sept. 30 1970	June 30 1971 (9 mo)	June 30 1972	At March 31 1973	Industry Average (1)
LIQUIDITY TESTS						
Current Assets	$1,944,600	$2,507,200	$1,764,000	$2,096,100	$1,905,600	
Current Liabilities	498,400	705,000	996,500	1,149,500	811,400	
NET WORKING CAPITAL	$1,446,200	$1,802,200	$ 767,500	$ 946,600	$1,094,200	
CURRENT RATIO	3.90:1	3.56:1	1.77:1	1.82:1	2.35:1	2.43:1
ACID TEST RATIO	2.03:1	2.19:1	.75:1	1.02:1	1.23:1	N/A
LEVERAGE TESTS						
DEBT RATIO	51.7%	49.7%	49.9%	50.4%	49.7%	N/A
FIXED ASSETS TO NET WORTH	183.2%	168.0%	172.2%	174.0%	170.9%	58.0%
LONG TERM DEBT TO TOTAL CAPITALIZATION	49.0%	49.7%	44.8%	44.5%	47.3%	N/A
CURRENT DEBT TO NET WORTH	5.7%	7.4%	10.4%	12.0%	8.4%	29.7%
TOTAL DEBT TO NET WORTH	110.6%	101.2%	102.3%	103.9%	98.9%	59.3%
PROFITABILITY TESTS						
Net Sales	$3,667,400	$3,394,800	$2,526,300	$4,865,500	$3,953,100	
Cost of Sales (Including Fair Market Value Charge)	3,666,300	3,313,200	2,515,100	4,979,700	3,636,900	
Gross Profit (Loss) as Adjusted*	$ 1,100*	$ 81,600*	$ 11,200	($ 114,200)	$ 316,200	
GROSS PROFIT MARGIN	0.03%	2.40%	0.44%	(2.35%)	8.00%	22.21%
NET PROFIT ON NET WORTH	4.87%	8.56%	4.13%	-0-	1.25%	9.85%
NET PROFIT ON NET WORKING CAPITAL	29.40%	45.16%	51.38%	-0-	11.02%	22.49%

(1) SOURCE: Dun & Bradstreet Reports

T. S. BOYD

Ms. DEER. Our next speaker will be Mr. Ben Miller, chairman of the Menominee County Board of Supervisors.

STATEMENT OF BEN MILLER, CHAIRMAN, MENOMINEE COUNTY BOARD

Mr. MILLER. Mr. Chairman and members of the committee, my name is Ben Miller, I am chairman of the local unit of government in Menominee County.

As chairman of the Menominee County Board of Supervisors and the town board of the town of Menominee, I am of the opinion that the Restoration Act is long overdue for the salvation and continuity of the Menominee Indian Tribe. It is the only instrument that can be implemented to conclude the hardships, dissention, anguish, and animosity caused by the Termination Act.

It is without question that the Termination Act imposed upon the Menominee Indian Tribe was a failure in its intent, and subjected the Menominees to a form of living far unaccustomed by our people. The transition from reservation to county status was one long to remember.

We were faced with lack of financial resources, lack of an adequate tax base. The need also existed in the areas of health and medical facilities, sanitation, education, and vocational training to the Menominee. These were formidable odds that would tax our resources to an unbearable limit.

The reality of the Restoration Act can be better exposed as it reflects upon the town and county units of governments, the analysis of budgets relate some of the hardships endured by the Menominee Indian and on the plus side, in my opinion, it reveals a less pathetic outlook.

In the event of the retention of local units of government after restoration as chairman of both units of government in a general analysis of budgets. I anticipate substantial deletions and decreases in budgetary expenditures. The seven most significant expenditures in county and town budgets are: health, education, education and welfare, sanitation, county roads, town roads, and town relief. The total county and town expenditures in these categories are $1,019,000.

In our treatment of these levies to the remaining taxable valuations of $15,574,000, each category must be treated with fair taxation.

The health expenditures could be completely deleted from current budgets. $227,000 education could be levied based on the remaining valuation of $15,574,000 or 43 percent, this formula would result in a 57-percent decrease in education or $347,130.

I might add for the record the formula applied to the county of Menominee, that district 8 has a mill rate that they assessed the township based on our legalized valuation. That is where I come up with the $227,000 that could be levied to the remaining valuation.

In social services, particularly in categorical aids and administration, the total expenditures show $1,251,600, of which Menominee County's share is based on an 80–20 percent mathematical formula and, welfare administration, county share of 6.5 percent, the resulting county overall share would be $110,000.

In the field of sanitation we do not anticipate sanitation projects against the non-Menominee property owners, except, maybe, by special assessment, which is safeguarded by Wisconsin statute 60.309.

I firmly believe and will defend against any special assessments imposed upon the non-Menominee taxpayer. The total deletion from the town of Menominee's budget would be fixed at $100,000.

County and town roads current budgets show projections totaling $131,000 for the summer and winter maintenance. The total mileage of county trunk roads are 54 miles in comparison to the total mileage of town roads of 117 miles, based on 43 miles of town roads that serve the areas of non-Menominee taxpayers, and 8 miles of county trunk roads, based on the total town and county road mileage of 171 miles, 51 miles or 29 percent of the total expenditures of $131,000 could be levied, which results in a decrease of 71 percent or $93,010.

Town relief expenditures of $46,000 could be entirely deleted as this category would not be applicable to the non-Menominee taxpayers.

In summary, of a total of $1,019,000 with the above anticipated reductions in expenditures, is projected at $719,140.

In addition to the above, I must mention that our town and county budgets are geared to serve a total valuation of $35 million and that in all fairness to the remaining valuation of $15 million, certain budgetary items could be partially or completely eliminated as in general government, protection of persons and property, health, welfare and sanitation, transportation, recreation and education, unclassified and capital outlays, and with this in mind I cannot project what effect it will have on general revenues until a trial budget is formulated to determine State aids applicable to certain accounts.

In order to properly analyze and ascertain the existing poverty level of the Indians of Menominee County, one must realize the impact of termination on expenditures budgeted for categorical aids in the Menominee County Department of Social Services, because Menominee County has been recognized and declared a distressed county since "Termination," we are only one of three counties in the State of Wisconsin that qualify for an 80–20 percent categorical aids mathematic formula in determining the county's share of expenditures levied against the taxpayers. This formula is applicable against our total categorical aids budget as follows:

Old age assistance $48,000; aid to the blind $7,200; Aid to the Disabled $38,000; Aid to Families with Dependent Children $488,000; Medical Assistance $309,400, for a subtotal of—Categorical Aids—$890,600, plus Welfare Administration $361,000, County's share 61.5 percent, for a total of $1,251,600.

These figures constitute the total amount of funds needed for categorical aids and administration. It does, indeed, project a grim picture considering the total amount of recipients receiving aid in Menominee County is approximately 600 individuals, which is 23 percent of our total population.

I have submitted my current county budget for the record of my testimony and also my current Town of Menominee budget, and also a recap of my categorical aids. In analyzing that the total recipients of categorical aids share is 584 people which represents 22 percent of the total population of 2,607.

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The next is some of the general analysis of county and town budgets which reflect in some cases Federal aid and aid from the State.

Our tax rate at the previous budget was close to $34 per $1,000 of assessment which is down to $28, which I figure is a 17½ percent decrease. On the bottom of that is a resume of how I levy it against Menominee Enterprises, the local residents, $20,342,958 which constitutes 57 percent. Legend Lake and the Lake-River lots that were sold to non-Menominees which constitute 43 percent.

The next page is a reconciliation of our financial status under the town. The next page is a reconciliation of the financial status under county. The next page is the assessments of percentage of ratio and valuation which reflect the 57 and the 43 percents which I say is still taxable, $15,573,000.

The next page is actually an explanation of how I arrived at that figure of 57 and 43 percent. The next page would designate the road mileage serving Lake lots, actually something to back up my statement of what I projected on how we would levy road expenditures to the remaining equalized valuation.

Tax rates after restoration. Much has been expressed about the dissolution or retention of our local units of government if the Restoration Act becomes a reality. Several non-Menominee landowners have expressed concern of the increase in tax rates after restoration and insinuated that town and county officials would deliberately increase budgetary expenditures that would eventually increase tax rates. This is totally unfounded. The inclination of intentionally increasing tax rates upon non-Menominee taxpayers is provided with safeguards against unfair taxation by Wisconsin statute 70.62(2)(a) which reads as follows:

> In counties containing one town only, the total amount of county taxes assessed, levied and carried out against taxable property of such county in any one year shall not exceed in the whole, one and one-half percent of the total valuation of said county for the current year, as fixed by the Department of Revenue.

The next page is the application of that statute, based on our expenditures, the total valuation of $35,689,400, the application of that statute tells us the allowable tax levy would be $535,341.

The next page, we applied that statute to the remaining valuation of $15,346,442, and we came up with $230,196 that can be levied.

The next page is a summary of what I expressed, of the application of how this Wisconsin statute will safeguard unfair taxation.

In conclusion, I have endeavored to present testimony on the Restoration Act to the best of my ability.

In addition to the exorbitant expenditures in categorical aids, the town of Menominee levies a tax in the amount of $46,164 in general relief for indigent or needy Indians. At one time my concern for increasing expenditures in welfare aids in the Menominee County budgets came to a point that I took procedures provided by Wisconsin statutes for distressed counties to apply for additional revenues and aids to contain the rising costs of welfare. A State agency made an investigation of the financial status of Menominee County and as a result of that inquiry Menominee County was denied additional financial assistance as a distressed county because our tax delinquencies at that time were in excess of $55,000. Yes, as chairman of the county

and town boards I have the most unpleasant duty of taking legal procedures against tax delinquencies and wrench the last parcel of land from the Indian who once roamed and owned the eastern portion of the State of Wisconsin. It is with extreme reluctance that I have to, by law, take these procedures against my own people.

It prompts me to recall the transition period when the Menominee Indians were terminated from the supervision f the Federal Government. It was the time the Menominee Indian first heard the word "taxation" and could hardly pronounce it much less understand the definition of it, it was the beginning of a period that has spelled hardship, turmoil, and anguish.

This is why I say the Termination Act has created so many injustices upon the American Indian that it is now bothering the national conscience. America should now rectify these inequities and develop a fair national policy governing future treatment of Indians, for it is only by this policy the treatment of Indians shall not be declared as another national disgrace.

In conclusion, I sincerely endorse any form of legislation that would reverse this monstrosity commonly known as the Termination Act. This is why I attempted to show where we have been in the past and what to expect in the future, for I am aware of the role of the county and town governments must play to implement the reality of the Restoration Act.

I conclude with the hope for success in this great venture. Thank you.

Senator ABOUREZK. Thank you very much, Mr. Miller.

[The prepared statement and budget submitted by Mr. Miller follows:]

County Board of Supervisors
MENOMINEE COUNTY
KESHENA, WIS. 54135

September 17, 1973

RESTORATION ACT

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County Board of Supervisors
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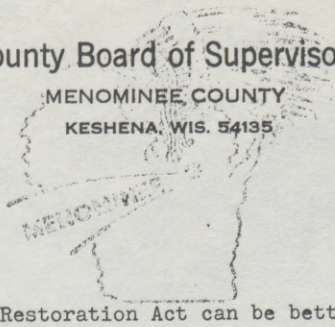
KESHENA, WIS. 54135



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In the event of the retention of local units of Governments after "Restoration" as chairman of both units of Governments in a general analysis of budgets, I anticipate substantial deletions and decreases in budgetary expenditures. The seven most significant expenditures in county and town budgets are Health, Education and Welfare, Sanitation, County Roads, Town Roads, and Town Relief. The total county and town expenditures in these catagories are $1,019,000.

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County Board of Supervisors
MENOMINEE COUNTY
KESHENA, WIS. 54135

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County Board of Supervisors
MENOMINEE COUNTY
KESHENA, WIS. 54135

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In summary of a total of $1,019,000 with the above anticipated reductions in expenditures, is projected at $719,140.

In addition to the above, I must mention that our Town and County budgets are geared to serve a total valuation of $35 million and that in all fairness to the remaining valuation of $15 million, certain budgetary items could be partially or completely eliminated as in General Government, Protection of Persons and Property. Health, Welfare and Sanitation, Transportation, Recreation and Education, unclassified, and capital outlays, and with this in mind I cannot project what effect it will have on General Revenues until a trial budget is formulated to determine State Aids applicable to certain accounts.

BOARD OF SUPERVISORS
MENOMINEE COUNTY
KESHENA, WISCONSIN 54135
Benjamin Miller, Chairman

September 17, 1973

Hearing on H.R. 7421

Welfare or Social Services:

In order to properly analize and ascertain the existing poverty level of the Indians of Menominee County, one must realize the impact of "Termination" on expenditures budgeted for catergorical aids in the Menominee County department of Social Services, because Menominee County has been recognized and declared a distressed County since "Termination", we are one of only three Counties in the state of Wisconsin that qualify for a 80-20% catergorical aids mathimatic formula in determining the County's share of expenditures levied against the taxpayers, this formula is applicable against our total catergorical aids budget as follows:

Old age assistance	$ 48.000	
Aid to the blind	7.200	
Aid to the disabled	38.000	
Aid to families W/dependent children	488.000	
Medical assistance	309.400	
Sub-total (Catergorical Aids)	890.600	
Welfare Administration	361.000	(County's share 6.5%)
Total	$ 1,251.600	

These figures constitute the total amount of funds needed for catergorical aids and administration, it does indeed project a grim picture, considering the total amount of recipients receiving aids in Menominee County is approximately 600 individuals, which is 23% of our total population.

BOARD OF SUPERVISORS
MENOMINEE COUNTY
KESHENA, WISCONSIN 54135
Benjamin Miller, Chairman

September 17, 1973

Hearing on H.R. 7421

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In addition to the exorbitant expenditures in catergorical aids, the Town of Menominee levies a tax in the amount of $ 46,164 in General Relief for indigent or needy Indians, at one time my concern for increasing expenditures in welfare aids in the Menominee County budgets came to a point, that I took procedures provided by Wisconsin Statutes for distressed Counties, to apply for additional revenues and aids to contain the rising costs of welfare, a State agency made an investigation of the financial status of Menominee County, as a result of that inquiry, Menominee County was denied additional financial assistance as a distressed County because our tax deliquencies at that time were in excess of $ 55,000, Yes! as Chairman of the County and Town Boards I have the most unpleasant duty of taking legal prodedures against tax deliquencies and wrench the last parcel of land from the Indian who once roamed and owned the eastern portion of the State of Wisconsin, it is with extreme reluctance that I have to by law take these procedures against my own people.

BOARD OF SUPERVISORS
MENOMINEE COUNTY
KESHENA, WISCONSIN 54135
Benjamin Miller, Chairman

Swptember 17, 1973

Hearing on H.R. 7421

Menominee County 1973 Adopted Budget:

General Government	$ 180,395.15
Protection of Persons-Property	123,318.00
Health & Social Services	553,043.37
Education & Recreat ion	30,076.85
Conservation & Development	1,388.04
Unclassified	1,650.00
Outlay	1,447.25
Highway Operation & Outlay	278,482.00
Contingency Fund	13,500.00
Total County Expenditures	1,183,300.66
Less anticipated Revenues:	
Highway Revenues	207,482.00
County antidipated Revenues	535,441.52
1972 Federal Revenue Sharing	76,395.00
Net to tax roll	$ 363,982.14

BOARD OF SUPERVISORS
MENOMINEE COUNTY
KESHENA. WISCONSIN 54135
Benjamin Miller, Chairman

September 17, 1973

Hearing on H.R. 7421

Town of Menominee 1973-1974 Adopted Budget:

General Government	$ 81,817.72
Protection of Persons & Property	26,419.00
Health Welfare & Sanitation	100,447.80
Transportation	86,100.00
Recreation & Education	2,400.00
Unclassified	15,750.00
Total Town Expenditures	312,934.52
Less anticipated revenues	252,617.84
Net to tax roll	$ 60,316.68

BOARD OF SUPERVISORS
MENOMINEE COUNTY
KESHENA, WISCONSIN 54135
Benjamin Miller, Chairman

September 17, 1973

- - Menominee Indian Restoration Act.

Social Services

Administration-Catergorical Aids

Type	Budget	Federal-State Aid	Recip.	County-Share
Administration	361.000	337.535		23.465
Old-age Asst.	48.000	43.680	42	4.320
Aid to Blind	7.200	6.550	3	650
Aid to Disabled	38.000	34.580	24	3.420
A.F.D.C.	488.000	439.200	515	48.800
Mecical Asst.	309.400	281.400		28.000
$	1,251.600	1,142.945	584	108.655

Total Recipients 584 22% of Total population

Total Population 2607

Catergorical Aids math formula: 54% Fed. 37% State 9% Local

or 80-20 ratio

County Board of Supervisors
MENOMINEE COUNTY
KESHENA, WIS. 54135

Benjamin Miller, Chairman

September 17, 1973

General analysis of County and Town budgets:

	72-73 levy	Tax-rate	71-72 levy	Tax-rate
State	7,137.88	.20	6,402.76	
County	363,982.14 *	10.20	420,452.35 *	
Town	20,064.31 **	.56	123,937.00 **	
Sch Dist 8	574,647.71	16.10	490,436.00	
Voc Dist 15	33,446.75	.94	46,500.91	
Net tax rl.	999,278.79	28.00***	1,087,729.02	33.98***

*Federal revenue sharing
**Shared taxes from State.
***17 1/2% Decrease
72-73 Equalized Valuation 35,689,400.00 71-72 32,013,800.00

	Valuation	Percent
M.E.I.	$17,487,806	49 %
Local residents	2,855,152	8 %
	$20,342,958	57 %
Legend etc.	$12,491,290	35 %
Lake-River	2,855,152	8 %
	$15,346,442	43 %

Actual costs to Town and County.

Health $23,000 Education $609,000 Welfare $110,000= $742,000

COUNTY TREASURER
MENOMINEE COUNTY
BARBARA FRECHETTE
KESHENA, WISCONSIN 54135

TOWN OF MENOMINEE**** AUGUST*1973

Bank Balance	$158,291.60	
Receipts	90,938.24	
Over Payment on Taxes	950.08	
	250,179.92	
Disbursements		$180,028.86
End Book Balance		70,151.06
		250,179.92

Bank Balance	$ 72,046.87
Les O/S Checks	1,900.81
	70,146.06
Transit	5.00
	70,151.06

COUNTY TREASURER
MENOMINEE COUNTY
BARBARA FRECHETTE
KESHENA, WISCONSIN 54135

MENOMINEE COUNTY *****August ,1973

Book Balance	$133,750.96	
Receipts	214,306.35	
	348,057.31	
Disbursements		$127,481.39
End Book Balance 8/31/73		220,575.92
		348,057.92

Bank Balance		$198,249.69
Les O/S Checks		5,944.79
Transit 8/31/73		192,304.90
		28,271.02
		220,575.92

	ASSESSMENT	PERCENT OF RATIO	VALUATION
M.E.I .	17,344,630	48.57 %	
LEGEND LAKE	12,482,000	34.97	
LAKES & RIVER	3,091,620	8.67	
LOCAL RESIDENTS	2,780,660	7.79	
	35,688,910	100%	

M.E.I.	49%	
Local Residents	8	20,115,290
	57%	

Legend Lake	35%	
Lakes & Rivers	8	15,573,620
	43%	

Compiled by: Ben Miller, Chairman
Menominee County Board
of Supervisors

BOARD OF SUPERVISORS
MENOMINEE COUNTY
KESHENA, WISCONSIN 54135
Benjamin Miller, Chairman

September 17, 1973

Hearing on H.R. 7421

Tax rates after "Restoration":

Considerable concern has been expressed of how the "Restoration Act" would reflect upon the non-menominees as taxpayers in the Town and County of Menominee, I maintain that the land held by Menominee Enterprises Inc. and the individual Menominees would be held in trust by the Federal Government, which means the total amount of equalized valuation of $ 35,689.400.00 would decrease by $ 20,115,290.00 or 57%, this would result in a remaining valuation of $ 15,574,000.00 or 43% subject to taxation, but because of the fact the enactment of the "Restoration Act" would entitle the Menominee Indian Tribe substantial revenues in the fields of Health, Education, Welfare, Sanitation and Roads it would be unfair to levy these catergories agsinst the non-menominees as taxpayers, presently the tax levies for these catergories are as follows:

Health	$ 23,000
Education	609,000
Welfare (County Share)	110,000
Sanitation	100,000
County Roads	71,000
Town Roads	60,000
Town Relief	46,000
Total	$ 1,019,000

With the anticipation of Federal Revenues of this magnitude it is quite obvious to me that the remaining valuation of $ 15,574,000.00 for non-Menominees would realize a substantial decrease in tax rates.

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ROAD MILEAGE SERVING LAKES AREAS

Roads in Legend Lake Area - Town Roads	34.18
Roads in Moshawquit Lake Area - Town Roads	2.70
Roads in Round Lake Area - Town Roads	.34
Roads in LaMotte Lake Area - Town Roads	.98
Old South Branch Road serving Legend Lake	2.91
LaMotte Lake Road serving LaMotte Lake property owners on South Side	2.00
TOTAL ROAD MILEAGE SERVING LAKES AREAS	43.11
County Trunk VV serving Legend Lake and Moshawquit Lake areas	7.63
Total County Trunk Highway Mileage	54.11
Total Net Town Road Mileage	117.06

Total Costs for General Maintenance and Winter Maintenance for Town Roads 1972 $ 57,792.09

Neopit and Keshena Streets included in Town Roads.

Total Costs for General Maintenance and Winter Maintenance for County Trunk Highway 1972 43,417.83

Winter Maintenance	$15,956.89
General Maintenance	27,460.94

Compiled by Ted Spurrier

TAX RATES AFTER " RESTORATION "

Much has been expressed about the dissolution or retention of our local units of Governments if the Restoration Act becomes a reality. Several non-Menominee land owners have expressed concern of the increase in tax rates after Restoration and insinuated that town and county officials would deliberately increase budgetary expenditures that would eventually increase tax rates. This is totally unfounded, the inclination of intentionally increasing tax rates upon non-Menominee taxpayers is provided with safeguards against unfair taxation by Wisconsin statutes 70.62 (2) (a) which reads as follows:

In counties containing one town only, the total amount of county taxes assessed, levied and carried out against taxable property of such county in any one year shall not exceed in the whole, one and one-half percent of the total valuation of said county for the current year as fixed by the Department of Revenue.

TOTAL ALLOWABLE TAXES BEFORE RESTORATION

Total Valuation 1972-73 of all property in Menominee County	$35,689,400
X maximum allowable rate set by State Statute 1 1/2%	.015
Levy amount - Allowable by State Statute	$535,341

ALLOWABLE TAXES AFTER RESTORATION

Total Valuation 1972-73 of all property in Menominee County	=	$35,689,400
Minus 57% of Valuation that would be lost when Restoration is Law and Tribal Lands revert to tax empt Status.		
Total Valuation after Restoration		$15,346,442
X maximum allowable rate set by State Statute of 1 1/2%		.015
Total		$230.196
Levy amount - to be levied on existing property after Restoration (This is the limit amount set by State Law.)	=	$230,196

SUMMARY:

Total valuation 1972-73 of all property in Menominee County	$35,689,400
57% of valuation that would be lost when Restoration is Law. This represents M.E.I. and local residents x 1 1/2% maximum allowable tax rate maximum allowable levy	$20,342,958 x .015 $305,144
43% of valuation left after Restoration (Legend, Lakes and Rivers) X 1 1/2% maximum allowable tax rate	$15,346,442 .015
Maximum allowable levy	$230,196
ALLOWABLE TOTAL	$535,341

SUMMARY:

57% of $35,689,400 x .015 rate =	$305,144+
43% of $35,689,400 x .015 rate =	$230,196+
100% of $35,689,400 x .015 rate =	$535,341
TOTAL	$535,341

BOARD OF SUPERVISORS
MENOMINEE COUNTY
KESHENA, WISCONSIN 54135
Benjamin Miller, Chairman

September 17, 1973

Hearing on H.R. 7421

Conclusion:

I have endeavored to present testimony on H.R. 7421 to the best of my ability, it prompts me to recall the transition period when the Menominee Indians were terminated from the supervision of the Federal Government, it was the time the Menominee Indian first heard the word "Taxation" and could hardly pronounce it, much less understand the definition of it, it was the begining of a period that has spelled, hardship, turmoil and anguish.

This is why I say the "Termination Act" has created so many injustices upon the American Indians, that it is now bothering the national conscience, America should now rectify these inequities and develop a fair national policy governing future treatment of Indians, for it is only by this policy the treatment of Indians shall not be declared as another national disgrace.

In conclusion I sincerely endorse any form of legislation that would reverse this monstrosity commonly known as the "Termination Act", this is why I attempted to show where we have been in the past and what to expect in the future, for I am aware of the role the County and Town Governments must play to implement the reality of the "Restoration Act", I conclude with the hope for success in this great venture.

Respectfully submitted,

Benjamin Miller

Benjamin Miller, Chairman
Menominee County Board of Supervisors
Town Board of the Town of Menominee

Ms. DEER. We have one more speaker, Mr. Andrew J. Pyatskowit who is the assistant director of the Menominee County Community School.

STATEMENT OF ANDREW J. PYATSKOWIT, ASSISTANT DIRECTOR, MENOMINEE COUNTY EDUCATIONAL COMMUNITY

Mr. PYATSKOWIT. Mr. Chairman, distinguished members of the committee. My name is Andrew Pyatskowit. I am an enrolled Menominee and member of the board of directors of MEI. I am employed by the Menominee County Educational Community as an assistant director in Keshena, Wis. I am testifying today in favor of the Menominee Restoration Act on behalf of the Menominee County and the education committee and more importantly I am testifying on behalf of the many Menominee Indian children who hunger for learning has not been satisfied with the present educational set up in Menominee County.

A capsulized history of the Menominee County Education Committee and the Menominee County Community School provides valuable insights into some of the problems created by termination of the tribe from reservation status, and also illustrates how Menominees have worked to solve one of the tremendous problems that has paralyzed their economic and cultural growth.

In the late 1960's a parent group was formed which had as its purpose the improvement of conditions at public school district No. 8 schools for Menominee Indian students. The immediate impetus to the committee's formation was a series of incidents in Shawana schools which, to the parents of Menominee County resulted from prejudicial practices by the school district.

The next several years were filled with an endless series of small and large frustrations for those involved with the parents' committee. Menominee students made up nearly a third of the district's student population. Still, not one Menominee sat on the school board. Decades of gerrymandering had designed the district so that the election of a Menominee was nearly impossible. Studies of the district indicated that the district had the worst dropout problem in the State of Wisconsin, and that the vast majority of dropouts were Menominees. Still the district refused to change discipline practices or any of the other practices that worked to the detriment of Menominee students.

Finally a frustration point was reached. The parent committee was dissolved and the Menominee County Education Committee was formed. Soon after its formation the purpose of the committee was stated to be the formation of a school district for Menominee County. The Menominee people were tired of unfulfilled promises, of unmet demands, of useless confrontations. They were going to take matters into their own hands and solve their own problems.

Unfortunately, the State Department of Public Instruction for the State of Wisconsin saw matters differently. After nearly a year of research where the failure of Shawano schools was documented in an impressive number of statistics, DPI stated that "The Wisconsin Department of Public Instruction is committed to the concept of integrated public schools," and that because of "increased costs and reduced

potential for a comprehensive program, the DPI cannot endorse the concept of a separate school district for Menominee County. The number of students is not sufficient to support a comprehensive program at a reasonable cost."

For the committee the conclusions of the report were disastrous. All of their efforts had again been subverted, and, as the impact study showed, only 31 percent of Menominee students entering the ninth grade in district No. 8 schools graduated from Shawano or Gresham High School.

After this disappointment, committee leaders began looking around for some way to improve the educational climate in Menominee County. If anything, the situation was steadily deteriorating to a dangerous point. Dropouts were becoming a common sight in the county, and more often than not they could not find jobs. Instead they were running away, turning to alcohol or drugs, or else participating in any number of juvenile delinquency acts which committed them to a State institution. Somehow DPI's rationalization that "The other half of the coin is counted in the many Menominee County students who have successfully completed their school experience at Shawano and have profited from the comprehensive curriculum" seemed inadequate.

The short range answer to the problem was the Menominee County Community School. Started on July 17, 1972, with a series of grants from the Donner Foundation, the AKBAR Foundation, the school quickly mushroomed from an enrollment of 4 to an official registration of over 50 students. The broad objectives of the school were simple: (1) to reduce the dropout rate of students from the county; (2) to provide a learning atmosphere that older individuals can feel comfortable in; (3) to help prepare those interested in self-advancement for college entrance or vocational school; (4) to offer to students a curriculum which can build up their pride in being Menominee; (5) to help further the mental and physical well-being of the whole community by preparing young people for an active role in the community and by educating whoever wishes to learn.

While the school was put into operation, however, other more sinister events concerning Menominee education was taking place. The first of these events was the initiation by the Native American Rights Fund of a class action lawsuit against school district No. 8. The second was an investigation started after the initiation of the lawsuit by the Department of Health, Education, and Welfare of the district. And the third was the issuance of orders from HEW to district No. 8 to eradicate five areas of prejudicial conduct found in district schools by the HEW investigative team. The result of these actions was a series of meetings in the county, remarkable for the bitterness uncovered. Probably the wounds will not be healed for generations. The people spoke out, and all the parties in dispute learned the depths of the other's frustration.

Lately the community school has been acting as a healer. While remaining opposed to many of the district's prejudicial and degrading practices, it has used its staff to help the district find ways out of its morass. It wrote a report suggesting ways the district might solve some of the problems created by HEW demands, and more recently, it helped the district to design a plan under title IV, part A, that has been funded. Hopefully, the plan will help the district perform its duties

for students from Menominee County instead of against them. The education committee is still seeking ways of achieving a school district for the county, but at the same time it is working to make friends rather than to confirm enemies. In the meantime the school is expanding its program and working hard to better its performance. Training programs for teachers, paraprofessionals and education committee members are underway on a weekly basis, and new facets to the program are being developed almost constantly. The object is to make Menominee County Community School a model school for both other Indian groups and the Nation.

To much of the Menominee community these events have several significances: (1) Menominee parents cannot trust the education of their children to a school district controlled by voters unsympathetic to and ignorant of Menominee values and problems; (2) Menominee parents, voters, and school personnel can successfully operate an educational institution in such a way as to heal frictions rather than to create frictions; and (3) the Menominee can successfully change education failure to educational success by controlling their own educational institution.

There are several sources that document the failure of Wisconsin Joint School District No. 8's failure to adequately educate Menominee students. The statistics used here only give a generalized picture of the effect of this failure upon the Menominee community, and the extent of the district's failure.

The statistics to keep in mind while examining this section of testimony is that a study by the Department of Public Instruction for the State of Wisconsin showed that only 31 percent of students entering the ninth grade in district schools graduated from one of the district's high schools. This means that over half the students that should be in high school during the daylight hours are free to roam the streets, run away, retreat into themselves at home, or drink their troubles under the table. Statistics on these seriously affecting the community's life are as follows:

1. The Wolf River Council on Alcoholism estimates that 40 percent of the entire population of Menominee County are having problems associated with alcoholism. Two full-time counselors work with 40 "crisis" clients on a weekly basis. It is estimated that a greater percentage of juveniles are having alcoholic problems than adults.

2. The juvenile arrest rate per 100,000 in Menominee County for 1972 was 3,241.1. The rate per 100,000 in Milwaukee for 1972 was only 1,759.2. Figures are for serious crimes, aggravated assault, burglary, et cetera, only.

3. 28.1 percent of juveniles arrested in Menominee County were either institutionalized or put on probation in 1972. Ten percent were referred to the department of social services or another county agency.

4. The Menominee County sheriff's office recorded four cases of assault by juveniles in 1972, 32 cases involving runaways, 33 cases associated with the misuse of alcohol, 3 narcotic and drug cases, 42 incidents involving vandalism, and 8 curfew violations. The rate per 100,000 was 8,815.

The dropout percentage comparison table compiled by the Wisconsin Department of Public Instruction gives partial insight into the extent of the Menominee education problem in joint district No. 8 schools:

	Percent
1970–71 Wisconsin dropout rate	3.02
1969–70 Wisconsin Johnson-O'Malley schools dropout rate	5.8
1971–72 Shawano High School dropout rate	3.0
1971–72 Shawano High School dropout rate white students	2.0
1971–72 Shawano High School dropout rate Indian students	12.0

The major problem with the table is that it is based, partially, in favor of the school district. The department of public instruction was forced, because of a lack of time and manpower, to use the district's own figures in compiling the table. As Gilbert Mullenbach, the school's statistician, is forced to point out, the district does not consider students committed to any correctional institution as being a dropout. The district also classifies students attend the Menominee County Community School as in-school students.

Correlating data shows: (1) in 1972 59 percent of all suspensions in the district involved Indian students even though only one-third of the student population is Indian; (2) Indian students were involved in 129 incidents that resulted in suspensions.

An interesting set of statistics shows the achievement levels of students attending the Menominee County Community School after dropping out of one of the district schools. Data is compiled from Stanford achievement test scores recorded by students attending the community school for the first time. The first set of scores are those made by junior high school age students—averages are according to grade levels:

Paragraph meaning	5th grade 8th month
Language skills	3rd grade 6th month
Arithmetic computation	4th grade 4th month
Arithmetic Concepts	5th grade 3d month
Arithmetic application	6th grade 3d month
Social studies	4th grade 7th month
Science	4th grade 4th month

High school test scores averaged on these levels—averages are according to percentile ranks on a national scale:

English	36th percentile
Math	27th percentile
Reading	39th percentile
Science (2 forms):	
Form A	37th percentile
Form B	39th percentile
Social studies	32d percentile

Putting all of this data into more graphic language, the average community school student—probably 17 or 18 years old—can only read on a fourth or fifth grade level; he can only do math problems on a fifth or sixth grade level; and his science skills rank on a fourth or fifth grade level. In other words, the school district has failed him miserably. He does not possess the skills to hold down even a department store clerk's job. The saddest fact of all is that these are average scores achieved by students coming into the school. Many of the students, after seven to twelve years of schooling, cannot even read on a second grade level.

The Menominee County Education Committee has developed a philosophy of education that lays a foundation for solutions to educational problems faced by the Menominee people. The committee believes that:

1. Schools should be controlled by the communities they serve.
2. Education is most effective if it uses cultural and regional differences to further its academic ends.
3. Education is most effective when it involved the community it is serving in the educational process.
4. Schools in a community should be designed to help the community develop itself economically and culturally.

The committee believes that individual problems deserve individual answers in education as well as in other aspects of American life, and that America should be a land of equal opportunity. The important point is that each youngster, regardless of race, creed, or sex, deserved the opportunity to achieve to his level of capability. If education is approached in these ways, the committee does not see how a school can fail.

At this time there are several recommendations concerning education in Menominee County and the Menominee Restoration Act which would be made:

1. The act should contain a provision which assures the people of Menominee County that a school district will be established within county borders.
2. The act should establish the right of the Menominee people to control their own school district.
3. The act should make provision for the funding of a Menominee County school district.
4. The act should make is possible for the school district to receive direct grants that fully meet educational needs from the Federal Government.
5. The act should make it clear that the Menominee community rather than the Bureau of Indian Affairs or some other organization has sole control over its educational system.

If these provisions are added into the act, the education problems of Menominee students can be solved. The community can take a large and significant step forward toward joining the rest of American society as educated and sophisticated voters and workmen; and in doing so, it can start to assert itself as a part of this Nation rather than as an island set apart.

Senator ABOUREZK. Thank you. Is that the end of the prepared part of the testimony?

Ms. DEER. Yes. We are prepared now to answer your questions, and I would like to introduce two attorneys, Joseph Preloznik and Charles Wilkinson who are available also for questions.

Senator ABOUREZK. I understand they have some prepared testimony to present later on, is that right?

Mr. PRELOZNIK. We are available for responses. We have not prepared formal testimony, as such, but are here to answer any questions the subcommittee might have.

Senator ABOUREZK. We will probably save our questions for you for the last part so you can kind of respond to all the previous testimony, if that's all right with you.

Forrest Gerard, who is the staff director of the Indian Affairs Subcommittee, has prepared some questions he would like to ask members of the panel now, so I will turn it over to Mr. Gerard.

Mr. GERARD. I believe a number of questions that staff had prepared were adequately responded to by the testimony. However, there are several general questions we would like to present to Ms. Deer and anyone on the panel may respond.

First of all, what is the tribal council's current position with respect to the future status of Menominee County? I believe from the testimony one would conclude that you plan to retain the county but is that your official position or recommendation.

Mr. MILLER. Mr. Gerard, do I understand that your question is what is the consensus of the panel on whether to have a retention or dissolution of the tribal council?

Mr. GERARD. Has this been a point of discussion among the people?

Ms. DEER. Let me say that first of all the people agreed and wanted to retain their identity. That's the reason that Menominee County was established after termination. There is a very strong feeling among the Menominee people to retain their identity and it is felt that this is the most effective way of doing this. The board of directors of Menominee Enterprises and the voting trust have passed a resolution of support for the Restoration Act and it would be implied then from that that this is what we want, although we have not taken a specific stand on that particular point.

As it was pointed out in the earlier testimony, this has to be done according to the laws of the State of Wisconsin. There are specific directions in the State constitution for this, that before any action can be taken it has to be done through a referendum of the people in the county. Maybe some other panel members would have some additional comments to make, or perhaps our attorneys would wish to elaborate on this point.

Mr. GERARD. We will reserve that question for them.

With respect to the lands that were sold to non-Indian purchasers, can anyone on the panel give us a breakdown of the total number of acres involved? How many non-Indian property purchasers can you identify, just some general data so we know what we are talking about?

Ms. WILBER. It is in the neighborhood of 12,000 to 15,000 acres that's been purchased either by non-Menominee or Menominee. The past year it has been the practice of Menominee Enterprises to repurchase any land that becomes available in that we have the right to exercise our option within a 10-day period after they have a bona fide offer from a proposed buyer. We have purchased some land within the last year, but it is very minimal, maybe 200 to 300 acres that we repurchased.

Ms. DEER. Are you looking for numbers of people or numbers of lots, acreage?

Mr. GERARD. Yes.

Ms. DEER. The lake development area consists of an artificial development and other lake lots that were sold outside of the development. The artificial lake development is approximately 5,270 acres in size. Out of this, as of July 1972, I believe, about 2,000 half-acre lots have been sold. So if we assume these are developed to the maximum within

the artificial lake development, we will have that many residents there, families I should say. Of course, each family would have three, or four, or five people in it. I am unaware of the figures, I don't think they have been compiled of the lake lot owners outside of the artificial lake area. However, they are numerous, too. One of our largest lakes has been pretty much sold into private ownership, the frontage.

Mr. GERARD. I would like to suggest that any additional material or any information you might have on hand concerning the non-Indian property holders, the number of lots, et cetera, that you would like to submit to the committee, I am sure the chairman would want this information.

One additional question in relation to the land sales. What traditional Indian treaty rights, if any, were transferred to the non-Indian purchasers? We have heard questions concerning fishing rights. Is this in relation to the land sales to the non-Indians?

Ms. DEER. I can give you a little on that. The rights, this is under litigation, first of all, and the matter is being questioned and I don't want to legitimize any of the rights here by my testimony. The hunting and fishing rights were written into the sales agreement for artificial lake development lots purchasers from a period 1968 to 1970. At that time the practice was stopped. I don't know into what area the agreement was written into and I am sure our lawyers will be able to elaborate on that later. But there was a 2-year period there whereby this was written into some area of the sale provisions. It is this matter that is being contested in local courts, hunting and fishing rights, the position was that hunting and fishing rights were not a matter that could—that the corporation could pass on to the tribe. I am speaking of the corporation as a business entity and not the tribe. We have to make that distinction.

Ms. DEER. It is our understanding that the permission for this was not given by the corporation or by the voting trust. Gain, this matter is under litigation.

Mr. GERARD. I presume the attorneys will be prepared to speak to this issue as well.

Another general question, will restoration of Federal recognition to the Menominee Tribe enable the tribe to develop an orderly plan to restore the bonded indebtedness referred to during your panel presentation? In other words, I presume, even though there will be loss of taxes, this will be more than offset by the influx of Federal lands. What will this do to your cash position?

Ms. WILBER. At the present time we are having tax experts and tax insurance people looking into establishing a plan that will retire our note as a sinking fund so that come the year 2000 we will be able to pay off this indebtedness. But at any rate, with the enormous tax burden off the corporation's back, it is going to be much easier to be able to meet the bond payment as well as establish a sinking fund to retire these bonds or pay these bonds in the year 2000.

Ms. DEER. Also, with Federal recognition, as you well know, the Menominee Tribe will then be able to apply for loans from the revolving loan funds of the Bureau of Indian Affairs and also, I understand, there is another fund for economic development. We have been very busy working on corporate affairs and restoration that we haven't

fully had time to investigate these completely yet, but we are aware of this problem and we hope to be able to solve it to the satisfaction of all concerned.

Mr. GERARD. Again, when your report is completed by the tax consultant, I presume that will be made available to the committee?

Ms. WILBER. We had hoped we would have it here today but they did not get it compiled. It should soon be ready, their report should soon get to us.

Mr. GERARD. Do you have any specific comments or recommendations concerning any of the provisions contained in S. 1687, identical to the bill that was heard in the House?

Ms. DEER. Yes. There was a letter which I would like to submit, with your permission, for the record, to Congressman Meeds by our attorneys, Mr. Wilkenson and Mr. Preloznik, outlining the comments and recommendations on the markup version of the bill. I think it would be more appropriate for them to comment on some of these points. There were a number of changes that were made in the markup version, including some of the recommendations that we had wanted.

Mr. GERARD. We would like to have the attorneys utilize that letter during their discussion this afternoon for information to the committee and the staff.

One final question. Do you see many restrictions being placed upon your operation by "trust status" or do you think the present policy of self-determination will allow adequate flexibility for the Menominee to manage their affairs in the manner in which you desire?

Ms. DEER. We want Federal protection and not Federal domination. We feel that with the new thrust for Indian self-determination that has been expressed by Menominee, by other Indian groups, by President Nixon, and hopefully by the incoming Commissioner of Indian Affairs, that we will be able to have this type of relationship with the Federal Government. We want protection, but we do not want domination, and we call on the Senate, the House and the executive branch of the Government to exercise creativity and ingenuity in joining in a new partnership with us. We would like to have the restoration of our tribe be a model that other tribes across the country can follow, and I think that as we move ahead now toward restoration, implementing many of the points that we have outlined in our legislation that we can become more specific.

Mr. GERARD. That's all. Thank you.

Senator ABOUREZK. Ms. Deer, that's all the questions we have for this panel. I want to express my gratitute for the excellent presentation from all of your panel members. The presentation and the detail that they presented is very helpful to the committee, and I want to compliment you especially for the excellent work you have done in bringing this matter of Menominee restoration before the Congress. When you are all done, perhaps we can hire you to lobby some other bills for us. You have done an awfully good job on this one. My congratulations and compliments to all of you. Thank you.

Ms. DEER. Thank you very much. I do have a few additional documents I would like to submit for the record. I am sure you are familiar with this, the analysis of our Restoration Act. Our book, "Freedom With Reservation." We have a statement by Mr. Melvin Laird, our

former Congressman, and I am sure you are aware of his support for our Restoration Act. We feel this is very important and it needs to be included in the record. We also have the reports on the economic situation of the Menominee Indians done by the Bureau of Indian Affairs which was submitted to the House Committee on Appropriations. We would like to submit this.

Senator ABOUREZK. They will be accepted into either the record or the file, and the staff will look them over to determine the length and apply them accordingly.

Thank you very much again.

[The material submitted by Ms. Deer and retained in committee files include "Freedom With Reservation," "The Menominee Tribe of Indians, 1940–1970," "A Legal Analysis of the Menominee Restoration Act," and "The General Economic Situation of the Menominee Indian Tribe of Wisconsin." Following is Ms. Deer's prepared statement:]

A CASE FOR RESTORATION

Testimony on the Menominee Restoration Act

Submitted to the Senate Subcommittee
on Indian Affairs

September 17, 1973

by
ADA DEER
Chairperson of the Menominee Common Stock
and Voting Trust

This hearing is the culmination of the efforts of many dedicated supporters and volunteers, legislators and members of the media. Is also due to the efforts and perseverance of the Menominee people, who have personally suffered the effects of termination.

Termination represented a forced change in the traditional Menominee life-style. Congress expected us to replace our Indian way of life with a complicated county and corporate structure. Congress expected immediate Menominee assimilation of non-Indian culture, values and life styles.

The truth is that we Menominees have never wanted these changes imposed on us, any more than white people would want an Indian way of life imposed on them.

We want to show you the specific disasters of termination with regards to the Menominee people. We will tell you of the disastrous effects of poverty, loss of assets, prevention of self-government, and threat to our very identity which termination has brought upon us, the Menominees.

The immediate effect of termination on our tribe was the loss of most of our hundred year old treaty rights, protections, and services. No amount of explanation or imagination prior to termination could have prepared us for the shock of what these losses have meant.

Congress withdrew its trusteeship of our lands, transferring to MEI the responsibility for protecting these lands, our greatest asset. As we shall explain, far from being able to preserve our land, it was sold to non-Menominee. Termination did to us what allotment has done to other Indian tribes.

Congress has also extinguished our ancient system of tribal "ownership" of land (where no individual had separate title to his home) and transferred title to MEI. Consequently, individual Menominee suddenly discovered that we would be forced to buy from MEI the land which had always been considered our own, and to pay for title to our homesites. Thus began the tragic process

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of our corporation "feeding off" our people.

We Menominee lost our right of tax exemption. Both MEI and individual Menominee found themselves saddled with tax burdens particularly crushing to a small tribe struggling to develop economically.

BIA health, education and utility services ceased. We lost all medical and dental care within the Reservation. Both our reservation school and hospital were closed because they failed to meet state standards. Individual Menominee were forced to pay for electricity and water that they previously received at no cost. Our county found it had to renovate at high cost its sub-standard sewerage system.

Finally, with termination and the closing of our tribal rolls, our children born since 1954 have been legally deprived of their birthright as Menominee Indians. Like all other Menominee, they have lost their eligibility for United States government services and benefits to Indians. These children may inherit only their parent's share of Menominee assets--which means that if the parents' portion has been lost or dissipated, their children lose forever any chance to share in tribal assets. The only major Menominee treaty right which the government has allowed us to retain has been our hunting and fishing rights. Wisconsin has tried to deprive us of this right, but in 1968 after costly litigation, the United States Supreme Court ruled that this treaty right had "survived" termination. This decision raised the question of how many other rights had "survived" termination.

We hope you can appreciate the magnitude of these treaty losses to us. Visualize a situation similar to ours happening in one of your home states. Imagine the outrage of the people in one of your own communities if Congress should attempt to terminate their basic property, inheritance, and civil rights.

We believe that termination has produced three major long-range effects on the Menominee people, each one a disaster in itself.

First, termination has transformed Menominee County into a "pocket of

poverty", kept from total ruin only by massive transfusions of special federal and state aid, welfare payments, and OEO spending.

Second, termination has forced our community to sell its assets. Consequently, both tribal and individual assets have dissipated at an incredible rate. And third, the mechanics of the termination plan has denied the Menominee people a democracy.

Today, Menominee County is the poorest county in Wisconsin,[1] and one of the poorest in the nation. It has the highest birthrate in the state and ranks at or near the bottom of Wisconsin counties in income, housing, property value, education, employment, sanitation and health. The most recent figures available (1970) show that the annual income of nearly 40% of our families falls below the federal poverty level of $3,000.[2] The per capita annual income of our wage earners in 1970 was estimated at $1,028, the lowest in the state.[3]

Our county does not have diversified industry. Over 70% of those employed work in our MEI lumber industry. In 1970, 11% of our people were unemployed, the highest unemployment in the state.[4]

This lack of employment opportunities, combined with our high birthrate forced nearly 50% of our county residents to go on welfare in 1968. Welfare costs in the county for 1968 were over $766,000 and our per capita welfare payment was the highest in the state. The majority of Menominee who have left our county to seek work in the cities have been unable to avoid the trap of poverty there also.

With the closing of the BIA hospital, we lost most of our health services, and most Menominee continue to suffer from lack of adequate medical care. There have been no full-time physicians or dentists in Menominee County since termination until July of 1972 when one doctor became available to us through the National Health Corps. Shortly after termination, our people were stricken by a TB epidemic which caused great suffering and hardship because of the lack of local medical

facilities. Consequently, the state and county had to spend nearly $200,000 in order to bring the epidemic under control. Our people continue to fear the possible recurrence of other such disasters. We feel helpless because the resources are not available to provide adequate medical facilities.

Education in Menominee County--which theoretically should offer our people a hope of future advancement--has also suffered because of termination. The loss of the BIA school required that our youth be sent to Shawano County for high school. The Shawano school system has assumed that Menominee children possess the same cultural and historical background as a middle-class white community. The school system has demonstrated insensitivity and punishment to our Menominee children, and their cultural background. In many cases, our children find themselves objects of rejection and discrimination. Since 1961, our high school drop-out rates have increased substantially, absenteeism has soared, and our children apparently are suffering a downward trend in achievement. Comparisons based on educational achievement tests show that Menominee children fall significantly below district and national norms.[5] Our average level of education completed stands at eighth grade.

How did termination bring our poverty about?

We can answer this question from two viewpoints: economic and culturally. First, from the economic standpoint--in 1954 we Menominee seemed prosperous in comparison to other tribes, but further examination of our situation would have revealed that our resources were not sufficient for us to finance a county form of government. Our once extensive cash assets were larely eaten up by the expenses of termination. Yet after termination became effective, MEI faced the financial burdens of providing employment to the Menominee people and operating a profit making industry. Confronted with inadequate reserves and an inadequate tax base, MEI turned to the first of several drastic measures. To maximize the efficiency of its operations, MEI was forced to reduce its work force which aggravated an already severe unemployment problem.

The financial strain imposed on individual Menominee was equally devastating. We found ourselves faced with new and heavy expenses, including taxes, utility costs and worst of all, land payments. These financial burdens combined with the lack of jobs, resulted in greater poverty than ever before. Thus, termination has weighed down our sawmill, and small community with crushing new expenses--all proposed in the apparent expectation that somehow "we would make it".

The only factor which has prevented us and MEI from complete collapse has been the huge stop-gap financial assistance that the federal and state governments have given us. Since 1961 almost $20,000,000 in special federal and state grants in aid have beenexpended in Menominee County.[6] Since 1965 nearly $1,500,000 in OEO money has also been spent within the County.[7]

These payments are only a temporary solution, having been used only to pay for on-going community services and to keep our people from starvation. This special funding does absolutely nothing to attack the basic causes of Menominee poverty; our lack of diversified industry, our dearth of economic opportunities, our negligible investment capital, and our inadequate tax base.

From the cultural viewpoint, regardless of how much money is spent in Menominee County, the essential problems will remain. The government is asking us to make a success of the termination policy which we have bitterly opposed from the beginning. We are expected to give up our Indianness and adopt a way of life none of us want. Such an experiment can never succeed; it is doomed to failure and to impoverish our people.

Congress did not conduct careful and intensive studies on the possible effects of such monumental legislation. Congress did not seek to discover our true feeling about termination; instead termination was imposed on us.

To Menominee, the real meaning of the termination period is this: Congress decided unilaterally to end its treaty obligations with us, and attempted to

thrust us unprepared and uninformed into a way of life completely unacceptable to us. The effects of this transition have been tragic and disastrous.

Our community has been physically divided by the sale of our land. Moreover, the Menominee cannot forever escape the destructive psychological effects of living in destitution. The pride and self-image of the Menominee is threatened by poverty and lack of self-determination.

President Nixon has called termination "morally and legally unacceptable because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups..."[8]

The 1972 Democratic Platform "strongly opposed the policy of termination" and the Republican Platform promised "a complete and sympathetic examination of the severe problems facing the Menominee Indians in seeking to have Federal recognition restored to (our) tribe..."

On August 31, 1973 Melvin Laird, the President's Domestic Affairs Advisor issued a strong statement of support for Menominee Restoration. "Since those days in Congress (he served as a Congressional representative from the Menominee's home state of Wisconsin) I have been concerned with ending the hardships caused by termination. Now that a bill is before Congress it is paramount that it be swiftly passed so that restoration to trust status can be made a reality for the Menominees."

We want Federal protection, not Federal domination. The Menominee Restoration Act will be the dawn of a new partnership with the government--self determination without termination!

APPENDIX

A BRIEF PRE-TERMINATION HISTORY OF THE MENOMINEE

Our ancestors, a peaceful Algonquian speaking people, once lived freely in the woodlands on the Great Lakes, having come to that region with other Algonquian speaking tribes about 4,000 years before the arrival of the white man.9 Prior to 1831, the Menominee occupied a huge territory of nearly 9½ million acres in what was to become the northeastern portion of Wisconsin and part of the Upper Peninsula of Michigan. Following the War of 1812, United States settlers swarming westward, were driving from the Great Lakes area most of its native American inhabitants. Deeply attached to their ancient lands, our ancestors resisted the efforts of the federal government to resettle them west of the Mississippi. But through force of its greater power, the United States succeeded in securing from the Menominee a series of treaties by which they ceded most of their homeland to the United States and to other Indian tribes which the government was relocating. In the Wolf River Treaty of 1854, our people, faced with little choice, agreed to be confined to a site of roughly 234,000 acres along the Wolf River in northeastern Wisconsin.10 This site became the Menominee Indian Reservation. Until termination, the federal government, in return for the land we had ceded it, held our lands and assets in trust for us, protected our various treaty rights, and through the BIA, managed our reservation and supplied us certain community services.

The century of Menominee/federal government relations, 1854-1954, involved both similarities and some important dissimilarities

to the experiences of most native Americans in reservations. Like many other Indians bound by the paternalistic rule of the BIA, the Menominees suffered, and resented a lack of meaningful self-government. Unlike many other tribes, the Menominee rejected in the latter part of the nineteenth century BIA attempts to submit them to the government policy of allotment--an "experiment" that imposed private property ownership on Indians, later repudiated by Congress, by which Indians lost nearly 90,000,000 acres of their lands in 50 years.[11] The economic situation of the Menominee was somewhat better than that of many reservation tribes: by virtue of our being situated in the midst of a magnificant forest, our people were able to develop a modest scale lumbering industry which provided the basis for some employment and income. Yet we Menominee had to fight to control our lumbering business, which was run by the BIA. Finally, winning the rights to review the BIA's budget and to sue the Bureau for any mismanagement of the forest, our tribe brought suit in the United States Court of Claims against the BIA for such mismanagement, and in 1951 netted a $7,650,000 judgment for damages.[12] By 1953, we Menominee were anxious to make further gains in self-government and management of our business and assets; yet we were well satisfied with federal protection of our assets, protection of our treaty rights, and provision of community services. Relative to many other tribes, we Menominee seemed to possess some of the ingredients for future prosperity. We had $10,000,000 in the United States Treasury, a source of employment and income in our lumbering operation, and owned our forest itself, valued at $36,000,000. In addition, we were one of the three Indian tribes in the country who were able to pay

for the cost of most of our federal services. But let us stress that these appearances of wealth tend to hide the deeper facts that virtually all individual Menominee were poor, that our federal services were not of highest standard, that our housing, health, and education fell far below national norms, and that our stage of self-government was a tender, young one. However, to many Menominee, the future seemed to hold the promise of eventual prosperity. But it was at this stage in our history that Congress decided to conduct another social experiment with Indians: termination.

THE ENACTMENT OF TERMINATION

Phase One: 1953-1958

We would like to review in some detail the history relating to the termination of our tribe.[13] We believe this history will help shed a clear light on the reasons why termination is a disastrous policy which should be totally rejected by Congress as it has been by nearly all American Indians.

Early in 1953, we Menominee wanted a portion of our 1951 settlement--about $5,000,000--distributed among ourselves on a $1,500 per capita basis. Since Congressional approval was required for such disbursement of our assets, (then) Representative Melvin Laird and Senator Joseph McCarthy introduced in Congress on behalf of our Tribe a bill to authorize the payment of our money to us.

This bill passed the House, but in hearings before the Senate Committee on Interior and Insular Affairs, it ran up against an amendment sponsored by the late Senator Arthur V. Watkins (R. Utah)

calling for "termination" of federal supervision and assistance to the Menominee. Watkins and the Committee refused to report the bill favorably, calling upon us Menominee to submit a termination plan before we would be given our money! "Termination!" What did that mean? Certainly at that time, none of us Menominee realized what it meant! Because of the Senate Committee's reaction, a temporary deadlock had resulted. In June, 1953, we Menominee invited Senator Watkins to visit the Reservation and explain "termination" to us.

Senator Watkins badly wanted our termination. He was firmly convinced that factors such as our status as Reservation Indians, our tribal ownership of land, and our tax exemption were blocking our initiative, our freedom, and our development of private enterprise. He wished to see us rapidly assimilated into the mainstream of American society--as tax paying, hard working, "emancipated" citizens. Senator Watkins did not believe that our consent to termination was necessary for its enactment. Yet he knew that his cause would be helped if he could persuade us to agree to termination.

On June 20,1953, Senator Watkins spoke for 45 minutes to our General Council. He told us that Congress had already decided on terminating us, and that at most we would have three years before our "affairs would be turned over to us"--and that we would not receive our per capitas until after termination.

After he left, our Council had the opportunity to vote on the "principle of termination!" Some opportunity! What little understanding we had of what termination would mean! The vote was 169 to 5 in favor of the "principle of termination." A mere 5 percent of the 3,209 Menominee people participated in this vote. Most of our people

chose to be absent from the meeting in order to express their negative reaction to termination. Many who did vote affirmatively that day believed that termination was coming from Congress whether the Menominee liked it or not. Others thought that they were voting only in favor of receiving their per capitas. At any rate, it is this farce of "democratic procedure" that is often cited as proof of our own acceptance of termination!

We then set about preparing a termination plan, which the BIA subsequently emasculated, and we received word that Senator Watkins was pressing ahead with his own termination bill. Another general council meeting was called, one which is seldom mentioned, but at which Menominee voted 197 to 0 to oppose and reject termination! But our feelings did not matter--although the Watkins bill met a temporary defeat on technical grounds in the House late in 1953, Senator Watkins re-introduced it in 1954.

We became convinced that there was no alternative to accepting termination. Therefore, all we pleaded for was adequate time to plan this sudden and revolutionary change in our lives! One June 17, 1954, the Menominee Termination Act was signed into law by President Eisenhower.

The Act gave us our per capita payments and provided that the Menominee tribal roll would be closed that same day; that the Tribe would submit a plan to provide for future control of tribal assets and that individual Menominee would not be entitled to any of the services provided by the United States for Indians; and that all United States statutes affecting Indians on account of their status as Indians would no longer be applicable to the Menominee The full

burden of providing community services, employment, and protection of our assets was to be transferred to our tribe.

We Menominee were initially given until 1958 to submit our plans; at that point, termination was to take effect. However, during the seven years following 1954, the termination plan was shaped and reshaped by Congress, Wisconsin, and a few Menominee. Consequently, the termination deadline had to be extended several times.

The first phase of our termination ended with Congress requiring us to pay most of the costs associated with the planning for termination.[17]

Phase Two: 1958-1961

The second phase of our termination consisted in our belated preparation of our termination plan and final Congressional approval.

This termination plan was the work of the four-member, Council-appointed Co-ordinating and Negotiating Committee, assisted by a large Milwaukee law firm. The Committee finished its plan in late 1958 and presented it to our General Council in January 1959, two weeks before the Washington deadline for submitting an approved plan. From January 9 to 17, this plan was discussed at Council meetings.

Our termination plan is a complex and lengthy legal document, and as one observant Menominee pointed out at those 1959 Council meetings, 99 percent of us did not know what it meant! Many of us believed at the time that our choice was either to accept this plan as written or to have one imposed on us by Washington. The alternative of composing an entirely different plan or of modifying the proposed plan

was never made clear to us.

Our Council, largely acting in the belief that they had no alternative, approved a plan that the overwhelming majority of us didn't even read, much less comprehend! The final vote was 91 to 16. Ninety-one affirmative votes determined the future of 3,270 Menominees.[18]

Immediately after the 1954 termination, our once impressive assets of $10,000,000 began to vanish rapidly. Our $1,500 per capita payments consumed nearly $5,000,000. When the BIA discovered that for several years it had underpaid us on our annual dividends from forest profits (stumpage payments), another $2,000,000 of our assets was distributed as dividends. The cost of termination also cut deeply into our assets. The appearance of Menominee prosperity faded rapidly, and by 1960 our Tribe was operating at a $250,000 annual deficit.[19]

In order to preserve our tribal identity and gain a favorable tax status, Menominee voted in a referendum to become a separate county. Finally in 1961, our termination plan was approved by the federal government. Out termination was made effective, and we became the smallest and 72nd County in Wisconsin.

The Termination Plan

Before stating our conclusions about this crucial period in our history, we would like to explain the termination plan, which provided the basis for our post-termination way of life.[20] The plan created a corporation, Menominee Enterprises, Inc. (MEI) to hold and

manage Menominee assets. Title to all Menominee tribal assets--the forest, saw-mill, public utilities, and land--passed to MEI. Each of the 3,270 enrolled Menominee was given 100 $1 par value shares of stock in his corporation. In addition, each enrolled Menominee was issued an MEI income bond guaranteed to mature at $3,000 on December 1, 2000. Each bond bears interest at 4 percent per year, or $120. This sum serves as the equivalent of the annual stumpage payments made to each Menominee prior to termination. The termination plan provided that Menominee could use their income bonds to buy property from MEI.

The corporation is effectively controlled by a Voting Trust, which at time of termination numbered seven members, but recently increased to eleven members. The Voting Trust holds and exercises the voting rights of all the shares of the individual Menominee shareholders. The Voting Trust elects a twelve-member Board of Directors which manages MEI, and these Directors in turn elect the officers of the Corporation.

In return for surrendering their stock and stock rights to the Voting Trust, each Menominee received a Voting Trust Certificate which confers upon him two rights: to vote for one trustee to the Voting Trust each year, and at the end of three successive 10-year periods, which commenced in 1971, to vote whether or not to abolish the Trust. Under the termination plan, all the trust certificates of Menominee minors and "incompetents" were turned over to the First Wisconsin Trust Company, which in turn set up the "Menominee Assistance Trust" to manage and vote this bloc of certificates.

NOTES

1. Unless otherwise noted, the statistics quoted in this subsection are all shown in Wisconsin Legislative Council 1969 Report, Vol. VIII, Report of the Menominee Indian Study Committee, 1969, pp. 13 - 33.

2. Economic Situation of the Menominee Indian Tribe of Wisconsin, 1971, a Report to the House Committee on Appropriations and the House Interior and Insular Affairs Committee by Bureau of Indian Affairs United States Department of Interior.

3. Ibid

4. Ibid

5. See Wisconsin Judicare, Report on the Education of Menominee Youth, Madison (1971) for a thorough discussion of Menominee education problem.

6. Compiled by Faith Moulin, researcher, Menominee Indian Study Committee (M.I.S.C.) from Wisconsin Department of Revenue's Taxes and Aids, 1961-68 and Wisconsin Fiscal Digest, reports submitted to the M.I.S.C. and other data supplied by State and Federal agencies.

7. Wisconsin Legislative Council 1969 Report, Vol. VIII, and data shown in Wisconsin OEO records.

8. Message from the President of the United States transmitting recommendations for Indian Policy, July 8, 1970. p. 3.

9. For material on the early history of the Menominee, see the standard work: Felix Keesing, The Menominee Indians of Wisconsin.

10. The Wolf River Treaty is reported at 10 Stats. P. 1064.

11. See the House Report on the Indian Reorganization Act of 1934, H. Rept. 1804, 73rd Cong., 2nd sess., (May 28, 1934), p. 6.

12. See Ferial Deer Skye, A Short Narrative History of the Menominee Indians of Wisconsin, Menominee County: Keshena, WI (1966), pp. 20 - 21.

13. See Orfield, Report on the Termination of the Menominee Reservation, University of Chicago: Chicago. (1965), for the best history of the Menominee Termination. The material in this section is contained in his report at cc. 1 - 5.

14. See Orfield for a good description of this Council meeting, at Ch. 3, pp. 4 - 5.

15. Ibid. Although this second Council meeting is no more quantitatively representative than the first, it nevertheless represents the more informed, and less intimidated, vote of those Menominee inclined to vote. It also represents the feelings which most Menominee held at the time, even if they chose not to vote, namely, that termination seemed like a dangerous mistake. For these reasons, this second Council meeting is more qualitatively representative than the first. Certainly, however, a referendum would have been preferable to any small Council vote, and had the government allowed such a referendum, its results would have shown a rejection of termination by the Menominee.

16. The Termination Act is reported at 25 USC Secs. 891 - 902.

17. Orfield, Ch. 2, pp. 7 - 8.

18. Orfield, Ch.3, pp. 18 - 22.

19. Gary Orfield, "The War on Menominee Poverty," University of Chicago: Chicago (1966), p. 11.

20. The Termination Plan is set out at Fed. Reg. Vol. 26, No. 82, April 29, 1961, pp. 3726 - 3755.

Senator ABOUREZK. The next witness is Mr. William Giese, attorney for the Menominee County non-Indian property owners. Is Mr. Giese here?

STATEMENT OF WILLIAM R. GIESE, LEGAL COUNSEL, LAKE MOSHAWQUIT PROPERTY OWNERS ASSOCIATION

Mr. GIESE. Mr. Chairman, in view of the lateness of the morning, we think it might be more advantageous to recess until after lunch. I have, if the committee is interested, and I am sure they are by some of these questions that were raised here this morning, I have around 20 years experience in municipal government in the State of Wisconsin, still representing a number of municipalities and municipal units. I think I could shed a lot of light.

I have a prepared statement I want to make brief reference to in answering some of the committee's questions. I am sure we will not get through by noon.

Senator ABOUREZK. That remains to be seen.

Mr. GIESE. Would you like me to proceed, then?

Senator ABOUREZK. I would like you to; yes.

Mr. GIESE. The first question that I would like to answer to the committee is why I am appearing here today. Why the president of the Lake Moshawquit Property Owners Association came to Washington with me today. We both appeared also at the House Committee hearing on this bill. I am legal counsel for the Lake Moshawquit Property Owners Association. I am now a permanent resident of Menominee County, having moved up there about a year ago, and have children in the Shawano School District No. 8, which is the district that the Menominee County is covered in.

Consequently, I have been in Menominee County since about its very earliest development. The property sales got underway about in 1965. I was one of the first.

Lake Moshawquit is a small lake of approximately 300 to 325 acres in size, lying in the southeast corner of Menominee County and adjacent to two other counties, Shawano and Oconto. The platted areas on this lake were areas that were restricted for residential use only. There was no commercial developer involved in Moshawquit Lake. It was a development by Menominee Enterprises, Inc. They sold the land. Their salesmen were Menominee, we purchased from Menominee. It was directly offered for sale by the Menominee.

There were restrictions on the use of this land which were as restrictive as any that you will find in the State of Wisconsin on any plat development. It was good planning.

In addition to the development of Lake Moshawquit, at the same time MEI was offering to the general public property on Round Lake and La Motte Lake, both of which are smaller than Lake Moshawquit. As a result of land promotion between the years 1965 and the present, approximately 83 separate parcels of land were acquired mostly by non-Menominees, on Lake Moshawquit. At the present time there are approximately 80 homes constructed on Lake Moshawquit. It should be pointed out that most of the residential buildings that have been constructed are of a permanent year-round residency nature and not just

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summer cottages. That is true also for later development, the more commercial developments that came along. These, gentlemen, are not what you call summer cottages. They represent a substantial investment. Most of the investment on Lake Moshawquit, the values of these homes run from $15,000 to $60,000 in value. The total value, to be conservative, to that lake would be about a million and a quarter dollars. That would be a low figure.

At the present time there are 11 families who live there permanently year-round; approximately 45 people. There are approximately on that lake 20 children who attend schools in the Shawano School District No. 8. For most of these people on these lakes, and this includes the later developments also, these homes represent a substantial part of their life savings. These people went up there in good faith hoping to acquire a second home within immediate vicinity of their first home. Most of the people on our lake, particularly, are from Fox River Valley, Appleton, and Green Bay.

Round Lake presently has eight homes constructed and two permament family residences. Several of the other lots sold by MEI are presently unoccupied. There are no children attending school from Round Lake.

On Lake La Motte there are 40 constructed homes and 15 families or approximately 10 children attending local schools from La Motte Lake.

I want to stress to the committee that those of us who purchased on Round, La Motte, and Moshawquit Lakes did so at the direct invitation of the Menominee Enterprises, Inc. Most of us acquired this in good faith from the duly elected representatives of MEI.

At this point I would like to take a few minutes to discuss the legal instruments that we acquired when we purchased property in Menominee County in 1965 and after that——

Senator ABOUREZK. I wonder if I might break in and ask you a question at this point. You have mentioned a couple of times that the property was purchased in good faith, apparently leading up to something, and I don't know what it is. What I am trying to find out is what is your worry and what is your concern?

Mr. GIESE. Our concern I will get into when I talk about particular sections. Our concerns are many, Mr. Chairman. You mean if restoration goes through?

Senator ABOUREZK. Yes; I mean the reason why you are here testifying, and what are you concerned about, you and the landowners there?

Mr. GIESE. We are concerned about a number of things. We represent—at the present time there are about 2,600 individual lots that have been sold up there to non-Menominee. That represent about 2,300 people at a minimal of two persons households. We, as I stated, have substantial investments, most of us, up there. It means a good part of our life savings have been invested up there. Most of the people built permanent homes hoping to retire up there and increasingly a number of them are.

We are concerned that when restoration goes through, that we have ample governmental services provided at an adequate cost. I would like to lead up to that a little bit later.

We are basically a nonvoting group up there because although we are about 5,200 adults, minimal, we are, most of us are not residents of the county. We are not voters of the county or of the town. We are concerned about that situation.

Senator ABOUREZK. What are you concerned about, what do you think will happen?

Mr. GIESE. Maybe I could make some reference. I am being somewhat detoured here by the chairman by going away from my prepared text. I had hoped to build up to that by making brief reference to the text, if I could, as most of the people were able to earlier, the people appearing before the committee. I have it organized if the chairman would let me proceed.

Senator ABOUREZK. Please go ahead.

Mr. GIESE. We acquired this property up there both by trust agreement, which is, in fact, an outright deed; we could do anything you could with an outright warranty deed except you did not get actual title until 40 years later. The trust agreement was given when you paid in full. On an installment basis if you want to purchase property, you bought what they called a lease. This lease was actually, in fact, a land contract. It provided for interest, breakdown between interest and principal, and after 40 years some of them automatically stated you would get title to the land. Others said you had to give notice and then you would be tendered a deed for the property.

At a later date, because these leases—so-called leases, or land contracts—they actually were trust agreements, proved to be rather difficult in merchantability, bankers were skeptical because they were not the traditional warranty deed or land contract, others purchasing property were skeptical because they were not the normal form of conveyance in Wisconsin, MEI changed in about 1967 when they went into this larger commercial development known as Legend Lake. They changed at that time to warranty deeds and land contracts.

Many of us that were purchasing this land had the trust agreement then converted to a warranty deed, and, in fact, now have title to our property by warranty deed. Others converted to land contracts.

The foregoing background information was presented so that you would have a better understanding of what motivated the Lake Moshawquit Property Owners Association to have representation here today on this hearing on H.R. 7421 regarding return of reservation status to the Menominee Indians.

It should be made perfectly clear that on the question of whether the Federal Government should restore the Menominee to tribal status the association takes no position at this time either for or against. However, we are concerned, as an association and individual real property owners of Menominee County, about the impact effects of the adoption of S. 1687.

Specifically, we are concerned about the impact any Restoration Act would have on our county government, both politically and economically. We want to make you aware of the fact that in returning to reservation status that new events have occurred since termination of reservation status in 1959 which must be given consideration in the passage of any new legislation on the subject.

We are aware that most of the impact of restoration problems must be solved on a State level with State legislation. However, in this matter any Federal legislation should be dovetailed with any necessary action of the State of Wisconsin Legislature. We feel very strongly that in order to solve the problems of Menominee County and its people the impact problems of restoration should be fully disposed of prior to or simultaneous with restoration. I believe that evidence of this fact has been clearly demonstrated by the several hearings held already this year on the restoration question on both Federal and State legislative committees.

The Association takes no position for or against.

We have people living in Moshawquit, members of the Association, that believe that restoration is fine, most of them are indifferent, some very adamantly feel it is a step backward, but that is not why I am here today.

One thing we are united in as an Association and other associations on the other lakes, are that we have rights that we want to see protected.

At this point I would like to make a few comments on the particular provisions of S. 1687. We feel and we have gone over this substitute amendment that has come out of the House generally, we in the Property Owners Association feel it is a bill that we feel is a great and vast improvement over both the original bill introduced in the House and the present 1687 which is pending before the Senate.

We feel that section 3(c), lines 20 to 23, page 2, could be clarified. This provision provides that nothing contained in the act shall alter any property rights, contractual rights, et cetera, unless specifically provided for in the act. I presume this section refers to property rights et cetera existing at the time of the passage of the act, but this could be made more definite. Further clarity in the second sentence of section 3(c) could result if it were created as a separate subsection and made definite as to application to all persons.

Furthermore there are land contracts outstanding on a lot of that property out there on a number of parcels and if it is conveyed to the Secretary in trust, I wonder if the question wouldn't be raised whether he has authority to deed over any property pursuant to those land contracts that were in existence at the time the act was passed.

It would probably be advisable to have something indicating that he does have that authority.

Senator ABOUREZK. Doesn't the Constitution say the Congress has no right to pass a law impairing the right of contract?

Mr. GIESE. Right.

Senator ABOUREZK. Don't you think that would handle it?

Mr. GIESE. That might well handle it, but a lot of these things could be made more clear so they don't have to get into courts, made more definitive. We have a situation now, where you talk about harassment, we have had lawsuits galore up there and to my knowledge on the appellate level they haven't won one of them.

Senator ABOUREZK. What kinds of lawsuits are you referring to?

Mr. GIESE. I am referring to a lawsuit, one that questioned the voting trust in which it was declared legal and valid, that Ms. Ada Deer referred to here today, and others. The voting trust was declared valid

by the Supreme Court of the State of Wisconsin in June 1973, June 25. The land sales over at Legend Lake, pursuant to that voting trust, were declared valid. That wasn't brought out today. I am referring to these lawsuits over fishing rights and I might add to that the provision that in most of our agreements to purchase property up there, a number of us, at least prior to 1970 had a paragraph as follows:

> Lessor grants to—and his immediate family a personal and non-assignable right to hunt and fish in Menominee County, subject to the state and local laws and regulations, without cost; such rights being an integral part of this leasehold interest.

This is being contested by many. We have received letters from MEI, the present authority over there, that we are restricted in the use of these rights. We can't go over Menominee County.

There is a court case on it at the present time. There is another court case pending at the present time on a local level as to the right of how long they can hold up a sale. Menominee Enterprises, where they have the option to repurchase. This is the type of thing that has been going on and it continues to go on.

As of section 6(A), we feel that that was a good compromise, a 2-year period, the effective date of that act. However, on the whole we feel that it could be deleted if some provision were put in, as was in the House substitute amendment, requesting that, or at least allowing, the State of Wisconsin to restructure local government in Menominee County, if necessary. This was suggested by the chairman of the legislative reference library in the State of Wisconsin, suggested that provision be put in, Mr. — I can't remember his name offhand, but he suggested that be put in the bill and it is in the substitute amendment.

As to the fishing rights, we hope, as the present bill provides and as the substitute amendment provides, that that provision remain in there.

As to stocking the lakes, we would just as soon see it deleted. We have followed policies with the people of the Menominee of trying to limit the use of those lakes. They have had a policy of not allowing us to take other fishermen out and only one guest and that type of thing and now no guests and so forth. In view of that fact and as conservation and environmental ideas, we have felt that the lake should not be stocked by the DNR because if you get public funds in their stocking these lakes we are going to have public pressures from outside the State of Wisconsin to use those lakes. As a matter of fact, the platting law does require public access and most of them do have public access. However, they are not open to public access so we don't get too much pressure at the present time, particularly on our lake. I couldn't say for the larger Legend Lake development.

We feel that section 6(c)(D) and section 8, the words "Menominee County" should be deleted and substituted therefor should be the words "The territory constituting, on the effective date of this act, the county of Menominee." These suggested changes are made to guarantee that there will be State government flexibility in determining the type of governmental organization needed to provide the services for the reservation area. A further subsection to section 6 should be added authorizing the State of Wisconsin to establish such local government as will best provide services for all people of the area presently constituting Menominees County. In this regard, Dr. H. Rupert

Theobald of the State of Wisconsin Legislative Reference Bureau proposed, in a letter dated May 30, 1973, to Attorney Richard Franklin Ducheneaux, counsel to the subcommittee on Indian affairs, that a new section 6(F) be created to read as follows:

> Section 6(F). For the purpose of implementing subsection (3), the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as will best provide the State or local government services required by the Menominee Indian Tribe.

We are in agreement with the above proposed amendment provided the words "Menominee Indian Tribe" be deleted and substituted therefor would be the words "people in the territory constituting, on the effective date of this act, the county of Menominee."

Senator ABOUREZK. I wonder if you would be a little more clear as to what the proposed amendment means?

Mr. GIESE. Mr. Theobald, of the Legislative Reference Bureau, the State of Wisconsin, has an opinion on it. He feels that when we refer just to Menominee County constantly in the act, the effective date of the act and what constitutes Menominee County that we are sort of lacking in the future of the county. That the legislature will take this as a direction that the county should continue in existence and it won't have that flexibility in restructuring of the local unit of government, if it has to occur there, and by using effective date of this act that this would clarify that situation.

Senator ABOUREZK. There is no way that Congress can dictate to the people of that county what they are going to do with their county. Under Wisconsin law isn't it accurate to state that the residents of that particular county, if because of the size it does fit into the size qualification, don't they have the right under Wisconsin law to determine what happens to their county?

Mr. GIESE. Again, Mr. Rupert Theobald is giving an opinion and he did this before the House and he did it in written memoranda that this may be a way of circumventing the constitution of the State of Wisconsin, which at article XIII, section 7, provides that no county with an area of 900 square miles or less shall be divided or have any part stricken therefrom without submitting the question to the vote of the people of the county, and unless a majority of those people in the county vote for it. In addition to that the Library of Congress has issued a formal legal opinion to Congressman Froelich in which they have indicated that this may be a method of circumventing that constitutional requirement of the Wisconsin constitution. However, that is not that definitive and it indicates it might be to the contrary.

However, I think there is another question about this article XIII, section 7, and that is it is a question of whether it actually votes here. The county was created by the State of Wisconsin, it would seem that the State of Wisconsin would be able to abolish that county. Article XIII, section 7, says nothing about the abolishing or creation of counties. It only talks about division of counties and about parts stricken therefrom and not abolishing, so I question whether that particular article XIII, section 7, which is the only one pertaining to the change of county unit of government, is applicable here. If the language were changed in the present bill before the Senate, as it was in the substitute amendment in the House reported out of committee, it would eliminate any doubts.

Senator ABOUREZK. I just want to make a request. Is Mr. Lerman, the Governor's representative, still here? I wonder if you would convey to the Governor of Wisconsin that the committee would like to have this opinion on this question of striking the words, "Menominee County" and substituting the words, "the territory constituting, on the effective date of this act, the county of Menominee." We will send a formal letter to the Governor.

Mr. LERMAN. And we do have testimony before the House which addresses itself to this question and we will introduce that.

Mr. GIESE. I believe as to this question of section 6(F), the suggested language that is indicated in my remarks and actually put in the House substitute amendment, "people in the territory constituting, on the effective date of this act, the county of Menominee." That is, be changed to "The people in the territory now constituting the county of Menominee." There are other people up there and this governmental thing has to be worked out considering all people involved and not just the Menominee.

Senator ABOUREZK. What do you mean by that, the governmental thing? What do you mean by that statement?

Mr. GIESE. The unit of government and what their powers and authority and how far they are going to go and who is going to—whether we are going to be considered as a separate county or whether we would become part of Shawano County or whether we would become part of Oconto County and goodness knows we have far too many counties in the State of Wisconsin. We have these comparisons in poverty, but we don't talk about some of the other poverty counties.

One, Florence County, has less assessed valuation. In May 1961 there were 21 counties in the State of Wisconsin classified as economically depressed. As Mr. Ben Miller testified here this morning, the only reference I had heard made to it, there are three at the present time.

Senator ABOUREZK. Once again, I fail to understand what the U.S. Congress can do about that, because the determination of what happens with Menominee County and with its government is up to the people of Wisconsin and of Menominee County. I really don't understand why you are making the request of us.

Mr. GIESE. Mr. Chairman, we do recognize that, as I stated earlier, basically the problem of local government restructuring is a problem of the State of Wisconsin. However, what our interest is in being down here and has been before the House, is to facilitate this transfer situation, to eliminate any question that may arise as to what the intent of Congress was in passage of the Restoration Act as to the county and so forth. We have been successful in the House in getting the substitute bill reported out by committee and I guess it is going to be acted on by the full committee later this week, to get most of our ideas and ideas also expressed by Mr. Theobald incorporated in this substitute amendment. I think that would answer your question.

Senator ABOUREZK. It doesn't, but go ahead.

Mr. GIESE. I wish to remind the committee again that there are many changes that have occurred in the composition of the homeowners and population of Menominee County since termination. Earlier, I pointed out to you the amount of change in the three lakes sold directly by

MEI. In addition to these non-Menominee property owners, and at a later date, MEI, in partnership with a commercial developer, developed what is known as the Legend Lake Area. This development resulted in approximately 2,350 lots being sold to individual owners, mostly non-Menominee. On that lake there are presently 262 homes and approximately 40 families that are permanent residents. There are approximately 100 people living permanently on Legend Lake. The total number of individual landowners having acquired property since termination in Menominee County would be approximately 2,300. This figure is only the number of individual properties that have been sold and eventually will result in a much higher population figure. These statistics take on even more importance when it is considered that the total population of Menominee County in 1970 by the census count was 2,607, including 2,306 Menominee and 301 non-Menominees; 1973 BIA report, page 18. All of us purchased our property in good faith expecting to be treated fairly and equally regarding governmental services and their financing. We request that you carefully consider the impact of any Federal legislation on the many new people who have acquired a property interest in Menominee County since termination.

I think statistically you can see that there are some points that could lead to some real conflicts here where you have this huge influx of non-Menominee up there at the present time. Basically, most of them are people who have second homes, who are not residents, and there are some really concerned about the direction that local government may take in some of the expenditures. We have heard talk here about schools, Indian schools for the Menominee, as an example. We have heard about how they are discriminated against in the Joint School District No. 8 because they don't have anybody on the school board. Let me tell you, under the State of Wisconsin laws, under a city school plan which Joint School District No. 8 operates under, there are many towns in Wisconsin that do not have representation on a school board under the city school plan. We have one in the city of Neenah where I happen to come from originally. Because the school board members are elected at large and, of course, the city dominates the voting. The people in town areas are limited in number and normally they don't have representation on the school board, so this is something that was the creation of the legislature in Wisconsin in setting up the school plan and a lot of people, both Menominee and non-Menominee, in the State of Wisconsin suffer from it.

As far as the separate school, there is provision under the statute at the present time that they could adopt their own school and revert back to that type of school district. But, incidentally, the debt limitation that you have heard read today by Mr. Miller is certainly very accurate and it is referred to also in the report by the Indian Rights Committee, I think you have that very voluminous report as to the county tax rate, and this report of Mr. Preloznik, and Mr. Wilkinson refers to and cites 716, where it says that the "total amount of county tax assessed shall not exceed 1½ percent of the total valuation of the county for any one year." But in that report nobody happened to mention "B" in that section which provides, "this limitation shall not apply to any taxes levied to pay the principal and interest upon any

valid bonds or notes of the county now outstanding or hereafter issued."

In other words, they can bond, the county can, for a courthouse, which there has been a lot of agitation, a lot of discussion about, a separate courthouse for Menominee County. They presently are in the Shawano County Court system, more or less. They use the county courthouse at Shawano. They do not have a separate courthouse. They could certainly, under the present laws of the State of Wisconsin, construct a courthouse. The county has more authority. They can go and go into bonding for parks and other purposes. That limitation doesn't extend to that. As to a town unit of government which also exists within the county up there, there is no limitation on the town board as to the amount of taxes they can levy. There is a half a percent limitation on the amount that the town meeting can levy and can validate but there is no limitation on the town board's right to levy taxes and also, if you will notice Mr. Ben Miller's exhibit, when you take the formula that is used there for the county, that is $230,000, there is the statutory maximum, and that does not include school bonding. That is separate in Wisconsin. When you take that $230,000, that is a substantial part of what his total county budget is now when you have the whole $35,000 in there so you can see if they would go even to the statutory amount with just actual expenditures, it could be a very prohibitive tax rate.

We are certainly not attributing any bad motives to some of the present county officials. We do know that there has been discussion, it's been rather quiet in the past year, by the more militant organizations up there, that the white landowners, the non-Menominee should not be allowed to stay in Menominee County, that they would like to see them out. That has been somewhat muted at the present time. It is not politic to be militant any more and it has certainly been somewhat muted at the present time. But we certainly have that concern in the back of our minds, and we know also, as the documents of Mr. Preloznik refers to the fact that Ben Miller is a very able man, he is a very popular man, you bet he is with both Menominee and non-Menominee. He is a very fine and able gentleman. We don't know how long Ben Miller is going to be in office. We don't know who the reigns of government might be transferred to. In addition to that type of harassment that could occur, if they were to raise the tax rates and that is not our only concern necessarily, there are other more subtle ways, as an example, extension of services. In the way of plowing streets and maintaining those streets they could delay an inordinate amount of time. We have some pretty severe snowstorms up in that part of the country and there are a number of people more and more daily that have to get in and out of those areas. There is need to keep those streets clear for fire protection, et cetera, during the winter months. If this were laggard and it isn't highly rapid now, but we have borne with it, this could affect property values, this kind of harassment when people know the roads are not plowed up there, you can't get in and out. Road maintenance could run into the same type of disrepair. Police protection could be a very vital thing. All of these are controlled by the Menominee because they are the voters in the county. They are the

majority of the residents in the county. Police protection right now, I hate to say it, is very inadequate.

Senator ABOUREZK. What is inadequate?

Mr. GIESE. Police protection. I think you would admit that although there is a great distance involved in traveling approximately 18 miles it certainly shouldn't take 2½ hours to get there, but recently, when we had a break in and people taking boats and so forth in the middle of the night, that's how long it took the police to get there and that's not an isolated example. I could go on and on about the lack of police protection. These are the subtle harassment methods that can occur.

Senator ABOUREZK. I wonder if you and your people would feel more comfortable if the Menominee people would agree to provide the same type of treatment to your clients as the majority provide to Indian people in other counties where the Indians are a minority? Would that make you feel more comfortable?

Mr. GIESE. This again, Mr. Chairman, is easy to discuss but difficult to explain. A year ago I was called and so were some of the other members—we can't put our finger on all these things—a year ago we were called over by the Menominee to a board meeting. They were going to cut off our dump—solid waste disposal. It is a big problem. Where would we have dumped our garbage? The land is owned by MEI. The county operates the dump. If MEI won't allow these dumps to be available, then we are cut off. It is a big problem in this county and a big problem up there. That problem we had to face last year. We were called to a meeting to discuss it and some of the board members of MEI, we were informed, by board members who were there, wanted to discontinue the use of this dump. They could provide one at a great distance from us. And this could be another imposition upon us, and again this goes to property values and what your properties are. These things get around. What kind of service you are getting.

We are not asking for a lot of service up there, never have, but we are asking that we have minimal government services.

Senator ABOUREZK. Can you try to phrase the answer to the question I asked you earlier as to what is your concern and see if what I say is a fair statement of your concern? You are concerned that once this land goes into trust and is taken off the tax base, No. 1, that the taxes of the non-Indian property owners will increase. Is that a fair statement of your concern?

Mr. GIESE. We are concerned that there is that possibility, yes. As it presently—that it presently exists under Wisconsin law because of the lack of implementations on county and State and town unit spending, yes.

Senator ABOUREZK. Second, is your concern that there will be some either subtle or nonsubtle form of discrimination against you as a non-Indian if the Indians control the county government up there?

Mr. GIESE. That's correct and as I said I have cited examples and we have seen some of it already.

Senator ABOUREZK. Stated very simply like that, do you have other concerns besides those two?

Mr. GIESE. Well, I feel that, I guess that pretty well sums it up. I would say those are the principal concerns. We have a concern and we are running into that now about getting title to our property, those of us that do not have a warranty deed.

As an example, I made a tender of an offer of paying up on a trust agreement which we can do. The agreement provides that you have this option when you have a lease, to pay up before the expiration of 40 years and get a trust agreement. We made a tender. We have been turned down. In the last 6 or 8 weeks there have been a number of letters that have gone out that were refused, and despite contracts with property owners to convey title to this property out there.

This is going to result in a lawsuit. I am sure, like all the other lawsuits that have gone on, that we will prevail. They did not prevail so far, and I think in the end they won't prevail in most of these, but people don't want to buy property that has that type of harassment on it. They are not buying lawsuits, and when they hear about this kind of thing this discourages them. We dont' want to deny them their legal rights, but on the other hand we know even if you don't have a good lawsuit you can intimidate people by starting one.

Senator ABOUREZK. Are you for or against restoration?

Mr. GIESE. Are you asking for my personal opinion?

Senator ABOUREZK. Yes.

Mr. GIESE. I am not convinced that that is the answer to the Menominee problem or any other Indian problem, because from all I have ever read reservations have been a miserable failure in this country which resulted in the passage of the concurrent resolution in 1953 which is still the law. It has not been repealed or changed despite Mr. Nixon's insistence it was.

Senator ABOUREZK. A House concurrent resolution cannot be repealed.

Mr. GIESE. Mr. Nixon asked for repeal in about January of 1970.

Senator ABOUREZK. He forgot to talk with his legislative counsel. They can be repudiated.

Mr. GIESE. I am not familiar with your legislative procedure. I don't think it is too material. It still stands and I haven't seen any counter resolution adopted.

Senator ABOUREZK. Is it fair to say that you personally are opposed to restoration of the Menominee?

Mr. GIESE. The more I get involved in this question, the more convinced—it depends on what your objective is, again. What is the objective of reservation policy? If it is to preserve a culture, if it is to preserve a people as such, if it is to do this at great expense to the taxpayer, I think restoration can be successful. And with all the self-determination bits, my God, they have had more self-determination up there in the last 12, 13 years, and it hasn't worked according to them and I don't know if it is going to be any different if they have self-determination under restoration but beyond that, if you are talking about making the Indian of this country self-sustaining and integrated into our society, which we may be changing our goals on all that, too, I realize, then, no, I don't think restoration will succeed. I don't think reservation will succeed.

I hear the situation and the plight of the Menominee, but I don't hear comparisons with other people on the reservation. I heard no comparisons at any of these hearings of the Menominee prior to termination or after termination.

This is the type of thing—if you want to integrate and make them more self-sustaining, more economically independent, I don't think it

will work. But if your objective and the objective of our country is going to be to preserve a culture, of which there is a great body of opinion that seems to think plurality now is the thing, that is a different matter. If we are going to do that at great expense to the taxpayer—that's another thing that worries most of us.

The election of 1972 was a mandate, if nothing else, to start cutting back on Government expenditures and it has been somewhat derailed by Watergate and some other issues. But when I look around the country and what I read—and I am not one of those, incidentally, I voted for McGovern—when you look around the country today, the people are getting—the vast majority of the people in the middle class are getting fed up with high taxes and there is a question of how long this influx of Federal funding is going to be able to occur.

Senator ABOUREZK. President Nixon doesn't seem to think it was a mandate to stop spending for Indian people. He has been one of the foremost advocates. The performance hasn't quite met the promise in a lot of cases but nevertheless he has been one of the major advocates of increased funding for Indian problems.

Mr. GIESE. I am not here to justify Nixon.

Senator ABOUREZK. Just in response to your question, it was a mandate to stop spending and reference obviously is to Indian programs.

Mr. GIESE. Not necessarily Indian problems.

Senator ABOUREZK. But that is the subject here.

Mr. GIESE. He has vetoed all kinds of bills, yet he is going along with an increase in the defense budget.

Senator ABOUREZK. Well, I think the Congress can adequately safeguard anybody who has an existing contract to buy that land up there. I think that is within our province and I think we should, speaking for my own personal viewpoint, but very frankly I am unable to see where you ought to come to Congress and say we want to be protected any more than the protections that already exist in the Civil Rights Act, for example. You have adequate civil rights protection. If the majority is opposing the minority, in any county in this Nation, they come under the Civil Rights Act.

Mr. GIESE. You are not saying, Senator, that we as non-Menominee don't have a right to appear on legislation before Congress? Is that what you are saying? That's what it seems to me.

Senator ABOUREZK. First of all, you shouldn't try to cross-examine me. I am the cross-examiner today.

Mr. GIESE. I am fully aware of that.

Senator ABOUREZK. Second of all, let me answer you and say I already said that by implication you have a right to appear here but you don't have a right to ask us to interfere in that local county government.

Mr. GIESE. I think we have a right to ask Congress to adopt legislation that will facilitate what they are attempting to achieve, namely restoration, and the impact problems that could arise. I would like, I think you have got a potential for disaster here between the white people and the Menominee, to be truthful about it. They outnumber the Menominee up there.

Senator ABOUREZK. Who is outnumbered?

Mr. GIESE. The Menominee are outnumbered. There are 2,300 Menominee that live up there and over 5,200 property owners, that's just taking husband and wife.

Senator ABOUREZK. But they are non-voting residents.

Mr. GIESE. That's correct, but there has been friction up there caused by more militant groups. The record is replete with some of the demonstrations and so forth that took place up there. If this goes through without some of the impact problems taken care of in a fair and equitable manner—most of the people are very fair people, we get along well with them and I am sure most of our people are, and we can work out these problems if we try to do it through the legislative process. That's why we are back here today and why we are going to be appearing at the State legislative session and we already appeared before they recessed for the summer.

Senator ABOUREZK. I am just suggesting to you, Mr. Giese, that the State legislature is the place where you ought to appear, very sincerely, on your local problems that deal with local issues and local laws. We can't do anything about them, at least not to my knowledge we can't. We can do something about the contract. As I said, because that is within our province, but for you to come before the Congress and say that you want us to make sure that the majority of the voting residents don't impose taxes on you, higher property taxes and so on, I don't know of any way we can make a law saying that should not happen outside of the laws that already exist so far as civil rights.

Mr. GIESE. I agree, but apparently the House subcommittee was not as hard to convince because they did adopt most of the changes we recommended. With those changes we feel it will facilitate this problem on a State level and eliminate some of the legal problems. There is a lot of "nit-picking" going on by the attorneys for MEI now, I will tell you that.

Senator ABOUREZK. What the House does does not necessarily have anything to do with what the Senate does.

Mr. GIESE. That's correct. I am fully cognizant of that.

Senator BARTLETT. Mr. Giese, does H.R. 7426 in your opinion change your legal property rights?

Mr. GIESE. No, no, I don't think, as the chairman pointed out, I certainly concur in that, you can't affect vested property rights. There can be an argument about whether they are vested or not. We have that going on, whether Menominee or MEI stock is vested in the Menominee people yet.

Senator BARTLETT. Does H.R. 7426 in any way alter the contract, the warranty deed, the trust agreement that you talked about in your written statement, does it in any way change your basic rights to that property?

Mr. GIESE. As an individual lawyer, I would say no, and I would certainly be willing to argue that case, but there may be lawyers that may argue the other way.

Senator BARTLETT. Does it change the amount of local taxes that could be levied against your property?

Mr. GIESE. No, it doesn't change that in any way at the present time.

Senator BARTLETT. So what you have been expressing, then, in order that I might better understand what you have said, you have been expressing then a fear of either higher taxes that might somehow result, be levied, yet at the same time the higher taxes could be levied now, could they not?

Mr. GIESE. They could be levied now, but they would be levied against all of the Menominee property which is 55 percent of the property in the area and with all the complaints about restoration, it is that the tax is breaking them now. It would have to be levied fairly and equally as they have been. So there is that restriction right now that's imposed upon them because if they impose a prohibitive tax rate to go out for a courthouse or any of these bonded indebtedness purposes they are going to bear 55 percent of the cost of that which they can't meet without those expenditures. So there is that safeguard presently there but that would be removed with restoration. That is our concern.

Senator BARTLETT. You are also concerned about your civil rights. Have your civil rights been violated?

Mr. GIESE. Oh, I think that——

Senator BARTLETT. Or are you concerned more that they may be violated?

Mr. GIESE. It depends on what you define as civil rights. If you define certain instances of services of government and laggard administration of those services denial of civil rights, or whether—these are subtle things that are hard to put your finger on, whether they are a denial of civil rights. We realize that there has been a problem up there now, a financial problem, and most of us haven't been that demanding for some of these services, minimal, all anybody is asking for, is road clearance, garbage, et cetera. We are not asking for swimming pools or schools or anything else and I have sons in the same school system as the Menominee.

Senator BARTLETT. As a lawyer, do you think that if your civil rights are violated or would be violated in the future, that there would be protection in our laws for you?

Mr. GIESE. I presume there are. I have never read all the civil right laws in that detail. We have little of those problems where I happen to practice law. I live in Menominee County. I practice law in the urban area of Fox River Valley. We have very little civil rights problems in that area.

Senator BARTLETT. Is your concern then one of an inferior service available to the non-Menominee with the passage of this bill?

Mr. GIESE. Yes, it is, with the intent of having us removed from the county, yes. By driving property values down and so forth. Yes, there is that real attempt because we know, as expressed by DRUMS nationally before congressional committees, it was in the press, that their ideal situation is to see the non-Menominee removed, to get this less than 2½ percent of the land, less than 2½ percent that's been sold to non-Menominees, back into Menominee ownership. They would like to see that done. Frankly, what I have seen and the more I see of it, I with Congress, we hear testimony here today about Representative Laird and Governor Nelson and Proxmire also was a Senator at the time, about how they could see all the failure of all this, who demanded

this. They were in positions of power, why did they let it go through. Why did they let this termination go through back in 1961. Proxmire was in the Senate at that time. Nelson was a Governor, Laird was a Representative and we know Congress listens to the Representatives from the area mostly concerned. They have a very big impact on what Congress does.

Senator BARTLETT. Do you think that with an increase in the general economy of the Menominee which could develop in the future with improvement in education, with improvement in opportunity and industry, that the local services could improve rather than become worse? Is that a possibility?

Mr. GIESE. Opportunities and industry. I am glad you mentioned that because I don't think so. I noticed you mentioned that earlier. One of the reasons that industry didn't come up there, and there were many people—we were all in this together to try to make this thing go up there, and have been trying. There are people of industry that are involved in industry, private enterprises on all these lakes that are non-Menominee. They own their businesses. They were interested in bringing business up there, but one of the biggest shortcomings, they had a project—you asked Mr. Lerman whether or not industry developed. It did not. The better question would have been was the opportunity there for industry. It was, but you could not own the land. It was extremely limited, that you could buy for commercial and industrial purposes, but if it comes to restoration and the land is not for sale, I think you are going to have more problems in attracting industry and there are a limited number of industries that can come up into the labor market up there.

Senator BARTLETT. I think you will find in studying various reservations and nonreservation areas where the land is entrusted to the Federal Government that there have been great strides made in economic development, and I can speak on that, for Oklahoma which does not have reservations but it does have Indian lands which are held in trust by the Federal Government. There have been big improvements made as a result of actions of tribal leaders and other at various levels of government, all trying to work together to provide better opportunities for employment, for investment, and for ownership, and for positions of authority in the business. And I can recall some figures way back when I was Governor, that showed the very sharp reduction in the unemployment of Indians in the areas of Oklahoma where the agencies kept track of the figures and provided them, and it was a very sharp reduction in unemployment that was occasioned by their efforts and other people's efforts.

One of the problems in our State, I don't know a thing about Wisconsin other than knowing it is a wonderful State which I have visited a number of times, that educational opportunities in rural areas and oftentimes in recreational areas, on a year-round basis, are more difficult and require more effort than do these opportunities in the bigger cities, so it takes a little different effort. It seems to me that you are not saying that or not claiming that this bill in any way denies you any property rights, or contractual rights, or civil rights, but that your concerns are mostly concerns of what may happen because of the ownership of the land being within the tribe, nontaxable, and that this

may adversely affect your tax rate and that you may be mistreated in some way. Does that state your case?

Mr. GIESE. I think that is basically it. In addition, we would like to see the Federal legislation be such that it will facilitate adjustment on the State level which will be necessary and in alleviating some of these impact problems and minimize the amount of litigation that may come out of this thing.

Senator BARTLETT. It seems to me it would be in the best interests of the Menominee as well as the non-Menominee, assuming the passage of this bill, for everybody to be fair and to assume the responsibilities in the county and in the area concerned to work toward progress for the Menominee and the non-Menominee. Services of Government are always a question. You mentioned one gentleman who testified previously that you thought very highly of him, but he might not be followed by such a fine person. I think this is often true in Government. But yet we have found that the best kind of approach is an approach of reelections and so on. So I think you have your resort through elections, through the courts for any unfairness, legal unfairness that may come your way.

Mr. GIESE. We don't deny that, but we would like to eliminate as much of that as possible, and that is why we are here.

Senator BARTLETT. What would you suggest—what changes would you suggest be made? I don't understand the one about changing the county, although I realize you mentioned that one. I just don't happen to understand the point. But what other changes would you suggest?

Mr. GIESE. Basically I did outline them previously. I can go over them again if you want me to.

Senator BARTLETT. Could you do them just one, two, three? You have here on page 5 a concern must be shown for other methods which could have the net effect of depriving us of our property. Is there anything that could be added that would not have that net effect?

Mr. GIESE. By that I am referring to these things we have been talking about, these subtleties that can be used. I would like to point out one thing to the Senator. Let's face it and speak frankly. DRUMS is a more militant and has been a more militant group. There have been some instances up there that have required police and police protection and so forth. There have been demonstrations that have caused problems. Although the more militant group that—as I said, there is testimony they wanted the non-Menominee out of there, they have been quiet on that recently because militancy is not popular at this time, and the restoration bill is the prime objective, this could reoccur. MEI is presently pretty well dominated by DRUMS people, but the local unit of government is not. In fact, as I understand it, DRUMS were unsuccessfully politically in the last election in getting local adherents into office. The DRUM active members dominate the—there is that difference today, but this can change and it may well once this success of restoration goes through and so forth, they may become more popular politically and then again they may die out like a lot of militant white membership groups and so forth.

Senator BARTLETT. I think in the election process in this country, local, county, State, and Federal levels, we find as I said earlier some elected officials more competent than others. This we find true throughout the country.

Mr. GIESE. I am not talking about competency, though.

Senator BARTLETT. I think in tribal government which is having opportunities today of self-determination which they have not had prior to this, we will also find the same things. Some will be more successful than others, and I think we find, citizens voting at the polls oftentimes find that some people they had the highest regard for made a real business of it as a U.S. Senator or as a mayor, or whatever. This could certainly be true and I would expect it would be true in tribal organizations, too, particularly when they are taking on new responsibilities for the first time. I think we could expect they would have problems that they might not have later on. So I think this is to be expected anywhere in either Indian government or local government.

Mr. GIESE. I agree with the Senator if he is saying that when you don't have power you could be more militant. Once you get responsibility you may act entirely different than when you spoke and this is true. What has been said in the past may not necessarily hold true once these individuals may gain a position of political power.

Senator BARTLETT. I think we have found that in a number of things that has happened recently, including Watergate, that the end doesn't justify the means. This approach does not work.

I think we are getting a little off the subject here. Could you list one, two, three, four what changes you think should be made in this legislation?

Mr. GIESE. Section 3(C), and this has been done in the House. You have a bill before you, Senator, the first part of 3(C) deals specifically with the rights or privileges of the tribe. I don't think that the second sentence is intended to deal just with the tribe. And I think that should be put in as a separate section (D) so that it is not so interpreted to apply only to tribal rights and so forth. This has been done in the House, incidentally, in the substitute amendment.

Senator ABOUREZK. Would you explain that? You are saying the second sentence——

Senator BARTLETT. Starting on line 18.

Mr. GIESE. I am reading from H.R. 7421, but it is secton 3(C) of the act.

Senator BARTLETT. Mr. Chairman, what Mr. Giese is saying is that on line 18——

Senator ABOUREZK. Hand him a Senate bill so he can refer to that.

Mr. GIESE. That would be line 18, Mr. Chairman.

Senator ABOUREZK. You want to make that a separate section?

Mr. GIESE. Separate section (D); yes.

Senator ABOUREZK. Without changing any of the language. Why do you want to make it a separate section?

Mr. GIESE. So that it is not interpreted along with the first section of subsection (C) to apply only to tribal rights which that particular sentence does apply to.

Senator ABOUREZK. I think it is intended to apply only to tribal rights.

Mr. GIESE. The House subcommittee didn't feel that way.

Senator ABOUREZK. I wonder if we might be able to restrict ourselves to what the Senate subcommittee is doing. But that is your recommendation and the reason is you want to make sure it applies to non-Indian residents of the county.

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Mr. GIESE. Yes; apparently the intent of the Senate is different than that of the House.

Senator ABOUREZK. Pardon?

Mr. GIESE. Apparently the intent of that language is different in the Senate than in the House. They said it was meant to apply to non-Menominees as well.

At section 6(A) we feel that there language should be inserted along the lines suggested by Rupert Theobald of the Wisconsin Legislative Reference Library. It was adopted in the section:

> For the purposes of implementing subsection (3) the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as will best provide the State or local government services required by the Menominee Indian Tribe.

We would like to see that put in there as a separate provision. In the House they deleted the 2 year, and put that provision in in lieu of that. That was put in originally, as I understand it, the history of the legislation, as to the 2 year was put in to satisfy the non-Menominee property owners up there to try to get some impact problems solved in this 2-year period.

Senator BARTLETT. Would you go over the same testimony you just did? I didn't quite follow you because I was reading in the wrong place. You are on line 9.

Mr. GIESE. Maybe if we start at section 6(A) where it says certain sections will not become effective until 2 years after the enactment of this act. I understand that was inserted there as compromise language between those that were interested in the non-Menominee problems and the Menominee problems. It was felt with that in there that would give the county and the people involved in the county a chance to work out these impact problems with the State legislatures and so forth.

Senator ABOUREZK. You mean the 2-year period? You want that 2-year period removed?

Mr. GIESE. It could well stay in there. It has come out of the House bill but we did suggest then and suggest now that a subsection in any event be added providing, "For the purpose of implementing subsection (C), the State of Wisconsin may establish such local government bodies——

Senator BARTLETT. Are you talking about new language?

Mr. GIESE. I am reading from page 6 of my prepared statement, Senator.

Senator ABOUREZK. What will that accomplish, that added section?

Mr. GIESE. That is going to be a debate, I am sure, among lawyers and particularly constitutional lawyers. Mr. Theobald of the Wisconsin Legislative Reference Library has an opinion out where he feels this would circumvent article XIII, section 7 provision of the Wisconsin constitution requiring a vote of the people in the county if the county were divided or a part stricken therefrom.

I am sure there are other lawyers that would take another tack and constitutional lawyers as to whether the Federal Government can circumvent or circumscribe a State constitutional requirement. The Library of Congress has gotten out an opinion on this for Representative Froelich in which they were not very definitive. It indicated it may

or may not circumvent the constitutional requirement of vote because if that vote is required, of course, it is the Menominee that will be voting and the other people have nothing to say. I think a stronger position on that article XIII, section 7 of the Wisconsin constitution which I referred to previously would be that that really isn't meant to apply here, what the legislature created, namely Menominee County, they can abolish.

Senator BARTLETT. Is the purpose of your suggested paragraph to section (C) to circumvent majority rule in the county?

Mr. GIESE. No, it is not.

Senator BARTLETT. What is the purpose?

Mr. GIESE. The purpose of it is to certainly allow that, to allow restructuring of local government, if necessary, without a vote of the people. This is correct and I might add that the DRUMS people on February 16 in Shawano, Wis., before the Menominee Indian Study Committee voiced opposition to any vote on that question up there, too, a very vehement opposition, the record will show.

Senator ABOUREZK. The intention of this amendment is to circumvent the Wisconsin constitution?

Mr. GIESE. It is the intent—the intent is to not necessarily circumvent, but there is some authority that says this may abrogate or supersede would be a better word, supersede. The Federal legislation may supersede the State constitution.

Senator ABOUREZK. What is the difference?

Mr. GIESE. There is a difference.

Senator ABOUREZK. What is the difference?

Mr. GIESE. Well, we have authority from a higher body directing that this is a possibility. We are not trying to contravene any constitutional requirement. I don't think in this case, as I said before, where you are talking about the whole county abolishing it and attaching it to another county and, incidentally, most of the services on a level, court level and county level, a number of them, are served by Shawano County. I think the legislature could abolish this county and attach it to another county.

Senator ABOUREZK. Can we get back to this particular issue here?

Senator BARTLETT. I think Chairman Abourezk will back me up, but I have on numerous occasions in this committee stood up very strongly for State responsibilities and have objected very strongly to interference that takes place rather regularly on the Federal level, with local and State government in their right for responsibilities.

I am a geological engineer, sort of a cornfield lawyer, but I don't believe that statute enacted by the Federal Government could supersede the constitution of the State of Wisconsin. Even if that was possible, I think it would be highly undesirable for this committee and this legislative body and the Federal Government to interfere in an area that would rightfully belong to the State and to the local areas of government in Wisconsin.

Mr. GIESE. That is your opinion. We are here to present our opinion on that, and I would suggest as authority for this discussion on this particular question, as I referred to it, Dr. H. Rupert Theobald's letter of May 30, 1973, and also a letter from the Library of Congress to Chairman Froelich or Representative Froelich in the House on this very same question.

Senator BARTLETT. Let me assure you that as far as I am concerned it will be given very careful consideration.

Senator ABOUREZK. I might say you expressed earlier that you wanted to avoid litigation. I doubt that this section will avoid much litigation. As a matter of fact, it would promote a heck of a lot of it, I think, due to the ambiguity of, even in your own words it is ambiguous because there is a controversy as to what it might do, what the effect of it might be.

Would you go ahead with your next change.

Mr. GIESE. The next change I talked about was the changing that ties in somewhat with implementing or changing the unit of government, changing the wording from Menominee County, wherever it is used in the act, to the "people in the territory constituting on the effective date of this act, the county of Menominee."

Senator ABOUREZK. I think you said the purpose of that change is to make sure that the Federal government doesn't endorse the concept of a county of Menominee.

Mr. GIESE. That is, in effect, yes. To make it clear that the Federal Government doesn't feel that necessarily the county of Menominee has to continue in existence. That the legislature or whatever other authority is necessary, can take whatever action is necessary to abolish the county, or there has been talk also of attaching some of this area to other counties. It so happens that most of the development is in the southeastern part of the county. However, we do have some real problems there because although it is quite contiguous and most of it in the southeastern corner of the county, there are a lot of Menominee Enterprise lands that is interspersed among this so it does not make us really contiguous to Shawano or Oconto Counties when you consider some of the land is owned by the Menominee, but there was some thought, and there has been some discussion of doing that also. Of course, that would clearly require a vote of article XIII, section 7, because that would be striking a part of the county and dividing it.

I really think that if the legislature created this county, I think they can abolish it, without the constitutional requirement. When they created it, they had a condition, it wasn't finalized until 1969, when they created the county of Menominee, they had different alternatives that they suggested in the original act setting up the county, such as attaching to Oconto or other counties. The Menominee people had a vote on that prior to termination and they decided to go their own way.

Senator BARTLETT. In the corn fields of Oklahoma, the determination of counties is clearly a State responsibility.

Mr. GIESE. Right. I feel that way in Wisconsin, too, Senator.

Senator ABOUREZK. I just might say I am not really a cornfield lawyer, but I was a country lawyer out in South Dakota and I also operated on the premise if I didn't know the reason for something I just wouldn't do it and I don't see any reason to change this wording. It may have some bad effect that I don't know about right now and I would just make it very clear and this is going to be part of the legislative history that Congress can't, whether it wants to or not, can't change the nature of that county, I don't think, at least. Let me ask the Oklahoma lawyers. Therefore, I don't see any reason to change it.

Mr. GIESE. I know you will probably get some further testimony on that question. I notice you have as a witness Reuben LaFave who is on the Menominee study committee. I know they recommended this language be put in the bill, too. The only difference they had was the Menomine Indian Tribe, and we suggested it be changed to Menominee people—people of Menominee County, because there are a lot of non-Menominees involved, but the Menominee Indian study committee of the State of Wisconsin endorsed this change in the bill, too.

Senator ABOUREZK. I would like to hear the reasons.

Do you have any more changes that you are recommending?

Mr. GIESE. I did recommend that section 7(3) at line 12 on page 8, the change suggested, "may regulate hunting, fishing, and trapping on the reservation." The tribe constitutionally provides for that. Then it goes on to 14, "Fishing by non-Menominee shall be regulated by the State of Wisconsin and the State shall stock these lakes in the same manner as other lakes regulated by the State of Wisconsin." We would suggest that that be deleted, particularly as to regulation by the State of Wisconsin because we think that authority exists anyhow and as to stocking, we are particularly objecting to that because we have gone to the extent over the years of stocking our own lake at our own expense and would continue to do so if sound game fish management policies were followed. You get, using State of Wisconsin funds in there and in stocking lakes, you are going to get the public demanding that they get to use those lakes.

Senator BARTLETT. Who owns the lakes?

Mr. GIESE. Wisconsin holds to the trust there, meaning, Senator, that the lake beds under all lakes in the State of Wisconsin are held in trust by the State for the benefit of all the people. I am sure there is a difference of opinion. I have talked with the council of chiefs at their invitation. I have met with them several times and I know they have a difference of opinion. But that is the general theory in the State of Wisconsin.

Senator BARTLETT. And the Menominee would believe that they had the rights to the lakes?

Mr. GIESE. I think some would argue that way. What legal substantiation they could give, that may well be a subject of a lawsuit some day. It has been the subject of one that went up to the U.S. Supreme Court as to their fishing rights, but I believe that Supreme Court opinion did make reference to the fact that the regulations of the State of Wisconsin would still apply on those lakes, the D. & R. regulations would still apply to non-Menominees as well as Menominee, but however the State of Wisconsin could not require a fishing license but the regulations of the D. & R. would be applicable to Menominees as well as non-Menominees.

Senator BARTLETT. Are you aware of any objections by the Menominee to any language that you have cited?

Mr. GIESE. Not that I know of. My contact has been at their invitation several times with 12 members of the council of chiefs and they have indicated that they would like it out there, too. We are certainly glad that they took these measures in limiting guests. They have told you you can only have one guest over the years. Now they have taken

it out and they have taken good sound conservation practices to try to minimize the number of people up there, particularly like our lakes, it is a 300-acre lake, 80 people on it, a lot of it is undeveloped but that is a saturation point when you get out with the water skiing and motor boats and so on. If you get the general public in, curiously enough the State of Wisconsin's platting law requires access points for the general public and they are on these plats, but they have been circumvented by the fact they are not cleared. They sit there as wilderness areas.

Senator ABOUREZK. Didn't you complain a little bit earlier because the Menominee people wouldn't let enough people to live around the lake? In your earlier testimony didn't you have some complaint about the Menominee restricting the number of people who could fish?

Mr. GIESE. No, I was complaining the same point I was doing now. I think it is good solid conservation policy to limit. If you start getting the public up there, the general public, you are going to have all kinds of problems. I have been concerned about the number of snowmobilers coming up there and trespassing and going all over and we have taken steps through our association to discourage people from having guests come up with snowmobiles because they can come up as guests one time, what is to prevent them from coming up all by themselves the next time. There could be some real questions raised some day about the public access point that were required by platting; they are there but have never been opened, obviously.

Senator BARTLETT. Mr. Chairman, you and Mr. Giese earlier were talking about President Nixon and I think you conveyed the statement you were not always impressed with his performance. I would like to say in the area of Indian problems that the President has submitted to this committee seven proposals. He submitted them 2½, almost 3 years ago. I think his contribution here has been greater than the contribution of this committee to date, and I am hoping, as I know you are, that we will accomplish a lot. But I think we need to accept that challenge that he has set before us and pass or improve on or ready these proposals. So I think, in a sense, we have our work cut out for us. I think he has been quite interested in self-determination, and I think you should pass out the bill that was reported to the Senate before to place the Commissioner of BIA at a level of Assistant Secretary, which, I think, would enhance his ability to perform.

Senator ABOUREZK. Are you saying, Senator, that we ought to delay the hearings on the two bills that you have introduced that relate directly to Oklahoma to get the President's package out or which priority should we use?

Senator BARTLETT. I think we could proceed in both directions, Mr. Chairman. I see no reason to slight either the State of Oklahoma or the Indians at large, but I think we should move in this direction and since you are having a political argument, I felt discriminated against by not being in it, so I wanted to finally get in it.

Senator ABOUREZK. Thank you. I want to make an announcement before we adjourn. We will meet again at 2 o'clock. We will resume the hearing with the Hon. Reuben LeFave, State Senator of the State of Wisconsin, probably at 2 o'clock.

[Whereupon at 1:10 p.m., the hearing was recessed, to resume at 2 p.m.]

AFTERNOON SESSION

Senator BARTLETT [presiding]. The open hearing on the Menominee Restoration Act, Senate bill 1687, will continue.

The next witness is Hon. Reuben LaFave, State Senator from the State of Wisconsin.

We are very happy to have you, proceed, please.

STATEMENT OF HON. REUBEN LaFAVE, STATE SENATOR FROM THE STATE OF WISCONSIN

Mr. LAFAVE. Thank you very much, Mr. Chairman. My name is Senator Reuben LaFave, a member of the State Senate of Wisconsin and of the Menominee Indian Study Committee since 1955. I have served as the Chairman of the Menominee Indian Study Committee since 1965, and was recently reelected to this position for an additional term.

Gentlemen of the committee, in 1959, the State of Wisconsin recognized that the Menominee were not prepared to assume full responsibilities in managing their properties, and encouraged the Menominee Tribe in its continued opposition to stop termination.

The State took the legislative action in its attempt to prevent termination of Federal supervision of the tribe, and its assets. In an attempt to repeal the Termination Act, the State legislature in 1959 passed Joint Resolution 33, which read in part:

> Resolved by the Senate, the Assembly Concurring, that the legislature of the State of Wisconsin requests the Congress of the United States to repeal Public Law 399, so as to retain and continue indefinitely Federal Supervision, until such time as the Menominee Indian Tribe has achieved a status comparable and equal to the average citizen of the environs, and until the tribe has initiated a request for termination.

I might add that had Wisconsin not insisted that the Menominees agree to a sustained management plan for their forest in 1956, before the State agreed to grant the Menominees their own county, it is likely that a great part of this valuable forest resource might be depleted today.

Two years ago I appeared before this Committee on Interior and Insular Affairs in support of Senate Concurrent Resolution 26. At that time, I spoke against the termination policy and pleaded that what had happened to the Menominees should not befall other Indian tribes of America.

I reported that Federal assistance for the Menominees was essential; and in view of this the Wisconsin legislature had enacted legislation, 1971 Enrolled Joint Resolution 18, memorializing Congress to modify the Termination Act, Public Law 83–399, so that the Menominees would be eligible for health, edducation and welfare benefits normally available to all other Indian tribes, and 1971 Enrolled Joint Resolution 19, requesting President Nixon to issue a departmental directive to the same effect.

Today, at the direction of the Menominee Indian Study Committee, I am here to endorse the concept of restoration. The committee, while unanimously supporting the concept, has requested that S. 1687 be

amended so that during the 2-year period between its passage and effective date of subsections 6 (c) and (d), the State of Wisconsin may investigate all possibilities of providing governmental services to the Menominees.

Under the present terms of the bill, if restoration would occur, Menominee County would be retained. If county status would not be feasible or operable, the State is restricted by article XIII, section 7 of Wisconsin constitution from partitioning the county, article XIII, section 7 provides that any county with 900 square miles or less cannot be divided unless the residents by referendum vote for such partitioning. Since Menominee has 360 square miles, this provision would be applicable.

I want to emphasize that this does not mean that the committee supports abolishment or division of the county, but only wants the options left open. Therefore, the Menominee Indian Study Committee unanimously supports the addition of section 6(f) as follows:

Section 6(f) for the purpose of implementing Subsection (e), the State of Wisconsin may establish such local government services required by the Menominee Indian Tribe.

In addition, the references made in the S. 1687 to Menominee County in section 6(c) and (d) and section 8, should be changed to "The Territory Constituting, on the effective date of this act, the County of Menominee." Because Federal law has precedence over the State constitution, if these references are retained, the legislature will not be able to alter the county structure even if partitioning was supported by a referendum in accordance with article XIII, section 7.

It is the feeling of the committee, that this requested language is essential if the State of Wisconsin is to act in the best interest of the Menominee Indian Tribe. I would like to stress that the future of the county is not a matter of Federal determination, but rather a State-local one.

At this point, I would like to note that the House committee has amended H.R. 7421 basically in accordance with the Menominee Indian Study Committee's request. The language in the proposed section 6(f), calls for the providing of, "Services required by the Menominee Indian Tribe." However, in the amended version of H.R. 7421, and in H.R. 9078, this wording has been changed to the "Services required by the people in the territory."

The changed wording obscures the purpose of the new paragraph, and creates a distinction without a difference. It obscures the paragraph's purpose because that paragraph is addressed to problems which may be encountered by that special class of Wisconsin citizens who are also members of the Menominee Indian Tribe.

It creates a distinction without a difference because it implies that, by virtue of Federal law, Wisconsin could make special arrangements for the residents of one county not available also to the residents of all other counties when, in reality, the Menominee Restoration Act can only empower the State of Wisconsin to make the special arrangements for those of its citizen who will be members of the Menominee Indian Tribe. Thus, the legal authority under the paragraph will be the same whether the reference is to people generally or to members of the Menominee Indian Tribe.

Gentlemen, I hope that you will act favorably when considering the Menominee Indian Study Committee's request and include the language as originally proposed.

For the information of the committee, I would like to report on the three pieces of State legislation that have a bearing on restoration.

First is chapter 71, laws of 1973, which provides for the extension of the moratorium on the sale of Menominee Enterprises, Inc., securities until 1976. The moratorium must still be approved by Wisconsin's Commission of Securities.

Second is substitute amendment 1, to assembly bill 892 which provides for a State financed referendum whereby Menominee Enterprises, Inc. certificate holders will be able to vote on whether or not they wish to be restored to Federal trusteeship. This bill is currently awaiting Senate action.

Lastly is chapter 100, laws of 1973, which relates to Wolf River preservation. This bears indirectly on the restoration issue. Since 1966 the State has enacted Wolf River legislation with the dual fold purpose of preserving the Wolf and providing economic assistance for Menominee Enterprises, Inc.

For the last 3 years, the State has paid the Enterprises $250,000 annually for camping and fishing privileges. The Menominee Indian Study Committee had endorsed continuing the lease for an additional 4-year period.

The bill was unanimously adopted by the State Senate but has been amended by the State Assembly so that the lease will only cover 1973–74 calendar year. This portion was line vetoed by the Governor, but at present only funds for the 1973–74 calendar year have been appropriated.

I would like to place on record copies of legislation I have noted, and I will answer any questions the committee may have to the best of my ability.

[The information referred to above follows:]

STATE OF WISCONSIN

1973 Senate Bill 131 Date published*: July 21, 1973

CHAPTER 71 , LAWS OF 1973

AN ACT to amend 710.05 of the statutes, relating to the restriction of alienation of Menominee Indian tribe corporation securities.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

710.05 of the statutes is amended to read:

710.05 MENOMINEE INDIAN TRIBE CORPORATION SECURITIES, ALIENATION RESTRAINED. The articles, bylaws or regulations of any corporation or organization, incorporated or organized under the laws of this state by or at the direction of members of the Menominee Indian tribe, to which property may be transferred by the United States or any agency thereof, as provided by section 8, P.L. 83-399, as amended, may provide for the absolute restraint on alienation for a period not to exceed ~~10~~ 15 years of any ~~bonds,~~ stocks, certificate of interest, voting trust certificate or other security, but not including bonds, issued by such corporation or organization. No such restraint shall prohibit the transfer by will or operation of law upon the death of the owner of any such security, but may provide for an option to the corporation upon such transfer. Any option in such corporation to purchase any of such securities from the holder thereof, which such corporation has but fails to exercise, shall be assigned by such corporation to the state of Wisconsin, and may be exercised by the investment board according to the terms thereof.

.....

*Section 990.05, *Wisconsin Statutes*: **Laws and acts; time of going into force.** "Every law or act which does not expressly prescribe the time it takes effect shall take effect on the day after its publication."

1973 STATE OF WISCONSIN LRB-4729/2
HRT:ke

ASSEMBLY SUBSTITUTE AMENDMENT 1 ,

TO 1973 ASSEMBLY BILL 892

May 31, 1973 - Offered by Representative GROVER, by request of Menominee Indian Study Committee and Senator La Fave.

AN ACT of the statutes, relating to conducting a Menominee referendum and increasing an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. MENOMINEE REFERENDUM. The secretary of state shall conduct a referendum at which the following question shall be submitted to eligible Menominee enterprises, inc., certificate holders: "Shall the federal government restore the Menominee to tribal status?".

SECTION 2. ELIGIBLE CERTIFICATE HOLDERS. Every natural person who is a Menominee enterprises, inc., certificate holder and who is 18 years of age or older and who is not incompetent shall be eligible to vote in the referendum. The Menominee enterprises, inc., common stock and voting trust is ineligible to vote but the individual natural persons who are members of the trust may vote their individual shares held. Any trustee of Menominee enterprises, inc., who holds certificates of ownership only in a fiduciary capacity shall be ineligible to vote in the referendum. Menominee

enterprises, inc., shall provide a certified list of eligible certificate holders and their addresses to the secretary of state within 10 days after the effective date of this act (1973).

SECTION 3. PROCEDURE. The ballot used for the Menominee referendum shall be in the form of Ballot "D" under section 5.64 (2) of the statutes. The ballot shall be mailed by the secretary of state, by registered mail, return receipt signed by the addressee only, to all eligible certificate holders within 30 days after the effective date of this act (1973). Each ballot shall be accompanied by an envelope addressed to the secretary of state and bearing 1st class postage, or air mail postage if the address of an eligible certificate holder is located more than 300 miles from Madison, Wisconsin. Ballots shall be completed and mailed to the secretary of state by the 15th day after they are mailed to eligible certificate holders. Returned ballots postmarked after the 15th day shall be void, and the ballot or a notice accompanying the ballot shall so state. The secretary of state shall tally all valid ballots and report the results of the referendum to the legislature as soon as practicable thereafter.

SECTION 4. EXPENSES. All expenses related to the Menominee referendum, including any expenses incurred by Menominee enterprises, inc., shall be paid from the appropriation under section 20.575 (1) (a) of the statutes.

SECTION 5. APPROPRIATION INCREASE. The appropriation under section 20.575 (1) (a) of the statutes, as affected by the laws of 1973, to the secretary of state for general program operations is

increased for 1973-74 by $7,500 for the purpose of conducting the Menominee referendum.

(End)

1973

STATE OF WISCONSIN

LRB-5558/1
HRT:hs

ASSEMBLY AMENDMENT 1,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1973 ASSEMBLY BILL 892

June 6, 1973 - Offered by Representatives GROVER and JACKAMONIS.

Amend the substitute amendment as follows:

On page 2, lines 14 and 15, substitute "30th" for "15th".

(End)

1973

STATE OF WISCONSIN

LRB-5494/1
HRT:ke

ASSEMBLY AMENDMENT 2,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1973 ASSEMBLY BILL 892

June 6, 1973 - Offered by Representatives GROVER and JACKAMONIS.

Amend the substitute amendment as follows:

On page 2, delete the material beginning with "The" in line 4 and ending with "(1973)" in line 9, and substitute "The ballot used for the Menominee referendum shall be similar to the form of Ballot "D" under section 5.64 (2) of the statutes. The ballot shall be mailed by the secretary of state, by certified mail (return receipt not requested), to all eligible certificate holders within 30 days after the effective date of this act (1973)".

(End)

1973 STATE OF WISCONSIN LRB-4729
ls:2

FISCAL NOTE TO 1973 ASSEMBLY BILL 892

(as shown by A. Sub. 1)

FISCAL NOTE: As shown by Assembly Substitute Amendment 1, 1973 Assembly Bill 892 appropriates to the secretary of state $7,500 in general purpose revenues for the purpose of defraying the cost of conducting a ballot, by registered mail, of the Menominee Indians on the question of restoration to tribal status.

Since the official tribal rolls were closed in 1954, the only way in which all Menominee of voting age can be reached today is through the mailing lists of Menominee Enterprises, Inc. (all Menominee Indians, and about 200 of their descendants since the tribal rolls were closed, are holders of M.E.I. stock certificates).

According to the M.E.I. mailing list, the referendum ballots would be mailed to about 2,000 M.E.I. stock certificate holders. The cost for mailing by "registered mail", in addition to regular postage, is 95¢ per letter without return receipt, and $1.10 with return receipt. Thus, the total cost of the mailing would be a minimum of $2,360 if all letters are mailed first class (some are required to be mailed airmail) and by registered mail as shown in the substitute amendment, plus $160 for return postage.

The cost for supplies (ballots, envelopes and return envelopes) would be about $150. The cost of addressing the envelopes and the postal forms for registered mail would be about $265 (assuming it is handled by 3 persons working 4 days each at $1.70 per hour, plus about $100 for costs incidental to tallying ballots).

Thus, total cost from general purpose revenue in fiscal 1973-74 would be about $2,935. There would be no costs in fiscal 1974-75.

* * * * * *

A much cheaper mailing could be achieved by using "certified mail". For certified mail, the additional cost per letter is 30¢ without return receipt, and 45¢ per letter with return receipt. If the 2,000 ballots are mailed by certified mail without return receipt, the mailing cost would be $760 based on first class postage, and the total cost would be $1,335.

MENOMINEE INDIAN STUDY COMMITTEE

STATE OF WISCONSIN

1973 Senate Bill 123 Date published*: August 15, 1973

CHAPTER 100 , LAWS OF 1973

AN ACT to repeal and recreate 30.251; and to create 20.370 (1) (fm) of the statutes, relating to the preservation of the Wolf river as a scenic area and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. At the appropriate place in the schedule in section 20.005 of the statutes, insert the following amounts for the purposes indicated:

		1973–74	1974–75
20.370 NATURAL RESOURCES, DEPARTMENT OF			
(1) FISH AND GAME			
(fm) Wolf river preservation	GPR A	$250,000	

SECTION 2. 20.370 (1) (fm) of the statutes is created to read:

20.370 (1) (fm) Wolf river preservation. From the general fund, the amounts in the schedule for Wolf river preservation.

SECTION 3. 30.251 of the statutes is repealed and recreated to read:

30.251 WOLF RIVER PRESERVATION. (1) As used in this section unless the context requires otherwise:

(a) "County" means Menominee county and "county board" means the county board of that county.

(b) "Town" means the town of Menominee, and "town board" means the town board of that town.

(c) "Company" means Menominee Enterprises, Inc.

(d) "Area" means the area described in sub. (3) (a).

(2) The legislature finds that the scenic beauty, wildlife and recreational resources of the Wolf river in the county are seriously threatened by cottage development now built and to be built along the shores. It is probable that there will be federal legislation

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*Section 990.05. *Wisconsin Statutes*: **Laws and acts; time of going into force.** "Every law or act which does not expressly prescribe the time it takes effect shall take effect on the day after its publication."

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which will provide for such preservation of the river; and, therefore, the legislature for the purpose of preserving such waters as a scenic waterway, makes the following offer to the county, the town, the company, and other owners and lessees in the area specified in sub. (3) (a).

(3) The state will pay, from the appropriations made by s. 20.370 (1) (fm) and (em), sums as provided in sub. (2) and on the following conditions:

(a) Beginning one week after the acceptance of the offer, no new structure of any kind shall be commenced on or in the waters of the Wolf river in Menominee county nor within 200 feet outward from the shore lines of said river from the northern county boundary through Keshena Falls and all construction in progress in said area shall be discontinued by all parties concerned.

(b) There shall be free public access for fishing and camping privileges but hunting shall be forbidden.

(c) The agreement shall be substantially the same as the agreement under s. 30.251, 1969 stats. except that the terms of the agreement under this section may differ from the terms under s. 30.251, 1969 stats. if the company opens negotiations to change the terms.

(d) The county and the town agree that the moneys under this section shall be paid to the company for the following purposes:

1. Cost sharing in federal projects or matching funds.

2. Debt retirement including retirement of common stock and bonds.

3. Interest or dividends to Menominee Enterprises, Inc. shareholders.

4. Payment to Menominee county for tax relief.

Vetoed in part

(e) That this agreement terminates ~~at the end of calendar year 1973~~ when the legislature fails to appropriate funds for this purpose or when federal legislation superseding this section is enacted and approved by the county, town and company or when the company refuses a payment from the state.

Vetoed in part

(f) The company may terminate this agreement ~~effective at the end of the 1st, 2nd or 3rd year of this agreement~~ if it has not accepted the payment from the state for the year for which it terminates.

Vetoed in part

(g) If any private owner or lessee, other than the company, of property in the area or waters specified in par. (a) fails to join any such agreement between the county, town and the company, the governor may approve the agreement made by the parties, and payments shall be made to the parties of the agreement as made, but the

agreement shall also provide that the county, town and the company shall endeavor to have such private owners and lessees join in the agreement and provide a formula for ascertaining the amount to be paid to each. Any such separate agreement shall be effective when approved by the governor and the amount agreed upon shall be certified from the appropriation made by s. 20.370 (1) (em).

(h) The county board and the town board are directed to meet in special session within 30 days after the effective date of this section (1973), or if such day is a legal holiday, then on the next business day, and, together with the officials of the company, and representatives of owners and lessees of property in the areas described in par. (a), consider and act on said offer. The officials of the company and other area representatives of owners and lessees are requested to attend such meetings. The attorney general or his representative and a representative of the department of natural resources shall, and any other representative attorney or person may, attend such meetings. The chairman of the county board shall as soon as possible after the effective date of this section (1973), cause to be published a notice of the time, place and purpose of the meeting as a class 1 notice, under ch. 985.

(i) The department of natural resources, in agreement with the county board, town and company, shall make such rules as are necessary for the protection and reasonable use of the area.

(4) No payment shall be made from the appropriation made by s. 20.370 (1) (fm) and (em), unless approved by the governor.

(5) The department of natural resources shall inspect the area to ascertain the participants' compliance with the agreement, and if noncompliance is found the department shall institute proper proceedings to effect compliance.

(6) Payments from the appropriation made by s. 20.370 (1) shall be made on certification by the department of natural resources.

(7) As part of the agreement set forth under sub. (3):

(a) Each payee shall agree that in the event the lands described in this section, or any part thereof, are purchased in fee at any time within 10 years after the effective date of this section (1973), it will pay a price equal to the fair market value of the lands, after deducting therefrom an amount equal to the pro rata sum of the payments made, up to the time such lands are purchased by the state, under the agreement set forth in sub. (3).

(b) Payments made previous to the effective date of this section (1973), shall be excluded in determining the sum to be deducted from the purchase price.

Senator BARTLETT. Senator LaFave, could you tell me how the Menominee Tribe, in your opinion, stands on section (f) that you proposed on page 3?

Mr. LAFAVE. How the Menominee Tribe feels about the amendment? You have to excuse me, Mr. Chairman. Where I am sitting I can't hear very good.

Senator BARTLETT. I am sorry.

Would you tell me, in your opinion, how the Menominee Tribe feels about the proposal that you made on page 3, the addition of section 6(f).

Mr. LAFAVE. As far as I know, Mr. Chairman, I know of no opposition to it, but they are here, the representatives of the corporation at least, and others.

If there is any opposition, I do not know of it. This was taken up by the Menominee Indian Study Committee at a public hearing with no opposition appearing.

In answer to a question earlier, Mr. Chairman, which was referred to Mr. Lerman, who gave testimony for the government of the State of Wisconsin, the Governor of the State of Wisconsin endorsed this language in the House Bill.

At the time we proposed it for the House bill, and it was requested to Mr. Lerman to find out whether the Governor endorsed this concept also, and he did at that time.

Senator BARTLETT. Do you know why the State of Wisconsin needs a Federal law on this subject?

Mr. LAFAVE. We feel there is only one other way we could do it, resting assured that this is a State and local issue and how to handle the county. As I said in my article here.

Our learned legal counsel of the State of Wisconsin, say there are only two methods, one to go to a constitutional change to do so and this would be cumbersome of at least 6 years.

Senator BARTLETT. What is the problem with the constitution? Does it provide that all counties must be created similarly?

Mr. LAFAVE. Similar and if they are under 900 square miles, then we have to have a referendum of the people to partition or—I will use a different term, to change the boundaries of the county to coincide equally for protection of all of the citizens within that county.

Senator BARTLETT. The purpose for this is to change county boundaries, you have that option?

Mr. LAFAVE. Yes, we want the option. Mr. Chairman, may I explain why?

When we made the county we had tremendous opposition to it. At that time, we did not research enough to know that we could not do it without the referendum of the people to do so. We did not study enough, and now we are in a bind where if we were to form a better county and keep the county system, it will probably be necessary to reapportion the county in some manner or to exchange land in some manner. At least the options would be open and we feel that Congress should not close the door to this local issue by superseding us.

Rest assured that it will be given a lot of study but all of our legal counsel recommend it.

Senator BARTLETT. We certainly would be interested in having legal counsel's advice on this subject, but I do not quite see how the Federal

Government, by a bill, can add to the powers that are given to the government of Wisconsin, by the people of Wisconsin, in a matter of local procedures on county boundaries.

Mr. LaFave. Well, you did not have to do so before because when we partitioned Oconto and Shawano Counties to create Menominee County, they were above this maximum, 900 square miles, and, therefore, we did not have to have a referendum procedure to do so. Now we find we do have to have referendum procedures to do so.

Senator Bartlett. But this would, it would seem to me—I am asking a technical legal question. I don't know by what authority the Congress would have to do this, but maybe we do. Anyway, we will get legal opinions on it.

Mr. LaFave. Anyway it leaves the door open, Mr. Chairman.

Senator Bartlett. The question I am raising is whether Congress ought to have this authority to request it. I can't imagine that we would be able to give powers to the people of Wisconsin that the people of Wisconsin have not been given in their constitution.

I do not see how we can supersede their constitution.

Thank you very much. I appreciate your answers and your presentation.

Mr. LaFave. Thank you. Any material we may have will be mailed to you at any request you make. Thank you very much.

Senator Bartlett. Thank you.

Next is Mr. Joseph Preloznik and Mr. Charles Wilkinson, legal counsel for the Menominee Tribe.

Proceed. We are happy to have you both. Do you both have testimony to give or just one statement?

STATEMENTS OF JOSEPH PRELOZNIK AND CHARLES WILKINSON, LEGAL COUNSEL FOR THE MENOMINEE TRIBE

Mr. Preloznik. We did not prepare a formal statement, a prepared statement. We came here to answer questions that may be raised by the subcommittee, but it is our understanding that you would like a summary and I will give you part of the summary that I am familiar with and Mr. Wilkinson will address himself to other points that we feel have been raised in testimony presently given.

Senator Bartlett. Proceed. We are happy to have you.

Mr. Preloznik. Thank you, Mr. Chairman.

As to the bill S. 1687, to give you some historical background on its introduction, there was a compromise reached to get the bill introduced, and one of the necessary compromises was the introduction of a provision that would preclude the effect of restoration for 2 years.

This was unacceptable to the Menominee Indian community, but the Menominee Indian community agreed to facilitate the introduction of the bill and get it up for hearings to the inclusion of that specific provision.

There were a couple of other changes. One was also the change which indicated that the State of Wisconsin had the authority to regulate non-Menominee and that the Department of Natural Resources would stock certain lakes in Menominee County.

We took the position that this particular provision had no legal significance, because Public Law 280 already gave the State of Wisconsin the authority to regulate hunting and fishing of non-Menominee in the county and we were not going to look a gift horse in the mouth.

If the State wanted to stock those lakes, we were not going to stop them. It is my understanding from what Mr. Giese said earlier, that they have withdrawn from that position and no longer want that provision in the Restoration Act.

There was also section 8, which dealt with certain educational provisions which would have provided additional benefits to the Menominee people. Again we had no objection to the inclusion of section 8 of the bill as it presently is before the subcommittee.

After hearings at the House level, and prior to the markup, there was some concern over the specific point that you were discussing with Senator LaFave, which dealt with the language that would permit the State to deal with certain problems that may arise after restoration takes place.

This was precipitated by some of the concerns that Mr. Giese had, that there may be an unfair tax burden placed on non-Menominee people after restoration.

In conferences with people from Congressman LaFave's office, and others, we agreed to the general concept that the State ought not be precluded from dealing with these problems and, I think, the legal concern was that the Congress does have authority to deal with the Indian community and has plenary authority to deal and if it so chooses to act, and the county, as it is presently defined, would fit within that scope, then the State would be precluded from making any changes whatsoever with the local municipality.

We agreed that the State ought not be precluded, but at the same time, we did not agree that home rule ought to be bypassed or that the State constitution ought to be bypassed.

We are still of the opinion, and we would like to make sure that the legislative intent is very clear on that particular point, that while we have agreed to language that would permit the State to deal with problems that may arise as a result of restoration, that at the same time the people who are living within that territory that now constitutes Menominee County and once constituted the Menominee Reservation, those people would not be bypassed in any determination as to what ought to be done with those political subdivisions.

The language that was included in the marked-up version, we believe, does not permit an interpretation which would permit the State to bypass home rule or permit the State to deal with the people there without addressing the problem to them by referendum and ignoring article 13, section 7 of the State constitution. So, to that extent we do not find the language objectionable at all.

We would like to make sure the legislative intent is clear that we do not go beyond that particular interpretation.

Senator BARTLETT. What authority do you think there is for Congress to provide that alternative for the county?

Mr. PRELOZNIK. The opinion that was referred to and we can provide you with that from the Library of Congress, there was some language there that indicated, and I think there is a Supreme Court

law that would say that if the legislation is in furtherence of a national objective or an objective that is within the scope of Congress, and certainly dealing with the Indian community is such a scope, that if it is in furtherence of that particular goal, Congress may act exclusively, to the exclusion of the State.

Senator BARTLETT. In the marked-up House bill, paragraph E, on page b, it reads as follows:

> For the purpose of implementing Subsection (d) the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as will best provide the state or local government services required by the people in the territory constituting, on the effective date of this Act, the County of Menominee.

Mr. PRELOZNIK. Yes, I think the key word in that is, the State may, and that is permissive language as we have interpreted it and also, as the attorneys for the Library of Congress have so interpreted it.

If the legislation said the State shall, and a court of whoever litigated that matter, took the position that this was in furtherence of the congressional objective, then the State would be able to direct themselves to that problem without following State law, but only as it is guided by congressional action.

Mr. WILKINSON. I think it is fair to say, Senator, that the language as it reads now makes it clear that the Restoration Act was not taking a position one way or another, and that this clarified the fact that in effect, it's hands off by the Federal Government. It makes it clear that the Federal Government is not preempting in any way and it is leaving that matter to the State. Whether or not the Federal Government has the power to act, it is making it clear that it is leaving it to the State.

Senator BARTLETT. The question I have is, whether the Federal Government is actually giving the power to the State of Wisconsin that the people apparently have not given?

Mr. PRELOZNIK. We would take the position that the Federal Government is not relinquishing any power, but just indicating to satisfy some concerns of non-Menominees that they are not exercising any authority.

Senator BARTLETT. What would your reaction be if the Senate put that paragraph in the report rather than the bill?

In other words, in the legislative history.

Mr. PRELOZNIK. We would find no objection to it at all, because we are of the opinion that the Federal Government does not have the power to deal with the creation of local municipalities, and if that was ever litigated, we probably would litigate it on that basis, that the Federal Government did not.

Senator BARTLETT. This is my position, of course, and I don't see how the Federal Government can give you something that the people of Wisconsin have not already provided.

I am sure I do not understand quite fully the problem, but I am a little more worried about what we can do and what we cannot do.

Mr. PRELOZNIK. We are most anxious that the Restoration Act passes, because we don't want to be in a position whereas lawyers were more concerned with form than with substance. For that reason we agreed to the inclusion of that kind of language because we felt that

it would not hurt the Menominee people and at the same time it would facilitate the passage because certain people wanted that in the act.

Senator BARTLETT. I see.

Mr. PRELOZNIK. Mr. Chairman, are there any further questions on that particular point?

Senator BARTLETT. No, I do not think so.

Mr. PRELOZNIK. The marked-up version——

Senator BARTLETT. I do have a question that goes back to your first point. I was not quite sure how you felt about these lakes that are listed on page 8 being regulated by the State of Wisconsin and the State shall stock them.

What is your position there?

Mr. PRELOZNIK. We did not object to the inclusion of that provision for two reasons. One, Wisconsin has a public law 28, and is already given the authority to regulate non-Menominee on these Federal lands. This was before termination.

Secondly, we took the position if the State wanted to stock these particular lakes, we had no objection because it was Menominee that would be taking the fish out and, again we raised the same question when we discused earlier, we questioned whether Congress has the authority to order the Department of National Resources to stock any lakes in the State of Wisconsin.

The bill, as it came out of the subcommittee of the House, made the changes that we had agreed to conceptually. However, there is a provision that was inserted which again delays the effective date for the services that the Menominee would get once restoration takes place by tying it, by tying the effective date of the restoration of services to the date in which a land base would be created.

All of the bills contemplate negotiations with the Secretary of the Interior, on the precise manner the Secretary of the Interior will hold the land in trust for the tribe and, there are also mechanical procedures that have to be carried out in that the Menominee Enterprises is a State corporation, organized in the State of Wisconsin, and any conveyance of a substantial portion of its assets will have to be approved by a two-thirds majority of the shareholders.

As a result, there may be a substantial delay before the land base is, as a matter of fact, created.

It is our opinion that just as we created the 2-year provision that we ought not put in that kind of delay for the services that are necessary for the Menominee people, as a result we would object to that kind of provision such as it is now in the marked-up version at the House level.

There are a few other provisions inthe marked-up version that also raise——

Senator BARTLETT. Is your purpose in objecting to this proviso that this might delay the delivery of certain services?

Mr. PRELOZNIK. Yes. The Menominee, I think, have established a good case for the need for some Federal assistance immediately, and to restore their identity as Indian people so they qualify for some of those services. I could conceive that there could easily be a reasonable delay, not unreasonable because the Secretary of the Interior is not cooperative, but because it would take that kind of time, that the delay

would reach 6 months in establishing a land base, so it would delay the effectiveness of these services to Menominee people for a period of 6 months, and we see no reason why that ought to be.

There are tribes that have no land base, as a result they obtain services without that kind of contingency.

Mr. WILKINSON. If I might?

Senator BARTLETT. Should there be any kind of proviso at all?

Mr. PRELOZNIK. None, because we are of the opinion that there are tribes who are recognized federally as Indian people and obtain Federal services as Indian people without land bases.

Mr. WILKINSON. I think, Senator, that the importance of that proviso almost cannot be overstated, because what that is is a potential way of depriving the tribe of the benefits of restoration later on through fault completely not of their own. If this act was passed with that proviso in it, then restoration is only a contingency, the benefits can be taken away any time.

Obviously, for a tribe that has been through what this tribe has been through, this is going to breed cynicism and might result in the loss of restoration solely on the basis of delay by the Secretary of the Interior.

We would just urge, as strongly as we could, that there not be any such contingency, that the act become effective and the tribe then continue the negotiations to establish the land base.

I might point out that, plainly, the tribe has every incentive to establish that land base as quickly as possible because only then will the tribe be free of the heavy tax burden, so it is the tribe which would want to press on quickly to transfer the land base. If there is a contingency provision, if there is delay by the Secretary of the Interior or another nontribal party, then the whole act could be washed out really for no good reason.

Mr. PRELOZNIK. There are some additional provisions, and I will run through them briefly, because Mr. Wilkinson has prepared a rather detailed summary of the objections that the Menominee have to the marked-up version, and it has been introduced as an exhibit.

One deals with the restoration of the treaty and Federal rights that the Menominee have, and there was a provision added on, except as provided in this act. To prevent any unnecessary litigation, we thought that ought to read, except as specifically provided in this act.

We do not want the country lawyers to get a field-day on interpretation. That is 3(c) of the marked-up version.

Senator BARTLETT. Do you agree with Mr. Giese that that should be a separate paragraph?

Mr. PRELOZNIK. We see no problem with that. We are of the opinion that that does extend to non-Menominee as well as Menominee. And if he is of the opinion that that will better interpret the statute, we have no strong objection to it.

Senator BARTLETT. Your interpretation of paragraph (c), is that it pertains to rights and privileges of the members of the Menominee Tribe and that (d), is concerned specifically with property rights, all people from the county?

Mr. PRELOZNIK. It would include Menominee and non-Menominee as well, yes.

Senator BARTLETT. We will take a short recess. I have a vote.

[Short recess taken.]

Senator BARTLETT. If you will continue where you were, please?

Mr. PRELOZNIK. Thank you, Mr. Chairman.

There is another problem that was inserted in section 3(d), which we believe may be construed possibly to affect litigation that is presently in progress at the State court. That was the inclusion of fishing rights specifically listed in the area which says this act shall not alter any property rights or obligations.

The litigation at the State court level has taken the position that the corporation was not entrusted with any authority to convey hunting and fishing rights that belonged to the tribe, and we are fearful that language here at the congressional level could be construed to indicate that Congress concedes that they did have such a right and could possibly have transferred such hunting and fishing rights to non-Indian people. We believe this is a matter that should be litigated in the courts and we hope the committee here will delete that language to prevent any possible misinterpretation while litigation is pending.

Senator BARTLETT. The language in the marked-up House bill which includes the words, "including existing hunting and fishing rights," how do you feel that would affect the pending litigation?

Mr. PRELOZNIK. Including fishing rights may be construed that Congress concedes that it was possible for the corporation to convey those hunting and fishing rights.

We have taken the position that termination never conveyed that right to the corporation nor did the Secretary of the Interior convey that authority to the corporation, that any rights that dealt with hunting and fishing as ennunciated in the U.S. Supreme Court case could only be conveyed by the tribe itself, and the tribe did not act, therefore, no one acquired any hunting or fishing rights on the tribally held lands.

Senator BARTLETT. Your point is even if people received a conveyance to that effect——

Mr. PRELOZNIK. It was done without authority, that is correct.

Mr. WILKINSON. Mr. Chairman, if the parties at court, we emphasize, are able to establish that they have these fishing rights, the act clearly protects their rights already by specifically stating that contractual rights shall not be altered so that the rights are already protected.

The only effect that that proviison could have would be to be used as a tool in the pending litigation. As we see it, it can have no other use. The rights are already protected by the act, and if this language is added, the one thing that language can do is affect pending litigation.

Senator BARTLETT. I am not that familiar with pending litigation, but you are saying that if in the deed of the land to one of the lakes a landowner received fishing rights, that those contractual rights are valid?

Mr. WILKINSON. That is right, and they are protected by the act without using the additional language.

Senator BARTLETT. In other words, there is no ligitation over that?

Mr. PRELOZNIK. Yes, there is, Mr. Chairman. I do not think that was stated correctly. We are questioning whether anyone had authority by the corporation, anyone had authority to convey these hunting and fishing rights, and it is presently being litigated.

We are not attempting to abbrogate any of those rights through legislation, but at the same time we do not want legislation to be established that such rights could have been created and the matter is being litigated at the same Supreme Court level and that will be determined there. We are not attempting to abbrogate it by legislation. Then if they acquired them and the court so concluded, they will have those rights.

Senator BARTLETT. That concludes my questions on that point.

Senator ABOUREZK [presiding]. As I understand it, you are going through the amended House version. Do you want to continue with that?

Mr. PRELOZNIK. Yes. Just to summarize, Mr. Chairman, there was a change that we found acceptable in the marked-up version of the House bill which would have given the State the authority to deal with the problems that arose after restroation. And some of that language which you discussed with Mr. Giese, is language that we found acceptable in concept, except that we did not want the interpretation that he placed upon it. We felt that home rule and the State constitution still must apply to those people who live in Menominee County and therefore, the State cannot ignore those particular rights.

But we did agree to the concept in the language which would give the State the authority to deal with any problems. We then also discussed section (c) of the marked-up version which said that all the treaty rights and Federal rights were restored.

There is a caveat attached to that provision saying, except as provided in that act. We feel it ought to be changed to read, except as specifically provided in this act.

We are discussing section 3(d), which also included a property right of fishing rights and we told the prior chairman that that is being litigated in court, whether, in fact, the corporation could convey any fishing rights or hunting rights, because we take the position only the Tribe could do so, and the tribe did not act.

Therefore, we would like that particular language excluded from the marked-up version that the House has passed. Then we go to provision 5, which we address ourselves to inthe marked-up version.

The Secretary of the Interior in the version he prepared and supported, had a provision that he must make a decision within a certain period of time. They have deleted that and we feel that this could lead to undue delay.

Senator ABOUREZK. A decision to do what?

Mr. PRELOZNIK. On any appeals taken to the Secretary of the Interior. For example, on the enrollment. Decisions are made to put people on the rolls. If anyone appeals to the Secretary of the Interior, we had a provision in there that he must decide that appeal within 60 days. It may be that that is much too soon for him, but we feel some time period ought to be there so it is not an open-ended delay. Whether it is 90 or 100 days. We feel some time position ought to be imposed on the Secretary of the Interior to act.

Senator ABOUREZK. If it is not unreasonable.

Mr. WILKINSON. There is another similar position in there. That is that the original bill required the Secretary to announce the date of, and hold the election for, the Menominee Restoration Committee within a certain time period, the Secretary opposed any time period whatsoever.

So, for the those two important dates, the Secretary does not want any time periods. We emphasize that the whole implementation of the act depends upon those time periods, because if the Menominee Restoration Committee is not established, then the tribal roll cannot be set up.

If the tribal roll cannot be set up, then there cannot be the election for the constitution or the tribal council.

So, if there is a delay by the Secretary of the Interior, it would hold up the entire restoration process literally, and that whatever the time periods are, there should definitely be time periods there.

Senator ABOUREZK. What time period did you have in the original version?

Mr. WILKINSON. We had, Mr. Chairman, that the election, the date of the election of the restoration committee, and that is the committee that will represent the tribe during the restoration negotiations, the election date must be announced within 15 days after the passage of the act and the election must occur within 60 days after. That is the first time period.

The second time period is that the act provided that all decisions on any tribal appeal, any appeal from a decision on the tribal roll, must be within 60 days.

Senator ABOUREZK. Are you willing to negotiate on that time period itself? Is 60 days hard and fast?

Mr. WILKINSON. No, we are certainly flexible on that. The important thing is that there be a time period. We probably would not like to see it go beyond 90 days, because we think so, plainly that is enough time. But the important thing is that there be some time period and we are flexible on the period.

Mr. PRELOZNIK. This becomes increasingly important because in the marked-up version, there was also additional provisions added which made the effective date of the services contingent upon establishing and creating a land base so we could not possibly do this within 6, 7 months under that type of arrangement.

Senator BARTLETT. Are the time requirements in 4(a) of the marked-up version, are those within 30 days, 90 days?

Mr. PRELOZNIK. Within 15 days after the enacting of this act, yes.

Senator ABOUREZK. We are talking about No. 2?

Mr. WILKINSON. The first two time periods are acceptable, yes. We would like to see added a provision on appeals from the tribal rolls.

Senator BARTLETT. You said the 30 days and 90 days would be fine.

Mr. WILKINSON. Again, we prefer the shorter.

Senator BARTLETT. What is the other time periods you were talking about?

Mr. WILKINSON. We have provided in the act that all decisions on appeals from disputes over the tribal roll be resolved within 60 days and that is the next step in the act to set up a tribal roll.

Then there is the election for it. As it stands now, the Secretary could sit on one appeal for a year and the whole act would be held up. They left out a provision entirely. We had 60 days in the original bill. Ninety seems reasonable and we would hate to see it go beyond that.

Mr. PRELOZNIK. Specifically that is section 4(b), the last sentence, page 4 of the Senate bill.

Senator BARTLETT. In other words, the Secretary shall within so many days, or should?

Mr. PRELOZNIK. Make the final determination of each such appeal within 60 days after an appeal is initiated.

Mr. WILKINSON. Mr. Chairman, if there are no further questions, we have one more provision of the marked-up bill and, again, this relates to the position of the Secretary of Interior.

The Secretary of Interior took the position, and it was included in the marked-up version, that the Indian Restoration Act of 1934 be imposed upon the Menominee Tribe. There has been consistent opposition among tribal members to imposition of the IRA, and we would hope that that would be of primary importance to this subcommittee, the fact that the Menominee do not want the IRA and if self-determination means anything, it means having some sort of say over what kind of government is imposed on you.

Our understanding, at least this is the oral testimony that the Department of Interior gave at the House subcommittee hearings, is that they wanted to establish the IRA because they liked the trust relationship between the tribe and the Federal Government that is set forth in the IRA.

We used the IRA definition when we drafted the act and so, therefore, it seems to us that the act already provides an IRA type of trust relationship without having to invoke all the provisions of the IRA, which the tribe opposes. So that we would hope that when the Department of Interior witnesses appear here, that there would certainly be questioning about the reasons they have for imposing the IRA, because it is somewhat unclear to us and, certainly, we don't feel the entire act need be made applicable.

Senator ABOUREZK. Do you have anything further?

Mr. PRELOZNIK. We are prepared to answer any questions the committee may have as to any of the litigation that is presently pending, and being referred to on occasion.

Senator ABOUREZK. Do either of you live up in Wisconsin?

Mr. PRELOZNIK. Yes, I do.

Senator ABOUREZK. You live where?

Mr. PRELOZNIK. Madison, Wis.

Senator ABOUREZK. Not anywhere near the reservation?

Mr. PRELOZNIK. No, but I spend a great deal of time up there.

Senator ABOUREZK. I wanted to ask somebody, I guess, about Mr. Giese's conversations about discrimination toward the landowners there. Do you feel qualified to comment on that?

Mr. PRELOZNIK. Well, we spent a great deal of time meeting with many of the property owners who so chose to meet with us. There has been litigation, but I think it is unfair to classify that litigation as a form of harassment.

Let me just give you—I think, Madam Chairperson Wilbur testified to some extent of the *Tomow* case which was a stockholders derivative suit started some years ago, and in an attempt to stop the land sales which the Menominee people felt they never approved and which, as a matter of fact, they never did, there were some votes taken, but they were not of the two-thirds required by article 12.

The lower court, where the litigation was commenced, which is the circuit court of the State of Wisconsin, concluded that the provisions which set up the voting trust, although they were not carried out in detail, as they would normally be done, substantially complied to State and Federal law. But then the court concluded that all of the background which set up this termination plan never envisioned that seven people could sell land to non-Menominee, that all of the hearings and all of the information he was able to glean indicated that it would require two-thirds approval of the Menominee people.

It was appealed to the State supreme court. The State supreme court upheld the court on the first ground, but on the second ground, looked only to the trust document and refused to go beyond the trust document, saying it was not ambiguous and, therefore, concluded the seven people who were the trustees could effectively sell the land.

I think there are substantial issues in this litigation. I don't think they are spurious at all and, we are preparing a petition for writ of certiorari now to the U.S. Supreme Court.

There is another case that involved a permit for the dam which created one of the artificial lakes in Menominee County which was platted later and lots were sold to non-Menominee. The petition to the State department of national resources did not include any of the Menominee in its notice as to the hearing for that particular dam permit.

It was the position of the litigation in court that the Menominee had an interest, should have received notice, and as a result, because they contested the application for that particular dam, that this was a contested case and that should have been handled with due process.

The State supreme court again took the position that the Menominee no longer had any interest because all of it was given to those voting trustees, and because the voting trustees applied for the permit they did not have to comply with due process nor did they have to give the Menominee notice.

This matter is also being litigated in the State supreme court. I do not believe that this constitutes harassment. There are substantial issues that are raised, there are substantial rights of Menominee people that are raised. To that extent, litigation is being conducted at the State level, at various levels. Litigation that never would have been made available had it not be for legal services program which was sponsored by the Office of EEO in 1966.

It was only at that point that the Menominee people, who were very poor, could afford legal services to get a lawyer to represent them.

Senator ABOUREZK. Do you quarrel with the concept at all that Congress should not impair those contracts that are presently in effect?

Mr. PRELOZNIK. Oh, yes. I do not want them to impair them nor do I want to have Congress give them any credibility. I think that any rights that they have, that a court determines they have acquired over this period of time, ought not be either taken away or given credibility at the congressional level.

But this is a matter for the courts to determine what rights they, as a matter of fact, do have. We are not at all asking Congress to wipe out any rights that they may have acquired since termination has taken place.

The only assets we have attempted to draft and embody in the legislation are those assets and those rights which the tribe still has. As to all those areas that we may or may not have, that is subject to litigation.

Senator ABOUREZK. That is the end of your presentation?

Mr. PRELOZNIK. Yes.

Senator ABOUREZK. Mr. Gerard has some questions.

Mr. GERARD. I wanted to reopen several questions on the matter of stocks and bonds. In certain of the current MEI, stockholders would not be qualified for membership, some will be non-Indians who inherited stocks. Some will be Indians of less than one-fourth degree Menominee. Can they constitutionally transfer their interest to the restored tribe at that point?

Mr. PRELOZNIK. The question is complex and ought to be broken down into specific components.

One, the stocks will not be dissolved, the stock certainly will not be dissolved as we presently contemplate the transfer of assets to the Secretary of the Interior.

Two, the corporation is organized under the laws of the State of Wisconsin, chapter 180. We contemplated that a substantial portion of the assets will be conveyed or all of them will be conveyed to the Secretary of the Interior to be held in trust for the tribe, but in those terms, it is really for the shareholders and the members who participate in the corporation, because for most purposes, the corporation has been a logical extension of the tribe.

The bonds that the corporation issued will still be as viable, and probably more viable after the assets have been conveyed to the Secretary of the Interior because it is going to reduce the amount of tax the corporation pays, and instead of being placed in the uncomfortable position that they were last year when they did not earn enough income to pay the bonds, we are of the opinion that in the future, there will be income to pay the bonds.

There will also be, hopefully, an amortization program set up with a reserve so that the bonds will be capable of being retired in the year 2000.

As to the stock certificates, if the corporation does make a profit, such that it could be in a position to declare a dividend, naturally the shareholders would participate in such a dividend.

We are not attempting to destroy the corporation or the shareholders' interest or the bondholders' interest in the corporation.

Mr. WILKINSON. If I might add one thing to that, that is discussed in some detail beginning on page 22 through 29 of the legal analysis we have given you.

It happens that the title of that refers to whether Menominee stockholders would be affected. That just happened to be the way in which the inquiry arose. The same analysis applies to non-Menominee and the essential point is that MEI really is not affected by restoration in any way, except it will have about $600,000 less of obligations every year, so it should be a much more viable corporation, and both stockholders and bondholders should be in a substantially better position after restoration.

Mr. PRELOZNIK. I might add one other thing, because you asked about services.

Whether Menominee are eligible for Federal services, I think, is a completely different issue than the one that is related to their interest as shareholders. If they qualify for Federal services based on blood, they will be enrolled as such and qualified for services.

Mr. GERARD. What happens if the membership should vote to dissolve MEI, would this have any bearing on the stocks?

Mr. PRELOZNIK. If the membership would decide to dissolve MEI, there is a provision by State statute for them to do so, and I would presume that at that point they would have to work out an equitable arangement to also disburse any assets that they may have. Equitably among all the shareholders.

Mr. GERARD. Can the interest of any stockholder be taken and transferred to the tribe without his individual consent and without compensation?

Mr. PRELOZNIK. No, without compensation it might, State law provides that the assets may be conveyed to the Secretary of the Interior by a two-thirds vote of the shareholders. It does not require unanimous consent of the shareholders, and this is by State of Wisconsin law. I think it is 180.27.

Mr. WILKINSON. Mr. Gerard, if I might make one remark. I think implicit in that question is the notion that somehow rights are taken away from people, stock rights, shareholders' rights and bond rights are taken away from people and somehow transferred to their detriment without compensation.

I think that kind of notion is implicit in the question. In fact, that is not what will happen here. The only change, as I say, that will have any effect on terms of stock rights or bond rights, is the fact that there will be future obligations. MEI will continue other than that to function as it is now.

Mr. GERARD. Assuming the bill is enacted into law, would MEI be under State or Federal jurisdiction?

Mr. PRELOZNIK. It would still be under State law. We are not changing that in the act. It is still organized under chapter 180 and will continue to operate as a State corporation.

Mr. GERARD. But its assets would conceivably go to the trustee?

Mr. PRELOZNIK. Yes; he is holding them in trust for the corporation or for the tribe and, as Charles pointed out, the only advantage is that once this occurs, it receives the mantle of protection from the Secretary of Interior. It cannot be further eroded and it is now tax free. So those are only beneficial advantages for the corporation, no detrimental ones that we see.

In any event, the shareholders and the bondholders are not hurt and they are benefited.

Mr. WILKINSON. Every stockholder should be so lucky.

Mr. GERARD. What recourse will the MEI bondholders have against the restored tribe and the assets in the event of default on the principal or interest due?

Mr. WILKINSON. I think the answer to that is in the bill, in the Senate bill, section 8(c) beginning at line 6. "The assets that are taken in trust shall be subject to all existing rights."

Then they list all existing rights including corporate indebtedness, so that bondholders retain full rights after the transfer. They would continue to have rights to annual income payments, and to redemption in the year 2000, when they are scheduled to be redeemed.

Mr. PRELOZNIK. We could introduce into the record, if the committee would like, a letter that was prepared by Mr. Wilkinson in response to

the letter of Mr. Buzard, who is the first vice president of the First Wisconsin Trust Co., which also is the trustee for these particular bonds.

In this letter it discusses the four provisions under which a default of the bonds could occur, and in phone conversations with Mr. Buzard, he is in agreement that they would not be in default by a mere conveyance to the Secretary of the Interior of the assets.

In his letter to the chairman of this subcommittee, Mr. Buzard, I read, was trying to put the bondholders in a preferred position so that the Secretary of the Interior would guarantee annual interest payments, which would be a better position than the bondholders are in at the present time. At the present time they only receive that interest if there is earned income and only out of that portion which is earned income.

It would be our opinion that the bondholders should not be in a preferred position, but certainly ought not be in any position which in any way jeopardizes their interest payment or any remedies they may have in a default that might occur.

Senator ABOUREZK. We will accept it for the record.

[The letter by Mr. Wilkinson referred to above follows:]

NATIVE AMERICAN RIGHTS FUND,
Boulder, Colo., September 7, 1973.

Re Menominee Restoration Act.

DONALD S. BUZARD,
First Vice President,
First Wisconsin Trust Co.,
Milwaukee, Wis.

DEAR MR. BUZARD: Thank you very much for copying us on your letter of August 16, 1973 to Senator Abourezk. As I mentioned over the telephone today, I hope that you and I will be able jointly to advise Senator Abourezk, on the second day of Senate subcommittee hearings on September 26, 1973, that the transfer of assets itself does not constitute a default under the indenture. My analysis of the rights of the bondholders under the indenture is as follows.

The following may serve to clarify the effect of restoration on MEI. The crucial provisions concerning the future of MEI are contained in Sections 6(b) and 6(c) of original H.R. 7421.[1] As you point out in your letter, the act itself provides that the assets of MEI will be taken "in the name of the United States in trust for the Tribe." In our opinion, such language is appropriate because the authority of the United States is probably limited to taking land in trust "in the name of the United States in trust for the Indian tribe" in question. See, *e.g.*, 25 U.S.C. §§ 463f and 465.

Under no circumstances will the transfer documents, or any other documents, negatively affect the financial viability of MEI. See, Legal Analysis of the Menominee Restoration Act, pages 49–51. The transfer documents will in all likelihood include a provision that the Tribe will transfer its interest in the assets to MEI, as the tribal corporation; under such as arrangement, MEI would hold and operate the existing land on behalf of the Tribe. Many tribal corporations operate in this manner. Whatever the specifics of the final documents, the present MEI assets will continue to be controlled by MEI and MEI will continue to exist. Any approach which would negatively affect the stability of MEI would very likely violate the provision in the act that "nothing in this Act shall alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied." H.R. 7421, Section 3(c).

We emphasize the significance of this approach. Literally the only financial effect of restoration on MEI will be that MEI will be relieved of its heavy tax

[1] I say "original H.R. 7421," because some of the provisions were changed at the House subcommittee mark-up session. No language of Section 6(b) or 6(3) was altered at the mark-up session, although the sections were renumbered 6(a) and 6(b), respectively. To my knowledge no one has suggested any changes in the substance of those sections.

burden, which is in excess of $600,000 per year. Its holdings will be affected in form, not substance, by the fact that equitable title will be held by the United States, as trustee. Bondholders will plainly be benefitted, because annual obligations will be decreased with no corresponding decrease in gross annual income; thus net annual income, from which bond interest is paid, is almost certain to increase. In addition, the computation of earnings, as raised at page 3 of your letter, will not be affected: there will be no difficulty in measuring earnings of the corporation because earnings will be measured in precisely the same manner as they are now.

Under these circumstances, we do not believe that the transfer of assets to the United States, as trustee, can possibly constitute in a "default" under the identure. "Defaults" under the indenture consist of four events, as defined by the subsections of Section 6.01. Three of the events are inapplicable on their face. First, default in the payment of interest (Section 6.01(a)) will not result from the transfer of assets; as stated above, the likelihood of paying the annual interest will increase as a result of the transfer. Second, default in the payment of principal (Section 6.01(b)) is not an issue until the year 2000. Third, bankruptcy (Section 6.01(d)) is not inherent in the transfer—directly the opposite is true, since the corporation should be more financially stable after the transfer.

The fourth type of default (Section 6.01(c)) is broadly defined, basically including breach of any covenants, conditions, obligations or agreements in the indenture or in the bonds.[2] I see no default of any covenants, etc. in the indenture or bonds within the meaning of Section 6.01(c). Conceivably, Section 5.07, which deals with "conveyance of all or substantially all of the property of the Company as an entirety," might apply. Section 5.07, however, is applicable only if corporate property owned "immediately prior thereto, would thereupon become subject to any lien." I know of no such lien. If the covenant in this section, however, is applicable, default can be avoided by securing the bonds by a prior, direct lien, as set forth in Section 5.07. Thus I see no exception to the basic notion that the transfer of assets does not itself constitute a "default" under the indenture.

Obviously, no wants to jeopardize the Menominee Restoration Act. Leaving aside the many other considerations, the future stability of MEI itself is dependent upon the act. As you know, there is a very real possibility of a default due to bankruptcy unless the restoration legislation is passed. Accordingly, I would very much like to resolve the questions raised in your letter by the second day of Senate subcommittee hearings, on September 26, 1973. I would hope that you and I could agree upon a short statement, to be submitted into the record at the hearings on the 27th, to the following effect:

> This statement refers to the matters raised in the letter of Donald S. Buzard, First Vice President of the First Wisconsin Trust Company to Chairman Abourezk, dated August 16, 1973.
>
> It appears that the transfer of the MEI corporate assets to the United States, in trust, will not itself be an event of default under the indenture referred to in the letter if (1) the assets of MEI remain substantially intact (other than the fact that the assets will be held in trust by the United States) as a result of the transfer and (2) the transfer does not negatively affect the corporation's ability to pay annual interest owing to bondholders. At this time, it appears probable that the transfer of assets can be structured so as to meet each of the above conditions. It also appears probable that the transfer of assets can be structured so that there will be no difficulty in measuring future annual "earnings" of the corporation.

I am not particularly concerned about the specific wording of the assurance which I believe should be given to Senator Abourezk. The important thing is that he be advised that there is nothing inherent in the proposed transfer which would necessarily result in a default.

Thank you again for taking the time to discuss these matters on the telephone. In particular, I appreciate your suggestion concerning the possible use of declaratory relief to establish, in advance, the validity of some of the basic transactions which will occur after the passage of the act.

I will look forward to hearing from you in regard to the above matters.

Very truly yours,

CHARLES F. WILKINSON.

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[2] It is this type of default to which you correctly referred on the telephone. The default provision in Section 6.01(c) does not become effective until there is written notice by the trustee or by the holders of 25 percent of the principal amount of the bonds.

Mr. WILKINSON. I might say, Mr. Chairman, that although legally the transfer would not place the bondholders in a preferred position, certainly the rights would be substantially increased because these are income bonds and are paid only out of income each year and there have been years such as fiscal 1972, in which MEI did not have income and, as Mr. Boyd explained so well, the chances of having net income are so greatly increased by eliminating $600,000 annual tax burden, that the bondholders who receive payments only from that income should be greatly advantaged by the transfer.

Mr. GERARD. Mr. Chairman, I wonder if I might request that the three questions that were raised by staff be presented to legal counsel in the event they would care to elaborate on any one.

Senator ABOUREZK. Yes; I have some questions on the trust.

What is the nature of the trust when it is established over the property of the Menominee Tribe? If there are any of these technical questions like this that you want to answer later on you are welcome to do that if it is going to take some research

Mr. PRELOZNIK. I think chairperson of the voting trust, Ada Deer, stated what the lawyers would try to accomplish most eloquently when she said what they want is the ability to have the greatest amount of determination, self-determination within the trust concept. And they did not want domination.

In drafting our original versions of the Menominee Restoration Act, we attempted to create the greatest amount of latitude for the Menominee people within the trust. The Secretary of the Interior and their counsel took the position that they were not opposed to giving us all this freedom, but at some point they felt that if they were not in a position to make determinations, they should not be saddled with the responsibilities. For that reason, we tried to embody language that would still make the Secretary of the Interior responsible for the trusteeship and holding the assets and, at the same time, giving the Menominee people the greatest amount of latitude in dealing with their own assets.

I think this may best be accomplished and most effectively by some administration from the Secretary of the Interior's office. I do not believe all of this can be accomplished by legislation.

Senator ABOUREZK. Will the Secretary of the Interior, in your opinion, approve leases and other documents concerning utilization of Menominee resources?

Mr. PRELOZNIK. It would be my opinion that he would have a voice in approving them if we are obligating him to the responsibility that he may be saddled with mismanagement at some point.

Senator ABOUREZK. Of course, that allegation has been made and nothing more has ever come of it on the part of a lot of tribes.

Mr. WILKINSON. I think the concern I have is this, as I read between the lines of the Department of Interior's positions on this, as I understand them, they seem to think there is some magic language for creating a trust relationship and they disagree with the language we have used in the bill. I do not know what the magic language is. There are many treaties which never use the word trust, and yet courts have found the normal trust relationship applies in regard to them.

If the Department has language which it wants to put into the act, frankly, I doubt we have any objection to it. The problem is now they

seem to be talking without giving alternatives and I doubt we would have trouble reaching an agreement with them on what language should be in the bill so long as they do not impose the entire IRA.

Senator ABOUREZK. There have been statements made during the testimony as to the self-determination aspects the tribe wishes to implement. What provisions should be made to allow the tribe to take part in the implementation of BIA services, and I want you to comment on that with regard to whether the tribe ought to contract or whether the BIA ought to provide the services or what your clients' believe ought to be the case?

Mr. WILKINSON. I think the best way to answer that, Mr. Chairman, is this. This, I suppose, is not an uncomplicated situation we are dealing with, quite plainly, and the bill does not go into all details. This is one area that is left open to negotiations. There have been meeting after meeting in Menominee County to discuss the broad provisions of restoration.

I think that that kind of question is one that would be left to the next round of discussions in Menominee County for the Menominee people to decide exactly how they want to implement the trust relationship.

It seems to us that this is the kind of provision that can be left to the negotiations in section 6 of the act with the Secretary. I suspect that we would recommend contracting to the Menominee people as one very sensible way of exercising self-determination.

At the same time, I think we conceptualize this as being something we would discuss with them after the act has been passed and giving them the greatest latitude at that time to decide what they want.

Senator ABOUREZK. But if the act is implemented immediately, the tribe would not be prepared to handle their own services right now, will they?

Mr. WILKINSON. I was discussing this earlier and a very good suggestion was made that we had not thought of and I think it makes a lot of sense, which might be to give the Menominee Restoration Committee, the committee that is set up to handle the negotiations, the power to contract for services.

I think in that manner the Menominee Restoration Committee would be handling not only the negotiations with the Secretary of Interior, but would also handle the contracting for BIA services. I found that to be an excellent suggestion and I think, if you would permit, we might write you on that and suggest additional language language which would permit the Menominee Restoration Committee to have that power, interim power only.

The tribe would take it over eventually, but during the negotiations period, the committee could be handling that.

Senator BARTLETT. Mr. Giese earlier asserted that with reinstatement of the Menominees, that his tax ability, the prospect of increased taxation on his property and other such landowners might change and, that without the Menominee Tribe itself being subject to taxation, that there might be an inclination by the ruling body to levy taxes in larger amounts than heretofore on his property and other properties.

What are your comments on that?

Mr. PRELOZNIK. Two thoughts that I would like to leave with the committee. One is that all of the land that is presently held by private parties is not held exclusively by non-Menominees. After restoration, it is my opinion and the opinion of most people who are dealing with the problem, that there are Menominee who will continue to hold their property and will be subject to taxation.

I think many of the people who spoke here this morning do have homesteads and as such they will be taxed even after restoration. The property that we are talking about in most instances, is Menominee Enterprises and, I think, it ought to be kept separate.

The other thing is that the Governor has gone on record, and I think members of the legislature have gone on record, that they will work very closely and if a situation does develop in which the non-Menominee are being treated unfairly, and that is assuming something that I am not at all willing to concede, but in the event there are some problems, all of the State administrative officers, Mr. Lerman, the Governor, and the legislature, have all indicated they will address themselves to the problem.

This is one reason we agreed to language to make sure the State was in a position to deal with the problem, that they were not precluded.

Senator BARTLETT. What language are you referring to?

Mr. PRELOZNIK. The language that says the State may create any political subdivisions it deems are necessary for the adequate delivery of services to the people in particular areas. If for some reason the police function is not being well served for the people there, that the State does have an option to come in there and do something about it.

We are not at all concerned with language that would permit the State to act. Two reasons, one, we do not think the problem will ever arise. I do not think restoration is going to change some of the problems people have.

I think the kind of complaints that Mr. Giese found could be found in any township or county, that the streets are not plowed on time, the police do not get there on time or as quickly as the property owner would like them to have.

I think those are problems every municipality must deal with.

Senator BARTLETT. It seems to me Mr. Giese was of the opinion that his rights would be eroded or that the inclination for tax increase would be greater with restoration. Do you agree with that?

Mr. PRELOZNIK. I agree that potentially there could be an increase in taxes levied there and they are not at the ceiling at the present time, there could be an increase.

Senator BARTLETT. This, of course, could happen anywhere, but do you think this is more apt to happen here?

Mr. PRELOZNIK. No, in my conversations with the town, and I attended a town and county board meeting within the last 30 days, everyone on the town and county board was of the opinion, as Mr. Miller testified today, that, if anything, the taxes ought to be reduced, that non-Menominee property owners would be in a better position taxwise after restoration than they are today.

Mr. WILKINSON. If I might add one additional thing, we have not had the benefit today of the testimony of Mr. Kingston from the State

education department who testified that the combination of additional State and Federal educational aid alone should reduce the tax load not only in Menominee County, but in Shawano County, which is part of the joint school district, by the amounts of 3.4 mills.

He testified in the House subcommittee hearing and the specific conclusion of Mr. Miller today, whom I know to have done extremely detailed studies of this, is that revenue in Menominee County should go down 57 percent. There will be 57 percent less revenue, but on page 4, he concludes that expenditures should go down 71 percent. So that plainly in the first year there almost has to be a substantial tax reduction.

As I say, I know he has been in the books in detail and I respect his judgment on that.

Senator ABOUREZK. I have no more questions. I want to express my gratitude for your appearance, your testimony and that of all the witnesses who appeared today. I think it has been a very informative hearing session and we will look forward to hearing from the administration on this bill.

The administration witnesses will testify on the 26th, and I would like to ask you two attorneys for the Menominee if you would be willing to make yourselves available on that day because we anticipate a great many more technical and legal questions will arise that we would like you to take part in.

I am sorry, I was about to close the hearing. I understand there are two more witnesses who have asked for an opportunity to appear, Mr. George Kenote.

STATEMENT OF GEORGE KENOTE, KESHENA, WIS.

Mr. KENOTE. Thank you, Mr. Chairman, members of the committee.

I will be as brief as I can, but there are some points that I think ought to be raised to sort of balance the conduct of this hearing.

My name is George Kenote. I live in Keshena, Wis., born and raised on the Menominee Reservation, born there 1911.

Since 1958, I have been directly associated with this Menominee termination problem, both under the corporate and under the municipal problems. I am probably the only tribal member who has grown up inside of the whole thing up to date.

I have been asked by other people that I represent here today to make it clear that there are other views pertaining among resident Menominee in Menominee County and nonresident Menominee scattered throughout the country.

The big point they raise here is that they do not understand what is going on. There has been no definitive explanation of the impact or what the effects of implementation of the Restoration Act are as to property rights, individual rights, tribal rights.

I think it is important that it be done before this thing is carried to conclusion.

I would ask at this point——

Senator ABOUREZK. Can I break in? You say a great many Menominee do not know about this legislation.

Mr. KENOTE. They know about the legislation, but they do not understand the definitive implications that may result.

Senator ABOUREZK. They do not know what will result from the legislation?

Mr. KENOTE. That's right.

Senator ABOUREZK. Have there been any meetings held where everybody has been invited?

Mr. KENOTE. There have been considerable meetings, a number of meetings held in the county.

Senator ABOUREZK. Have the discussions centered around what the effects of this might be?

Mr. KENOTE. Not sufficiently. I attended in the early days quite a few of the so-called DRUMS meetings. I attended as many of the corporate meetings as I could to try to keep up with things, the legislative meetings in Madison and down here, and this condition still exists.

Unfortunately, our people are not talking together enough to spread the information in a better basis.

Senator ABOUREZK. What do you think ought to be done?

Mr. KENOTE. I think more publication of the cause, and the effect of the legislation ought to be widespread by news services, bulletins, something like Senator Irvin done with the Judiciary Committee on civil rights so there is a broad understanding from a nonpartisan viewpoint.

Senator ABOUREZK. If you can estimate roughly, what percentage of the Menominee do not understand the effect of this legislation——

Mr. KENOTE. I would estimate at least 50 percent or more.

Senator ABOUREZK. How do you determine that?

Mr. KENOTE. By consultation, by individual discussion. I might say that I was chairman of the Menominee coordinating negotiating committee that worked out the termination plan. I served on Menominee Enterprises from 1961 through 1968 as the vice president in charge of a number of things, and I still get a considerable correspondence by personal contact, telephone, and by letter.

These questions come to me and there is some frustration on the part of those not represented by DRUMS that they do not have the means, they do not have the get-together to present their position. A more general or unified position.

I want to make it clear here that I am not speaking in opposition to the bill, to the restoration.

Senator ABOUREZK. You understand the effects of this legislation?

Mr. KENOTE. I think I do to a large extent. I have had a lot of consultation with Indian counsel and Government officials and I have lived with the thing since 1958.

Senator ABOUREZK. Are you generally for or against restoration?

Mr. KENOTE. I am generally for restoration. I will give you my reasons.

Senator ABOUREZK. You think the problem is that there has not been enough word put out and you think that would solve the problems if somehow more word could be put out?

Mr. KENOTE. It would be very helpful.

Senator ABOUREZK. Do you think most of the Menominee would be for it if they knew about it?

Mr. KENOTE. I would guess most Menominee would be for it with some modifications of the termination effect. I know some who would not. They are a very small minority.

I would ask at this point that my letter to you, dated September 1, 1973, be made a matter of record.

Senator ABOUREZK. Do you have it with you?

Mr. KENOTE. I mailed it to the committee.

Senator ABOUREZK. We will make it a part of the record.

[The letter referred to follows:]

GEORGE W. KENOTE
SUN DOG HILL
KESHENA, WISCONSIN 54135

SEP 6 1973

September 1, 1973

Hon. James G. Abourezk
Chairman, Sub-Committee on Indian Affairs
Committee on Interior and Insular Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Abourezk:

H.R. 7421 and S1687 - Menominee Restoration

I have sent you a separate letter regarding the above subject.

I will be attending the hearings scheduled for September 17 regarding the above and I may or may not wish to testify. Should it appear necessary for me to testify; however, I hope such opportunity will be afforded to me.

Respectfully,

George W. Kenote

September 1, 1973

Hon. Henry Jackson
Chairman, Committee on Interior and Insular Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Jackson:

H.R. 7421 and S1687 - Menominee Restoration

This is to discuss as briefly as possible a review of the report "The Menominee Restoration Act - Legal Analysis" submitted to the House Sub-Committee on Indian Affairs on June 28, 1973, by Messrs. Charles Wilkinson and Joseph Preloznik and Ms. Yvonne Knight, and more recently submitted to the two full Committees on Interior and Insular Affairs. There was no opportunity to discuss it at the House Sub-Committee hearing on June 28 because it had not been available prior thereto.

The report has now been reviewed again in light of the House Sub-Committee revised form entitled "An Amendment, In the Nature of a Substitute H.R. 7421." While some of us find much to disagree with in the report, except for the following, no further discussion is necessary.

REENROLLMENT OF MENOMINEE INDIANS - RIGHTS IN ASSETS

The report does not discuss the effect of the one-quarter degree Menominee blood requirement contained in Section 4(c). This matter was brought to the attention of the House Sub-Committee on Indian Affairs by letter of June 18, 1973. It was discussed briefly with Messrs. Franklin Ducheneaux and Charles Wilkinson during a break in the hearing on June 28. Mr. Wilkinson acknowledged it as a problem. It was discussed with Mr. Robert Bruce of the BIA. We think that this phase of the Bill must be examined extensively for its ultimate effect on Menominee Enterprises' certificate holders.

Hon. Henry Jackson September 1, 1973

An examination of the final roll of the Menominee Tribe as of June 17, 1954, published in the Federal Register on certificate of the Secretary of the Interior on December 12, 1957, reflects substantially the following Menominee blood quantum by several important degrees:

1.	Fullbloods	73	2.23+%
2.	Threequarters+	736	22.50+%
3.	Less than 3/4s	977	29.88 %
4.	Less than 1/2	1,349	41.25 %
5.	Less than 1/4	112	3.42+%
6.	Less than 1/8	23	0.70+%
	Total	3,270	

The roll contains 3,270 persons and has not been kept current since 1954. The degree of intermarriage of Menominees with other tribes and non-Indians is very substantial. The numbers and percentages noted above will have changed greatly in the past twenty years. It is notable that most of those in the fullblood and three-quarters group are either deceased or no longer reproductive.

A very high percentage of those in the less than three-quarters group are 5/8s, 9/16s, and 1/2 degrees and a very high percentage of those in the less than one-half group are 3/8s, 5/16s, and 1/4 degrees. Doubtless a definitive study projected through those descendants born since 1954 will show that the quantum of Menominee blood has become very thin.

EFFECT OF THE 1/4 DEGREE RULE ON PROPERTY RIGHTS

As we understand the ultimate effect of Section 6 (a) and (b) of the revised bill, and the proviso on transfer of MEI assets in Section 3 (a), there will be a transfer of the assets of Menominee Enterprises, Inc., to the Secretary of the Interior and eventually to an entity incorporated under the provisions of the Indian Reorganization Act of 1934.

The Wilkinson-Preloznik report indicates that Menominee Enterprises, Inc., will continue to exist; but, once its entire assets are transferred away, it would be like a chicken-coop where someone had stolen all the chickens. The certificate holders of Menominee Enterprises, Inc., whoever they may be or wherever located, would be effectively divested of the substance of their individual interests, presumably subject of course to their rights under Wisconsin corporation law.

Doubtless, without good advice, they would not know what those rights are.

In a discussion with BIA representatives, especially Mr. Robert Bruce, it was indicated that in the event of this transfer of MEI assets, Indians who might want to could not enforce redemption pursuant to state law, but a non-Indian probably could. A corporation without assets and earnings might not have to pay interest on its bonds.

Since the conversion of equities in the Menominee properties at termination date and the distribution of stock interests therein, we were advised that these interests are personal and vested. The Wilkinson-Preloznik report argues that Indians do not have vested rights in our situation. If the latter is true and the transfer of assets is made, it seems apparent that Menominee Indians would soon be effectively relieved of their right to pass anything of substance in these assets on to their children or heirs-at-law. Someone would have stolen their chickens. After the transfer, only those of the quarter degree could participate.

Lawyers of some repute have advised that MEI stock rights are vested and cannot be dealt away without due recourse under law. It seems that a definitive non-partisan legal opinion should be addressed to the Menominee people before they are asked to agree to a transfer of Menominee Enterprises, Inc., assets under any guise.

Under the Wilkinson-Preloznik theory are we to be returned to a vassal status contrary to the Civil Rights Act of 1964 and its Indian amendments?

It is pointed out again, this question should be made the subject of a definitive non-partisan legal opinion on the stock rights of individual Menominees. Just as importantly, the effect of the quarter degree blood quantum rule on participation in these rights deserves a professional non-partisan analysis. The quarter degree rule was first established in the Menominee enrollment act of 1934 and, obviously, cannot be given the same integrity now, in view of the high degree of intermarriage and consequent dilution of Menominee blood.

These two questions are respectfully recommended to the Congress for definitive analysis.

Hon. Henry Jackson September 1, 1973

TAX RATE - MENOMINEE COUNTY POST RESTORATION

The Wilkinson-Preloznik report in pages 30 through 42 discusses the tax rate and related matters after restoration. It asserts a substantial 66 percent reduction in expenses due to massive influx of federal expenditures. The assumptions are inaccurate and undependable. They do not take into account all aspects of local expense.

Based on an estimated $15,000,000 in taxable property remaining after the assets of Menominee Enterprises are transferred and made tax exempt, and using 1973-74 budget figures for town government and 1972-73 figures now pertaining in the county, the rate would increase over 70 percent from $22 per thousand full value to $38 per thousand full value. This inspite of increased state aid for public schools and applicable federal funding.

The town and county of Menominee would raise by direct levy at least:

1.	Town government	$ 86,953
2.	County general government	180,395
3.	Law enforcement	123,318
4.	Public schools	174,680
	Total	$565,346

This estimate is not reliable as a maximum because it assumes that state shared taxes will remain constant to relieve town expenses budgeted at $309,214 for 1973-74. Doubtless the county's general and law enforcement expenses will increase. The $174,680 estimate for public schools was made by the Department of Public Instruction based on 790 students from Menominee County deriving from tax exempt federal lands. This student estimate cannot be relied upon because many students will not so reside and will not be eligible for federal impact funding.

We are aware of the funding estimates by the Bureau of Indian Affairs and the Department of Health, Education and Welfare in the event of restoration. The town and county levy estimates remain over and above the federal funds indicated.

To assure a viable community there must be a stable federal commitment. Those of us long experienced in federal programs know that administrative estimates are not always realistic or constantly realized.

Hon. Henry Jackson September 1, 1973

OTHER STATEMENTS CORRECTED OR CLARIFIED

To keep the record straight it is historically important to make the following corrections or clarifications regarding the Wilkinson-Preloznik report.

On page 6 the report reads that the lakes development program "was significantly depleting" the forest. The hard fact is that this land would not produce merchantable lumber in the next 100 years. By development it was increased from $50 per acre on the tax roll to about $12,000 and assumed 44 percent of the total tax burden in 1972. Without this income and tax relief Menominee Enterprises could not show a cash return or profit in 1973 inspite of the astronomical price of lumber in the past 18 months.

Page 6 of the report also points out that in 1972 Menominee Enterprises had cash of only $58,795 (down from $1,116,549 in 1970), and a loss of $49,232 for the 1972 report year. This condition was the direct result of the interminable and frivolous lawsuits, and other disruptions, beginning in 1970, initiated by Mr. Preloznik. There have been about a dozen of such cases. I have lost count but have been in and out of court for almost four years trying to keep the record straight. These cases cost the Menominees over $100,000 in addition to executive time, and $1,800,000 in cash returns.

The cases were characterized as frivolous initially and have so proven. They have not prevailed and four have been lost on appeal to the U.S. Seventh Circuit (1) and the Wisconsin Supreme Court (3). Federal OEO legal services, LEAA, and the Menominee Tribe have paid a tremendous bill.

Governor Lucey of Wisconsin testified to the House Sub-Committee on Indian Affairs on June 28,1973, that restoration is needed but it is not the total solution. Expanded economic development is necessary. Even then, the physical existing assets of Menominee County are not sufficient to support the total tribal group. With only about one half the membership remaining in the county, we still have the reported difficulties. The forest and sawmill earnings have never been sufficient and never can be, standing as they are.

Hon. Henry Jackson September 1, 1973

CONCLUSIONS AND RECOMMENDATIONS

1. The Menomineee Restoration Act should pass and the members made eligible for the benefits made available to other Indians, the membership roll to be updated and to show all Indian blood held by each member. Many of our people have more other Indian blood than Menominee and ought to have credit for it. Only poor people are injured by the denial of the Indian benefits.

2. The forest should be geographically defined and made as tax exempt as possible and a federal trust. The interests therein to remain as defined on the Menominee Enterprises stock ledger in order to avoid the arguments and certain individual, class or derivative lawsuits over rights in property. The stumpage earnings of the forest to go to lawful distributees. (I have heard some members say they would give up individual interests in the sawmill to those who might want to organize and run the mill as an independent entity. This is because historically the sawmill has absorbed a high percentage of potential forest profits in production costs.) The forest should be made a federal trust to insure its preservation as an economic unit so that no measure of tribal internal politics could dissipate it.

3. The economic development zones established in 1967 ought to be continued. They are limited to 8,760 acres and distributed around Neopit, Keshena and the southeastern part of the county where merchantable timber lands are practically non-existent. The final Ernst and Ernst report to the Economic Development Administration in this regard has been suppressed. Situated as we are, it is doubtful that we can perpetually lock ourselves in without opportunity for further development. I know this is an emotional area, but I believe the facts of life must be faced.

I doubt that a discernible Congress wants to cast us into a world of vassalism and public welfare. There are too many successful Menominees across country for us to be dubbed a welfare rights community. I know many Menominees of greater intestinal challenge.

Respectfully,

George W. Kenote

Mr. KENOTE. There are two concerns that I am going to deal with as briefly as I can. There are a considerable number of Menominee Indians who own homesites and business sites in Menominee County whod own them by warranty deed, pay taxes on them or are taxable, if they do not pay them, who want to retain ownership by warranty deed, but they want to be safe from an unbearable taxation.

I have followed this thing trough the Menominee Study Committee and through the Menominee County procedures. And over and above the Federal funds that would be made available to us, we can see that our tax rate may go up and probably will go up a minimum of about $38 per $1,000 on a full value basis, which is our county, is an extremely unbearable burden.

Our county is assessed on what they call equalized assessment in Wisconsin, in other words, full value. We think there should be some commitment from the Congress to assure the community, both Indian and non-Indian, both homeowners and nonhomeowners, that this Federal financial assistance will be sustained on some predictable basis so that we are not subject year by year to some real destructive budget cuts.

I can remember in the 80th Congress, I think they call it the Cleaver effect, they took and cut off the tail end of every item on the budget and this threw the whole Indian community into a tizzy including the administration people. I spent 28 years with the BIA, and I retired as Assistant Chief of Law Enforcement Division, so I know something of the Government inside.

As to Indian homeownership and business ownership, we have a question of economic development to be continued. There has been some discussion of it today. We all agree we need it. Half of our people do not live in our county, our own Menominee people. They are scattered all over the country.

It is unfortunate since 1961 we have not moved in the direction of an expansion for the better job opportunities. We have, to the best of our ability, increased the wage and union benefits that are standard throughout the lumber industry, which is not high.

Our basis articles for Menominee Enterprises had original restrictions on land that could be used for other than forestry purposes, limited to 14,5000 acres, a considerable amount of that being surface water area. In 1967, the then corporate officials, after an Ernst and Ernst study, submitted to the Economic Development Administration, trimmed that down to 8,750 acres around the town and into nonforest areas in the southeast portion of the county for economic development to try to bring by bootstraps some development into our county other than free Government handouts, State and Federal.

In fact, the Congress in 1965 and 1966, told us to go home and do something for ourselves and this is what we started in 1968.

I think that there ought to be some guidelines developed, and maybe beyond congressional authority, assuring our people that we are not going to be locked in, so that future economic development is slowed down or brought to absolute stagnation. We need jobs. We ought to have at least 800 to 1,000 jobs available in our county. We probably have about 400, a little better.

I don't think that restoration by itself is the total solution to this situation.

Another concern we have is with respect to section 6 on transfer of assets of Menominee Enterprises, Inc. We think, and this is with advice of counsel, that there ought to be some amendment to both bills as now written to provide that when this transfer is made, that it be made to assure that the existing equities as now exist in Menominee Enterprises, be continued into the new entity, whatever is created.

Here is an area where we do not know where we are going at the present time. We do not know what the tribal will be, whether we dissolve Menominee Enterprises, whether we just transfer the assets out to the Secretary and probably over to a IRA organization. We are not assured what is going to become of the individual interest in these things.

I notice the blue book says the Menominee do not have a vested right, the corporate attorneys of substantial repute say you do have vested rights.

I don't know the answer myself and our people don't know the answer, so there I ask in my report to you for some definitive information so we can make a good determination of which direction to go.

I am told by attorneys who are well experienced in Wisconsin corporate law and practice and experience, that if the bill goes through in its present language, being unclear, without guidelines, that the attorneys are ready for a field day and we have had field day enough for the last 12 years, and litigation and legislation.

Senator ABOUREZK. Which parts of the present bill will cause that litigation? Can you identify which sections?

Mr. KENOTE. Section 3(a), I believe has a clause saying that unless the tribe—in effect saying unless the tribe makes the transfer of these benefits, total benefits would probably discontinue.

And section 6, in a couple of subdivisions, provides for the transfer of the assets to the Secretary.

Senator ABOUREZK. 3(a), is that in the House bill?

Mr. KENOTE. In the amended House bill.

Senator ABOUREZK. Which part of it did you say?

Mr. KENOTE. What it does in effect, reading section 3(a):

> Provided however, that extension of Federal recognition to the tribe shall be contingent upon the establishment of an appropriate tribal land base pursuant to the provisions of section 6 of this Act.

Section 6 does not say what happens beyond or whether an Indian organization would be created and be an entity.

Senator ABOUREZK. We do not have that in our bill. That is in the House amendment. Let me ask you why you think that will create a lot of litigation?

Mr. KENOTE. Because many of our people were told that when the stocks and bonds were issued, determined and delivered that these became vested rights and remained so.

Mr. Preloznik and Mr. Wilkinson's blue book present a different theory on it. Other attorneys say absolutely not. That vested rights do exist.

Under Wisconsin corporate law on the transfer of assets, dissenting stockholders have the right, under certain statutory procedures, to demand a determination of the value of their stocks and pay out, this could be a dangerous thing to us.

Senator ABOUREZK. I do not see the connection between the vested right of stock and the establishment of a land base. I am just not clear.

Mr. KENOTE. The marked-up House bill is saying if I do not transfer the assets subject to section 6, then you no longer continue your rights under section 3.

Senator ABOUREZK. Please proceed.

Mr. KENOTE. I think there ought to be, not just myself but others also, I think there ought to be clarifying language to assure that if and when the assets are transferred that the equities in those assets that now exist in Menominee Enterprises would continue as determined.

What the people are afraid of is that assuming the assets of Menominee Enterprises are suddenly moved over to the Secretary and probably to an Indian Reorganization Act corporation, that you are left there with stocks of absolutely no substance. This looks to them like a subterfuge way of dispossessing their children who may not be entitled afterward because they do not possess one-quarter Menominee blood.

I will just say the back page of my September 1, letter gives three recommendations that I would suggest to the committee for consideration, particularly No. 2, on this particular point without belaboring it any further.

I mention this for some underlining. There is some thought among some of our people, both residents and nonresident members of the county, who think the forest by itself ought to be set up as a Federal trust, made as tax exempt as possible, to preserve it, the theory being that you cannot burden forest like ours and have it continue as an ongoing economic asset if it may be dissipated or broken up in parcels.

Senator ABOUREZK. I think that exists in the act as it is written that all of the lands will be brought under a trust relationship. All the lands under this bill.

Mr. KENOTE. What I am trying to bring to you is a different viewpoint on this item. Rather than all of the assets being transferred in bulk, that the forest itself be defined and distinguished as a separate Federal trust, looking down the road somewhere, where the sawmill itself may be otherwise managed or owned.

Senator ABOUREZK. By whom would it be owned?

Mr. KENOTE. Supposing our labor union wanted to take it over? Our sawmill absorbs most of the earnings that would normally be derived from the forest, it is eaten up in the manufacturing process, so there is not much left for the stockholder who has no roots in the county or does not participate in the labor or other benefits of the county.

Say he has gotten $120 coming from the stumpage for his share. After it goes through the sawmill that is no longer there. This is historically the situation.

Senator ABOUREZK. If you say it should be held in a separate trust, who should it be held for?

Mr. KENOTE. Held for existing owners of Menominee Enterprises stock.

Senator ABOUREZK. Isn't that the same beneficiary of the trust that will be established when you put all the lands in the trust?

Mr. KENOTE. Not when you follow the reenrollment procedures, if we understand them correctly. For instance, a child now who is born of a father enrolled and mother enrolled has entitlement to stock decent. He may be less than one-quarter-degree Menominee. And we have quite a few of these people in our community now as a result of the 1934 Menominee Enrollment Act, who are descendants of Menominee mothers and fathers, but cannot participate because they are no longer one-quarter of a degree Menominee. Quite a few of these people have already inherited and some of them had been issued stocks in Menominee Enterprises.

Senator BARTLETT. I am not sure I understand what protection you are providing by having a separate trust.

Mr. KENOTE. Assuring the forest as a continuing economic unit so that it cannot be taxed for bills against the sawmill, heavy accidents by labor people.

We have had some very substantial claims against our operating end. The sawmill, because of debts and everything else.

Senator BARTLETT. You mean it would not be an asset to the operation of the sawmill?

Mr. KENOTE. It would not be an asset in the sawmill, no. As a result of that, someone even said we give our interest, whatever it is, in the sawmill to the group that might want to organize and run it.

I don't say I have the answer. We are looking for answers but we do raise these both practical and legal questions for the committee to answer.

Thank you.

Senator ABOUREZK. We appreciate your raising them. If anybody has any questions, they ought to raise them so we can discuss them.

Senator BARTLETT. What percentage of non-Menominee land is owned by Indians and what by non-Indians? You started out by talking about non-Menominee land owned by Indians and non-Indians and concerns you had for the possible tax increase with the Menominee tribe no longer a taxpayer.

The question I had was what percentage of that land would be subjected to taxes is owned by Indians and what percentage is not?

Mr. KENOTE. As of the tax assessment roll of 1972, it showed Menominee Enterprises holding about 49 percent of the total assessment. The Menominee individuals about 7.7 percent and the non-Indian lake-owners holding about 44 percent.

As to individuals, the last time I looked at the figure, we were talking about somewhere like 450 individual Menominee landholders by title. There may be more than that now.

Senator BARTLETT. I asked someone this morning about the figures, and I cannot recall them now, but I think he said that 95 percent of the original tribal lands were still owned by the Menominee Tribe. About 5 percent had been sold.

Mr. KENOTE. That would be a pretty close approximation, right.

Senator BARTLETT. Are you talking then about that 5 percent and breaking it down further, that 45 percent?

Mr. KENOTE. About 7.7 percent Menominee owned land based on the assessment roll. As to acreage, I couldn't give you that.

Senator BARTLETT. About 7 percent of what, of the non-Menominee land is owned by individual Indians or is that of the total land?

Mr. KENOTE. It would not come out to that on a percentage of acreage. I am talking about value.

Senator BARTLETT. You are saying 7 percent of the non-Menominee land in dollars is individually owned by Indians?

Mr. KENOTE. Based on the assessment roll, yes.

Senator BARTLETT. And 49 percent is owned by?

Mr. KENOTE. Menominee Enterprises.

Senator BARTLETT. And 44 percent?

Mr. KENOTE. By the non-Indian lakeholders.

Senator BARTLETT. That is all I have, thank you.

Senator ABOUREZK [presiding]. Thank you, Mr. Kenote. The next witness is Mrs. Joan Harte.

STATEMENT OF JOAN HARTE, A MENOMINEE INDIAN FROM CHICAGO, ILL.

Mrs. HARTE. I am Joan K. Harte. I am a Menominee, Eagle Clan.

Senator ABOUREZK. Where are you from?

Mrs. HARTE. I am a Menominee from Chicago. I am one of those card-carrying militant DRUMS members. I couldn't sit by as an American Indian and listen to this white landowner talk about his rights on Indian land. I find this humorous, when he talks about his hunting and fishing rights.

Also, it is not really correct that the property owners are there by direct invitation of the Menominee. This was by a board of 7 people, and some of them were not Indian. Would that there had been definitive statements before the termination bill and the land sales we wouldn't be here today.

There have been extensive mailings regarding the restoration bill, also innumerable meetings, and there will be more.

The first treaty with the Menominee dealt with peace and tranquillity. After that every treaty dealt with ceding land in exchange for protection. From the time of these early treaties the Menominee sincerely believed in the U.S. Government, that they were going to protect us.

The Indians' feeling for land is not that of lucrative real estate, but it is our heritage and an integral part of our culture.

Senator ABOUREZK. Can I interrupt you and ask you a question? Were you around Menominee County when this land was sold around the lake?

Mrs. HARTE. No: I wasn't. I live in Chicago. I have lived there for 30 years because of economic reasons. I make trips up there for meetings. However, I have a family. It is an expense for me, and I have my family obligations, so this limits my activities.

Senator ABOUREZK. Go ahead, please.

Mrs. HARTE. We are tribal people and we wish to retain our tribalism.

A great wrong was done our people by the termination bill and you, Senator, can remedy this wrong belatedly.

Senator ABOUREZK. Thank you very much.

Is there anybody here who was around when the land sales were taking place that Mr. Giese referred to earlier, anybody in the hearing room?

Mr. KENOTE. I was one of the principals who started the program back in 1963.

Senator ABOUREZK. The land sales program?

Mr. KENOTE. Right. I was acting vice president then.

Senator ABOUREZK. Who sold the land to the landowners around the lake?

Mr. KENOTE. In 1963, about midsummer, after about a year and a half of topographical study and economic study, Menominee Enterprises, Inc., entered into a limited program by itself. We started platting areas under some quite strict rules, as Mr. Giese has indicated, around Moshawquit Lake, Round Lake, La Motte Lake, all in the southeastern part of the county.

Senator ABOUREZK. Was it the board of directors of Menominee Enterprises, Inc.

Mr. KENOTE. It was action of the trustees and the board of directors.

Senator ABOUREZK. Who were the trustees?

Mr. KENOTE. The trustees were the voting trust then made up of seven people, four Menominee and three non-Menominee, as provided in the original termination plan.

Senator ABOUREZK. They voted to sell the land?

Mr. KENOTE. They concurred in it, right. The board of directors was then made up of 9 people, I believe, later increased to 12; 5 of those original members were non-Indians from the business world outside, and 4 were Indians.

Senator ABOUREZK. That was the board of Menominee Enterprises, Inc.?

Mr. KENOTE. That was the board of Menominee Industries, Inc. Later we increased that board to 12 and increased the Menominee membership to a majority.

Senator ABOUREZK. So the board of Menominee Industries, Inc., voted to sell that land, is that correct?

Mr. KENOTE. We started the program in 1963 on the direct MEI sales program, lease-purchase deal.

Senator ABOUREZK. Who approved the sale?

Mr. KENOTE. The board of directors.

Senator ABOUREZK. And that was five to four, a majority of non-Indians?

Mr. KENOTE. I believe it was five to four at that time; yes.

Senator ABOUREZK. Then the voting trust concurred in that sale?

Mr. KENOTE. We didn't have to concur initially, because when we first started out it was a leasing program authorized under the articles. Later, when it was converted to what they called a trust contract, the trustees had to act to approve the transfer of the warranty deed at the end of a 40-year period.

Senator ABOUREZK. During the voting by the board of directors of Menominee Enterprises, Inc., on whether this land ought to be sold or not, do you recall what the breakdown was, was it unanimous for selling, or was anybody opposed to selling?

Mr. KENOTE. There were long discussions. The discussions went on about 1½ years. They tried to avoid going into this project, but when they finally voted I don't remember a dissenting vote. There may have been one, but I don't think so. I think it was a unanimous decision.

Senator ABOUREZK. Does anybody here in the hearing room know what the result of that vote was? All right, the attorneys are here. Can you find that information and provide it to the committee?

Mr. PRELOZNIK. Yes. This is one of the problems we have. We have gone through the minutes of the board of directors and we have gone through the minutes of the voting trustees and we, on many occasions—there are a few occasions in which lots were sold and approved, but the bulk of the sales were never approved, at least as far as the minutes of the board of directors are concerned, or the minutes of the voting trustees.

Senator ABOUREZK. Was there a great deal of controversy about the sales at the time?

Mr. KENOTE. Not at that time. The controversy arose in 1970, after the Legend Lake idea came into being in 1968.

Senator ABOUREZK. Is Shirley Daly in the room? Would you come forward, please, Mrs. Daly. You had your hand up a minute ago, didn't you?

STATEMENT OF SHIRLEY DALY, A MENOMINEE INDIAN

Mrs. DALY. Yes.

Senator ABOUREZK. Were you around at the time this land was being sold?

Mrs. DALY. I was around most of the time the land was being sold.

Senator ABOUREZK. Can you help clarify the situation at that time?

Mrs. DALY. At first, when it started with the forestage company, we Menominee thought that we were leasing land. In fact, it did say those were 40-year leases. Now, after coming to these hearings and hearing Mr. Giese talking, we find out they are land contracts which is almost the same as a deed. Had the Menominee known that was an outright sale, I am certain, in fact I know, that there would have been controversy at that time.

Senator ABOUREZK. So you were living there and you are saying that the Menominee people, or rather most of them, didn't know this land was being sold?

Mrs. DALY. No, they thought those were leases. The first time that warranty deeds were talked about was in 1967 when the Legend Lake project was being embarked on, and that is what aroused the controversy, because then people associate, I guess, the meetings and all the flood of information then from Menominee Enterprises finally, that something was happening and the people didn't think it would be good for the Tribe. They didn't know that warranty deeds meant an outright sale, but they knew it was something they were opposed to. I myself didn't know exactly what was being proposed when a warranty deed was being talked about.

Senator ABOUREZK. So to characterize what happened as an invitation from the Menominee people wouldn't be an accurate characterization then, an invitation to buy the land?

Mrs. DALY. I would say that is correct, yes.

Mr. GIESE. Mr. Chairman, could I be heard on that, since I am somewhat subject to attack on that issue, having brought it up initially.

Senator ABOUREZK. Yes.

Mr. GIESE. There was literature provided stating that the land was to be sold. I have got copies of it. I will be glad to send it to the committee.

Senator ABOUREZK. We would like to have it.

[Subsequent to the hearing Mr. Giese submitted the following material:]

SCHALLER AND GIESE
ATTORNEYS AT LAW
335 FIRST STREET
NEENAH, WISCONSIN

CHARLES E. SCHALLER
WILLIAM R. GIESE

725-6771
TELEPHONE ~~XXXXXXXXXX~~
AREA CODE 414

October 9, 1973

Hon. James Abourezk, U.S. Senate
Chairman, Subcommittee on Indian Affairs
Senate Office Building
Washington D.C.

Re: S. 1687 "Menominee Restoration Act"

Dear Senator Abourezk:

At the Hearing on the Menominee Restoration Act on September 17, 1973, I was granted permission to present certain exhibits at a later date. The purpose of these exhibits was to demonstrate to the Committee the methods used by Menominee Enterprises Inc. to promote land sales in the county since termination in 1961. Enclosed please find the following documents submitted as exhibits:

1. An advertisement appearing in the Milwaukee Sentinal on Saturday, July 6, 1963, promoting land sales and development in the county. The Milwaukee Sentinal is a newspaper of general distribution in the State of Wisconsin.

2. A copy of a brochure produced by Menominee Enterprises Inc. in 1967 as dated. However, many of these brochures appeared many years previous to 1967. However, those appearing before that time are undated although almost identical in content.

3. A brochure promoting land sales and development distributed by Menominee Enterprises Inc. in 1968.

In addition to the above land promotional material, many other pamphlets and advertisements appeared during the 1960's promoting land sales and development. Personally having owned land in Menominee County since 1965, it is a fair statement to say that the land sales were well known statewide and that there was no opposition from the Menominees during this period.

Yours truly,

Wm R Giese

Wm. R. Giese, Legal Counsel
Lake Moshawquit Property Owners Assn.

WRG/jtk
Encl. 3

Modern Living

MILWAUKEE SENTINEL — SATURDAY, JULY 6, 1963



Build a Vacation Retreat

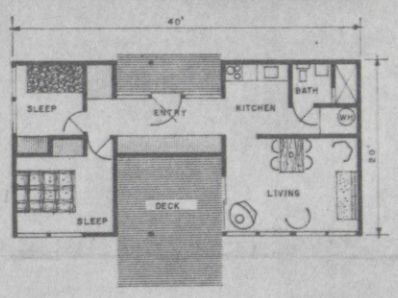
Reports from vacationland areas in Wisconsin and elsewhere across the country indicate that more and more people are interested in a second home—a comfortable retreat for weekends and summer months.

The cottage illustrated in color (above) offers all of the components for a well rounded vacation home — storage space, view, privacy, and convenience. And it's designed so that it could be built in two phases, if the budget dictates.

First phase is a "daytime" wing that is a complete living unit within its limited but well organized space. It includes living room (that could double as sleeping space), kitchen, bathroom and utility space, plus front and rear outdoor decks.

Second phase would include the sleeping wing, with two bedrooms.

Detailed plans for the cottage are published by the Western Pine association. They are designed to permit construction on a do it yourself basis as well as for a professional contractor. Instructions for obtaining plans are given under the floor plan (right).



Detailed working plans for this vacation home are available at $5 per set. Plans are presented so both amateur and professional can work with them. To obtain plans, request "The Ponderosa Pine" plans and send $5 in check or money roder to: Vacationland Homes Plans, PO box 4379, Portland 8, Ore.



This is a view of Round lake, in Menominee county, where the Menominee Indians plan to offer their land for residential or vacation home construction. Lots have been platted and are now available on this and two other lakes.

Menominees Open Lands For Vacation Homesites

Looking for a vacation homesite?

The Menominee Indians are opening some 6,000 acres of their lake and wilderness lands for public lease-purchase. The Indians envision turning a big chunk of their former reservation—now Menominee county—into a year round home and vacationland.

Opening of homesites on three separate lakes, and signing of the first lease-purchase agreement for a lot was disclosed in Milwaukee last week by George Kenote, of Neopit, a member of the tribe. He's assistant to the president of Menominee Enterprises, Inc., owner-management firm for most of the 230,000 acre county.

Three Sites Ready

The three tracts now ready for construction of vacation homes are on La Motte, Round and Moshawquit lakes, part of a chain of lakes east of Keshena, Kenote said. Future plans call for opening sites on other lakes and the Wolf river. In addition, interior wilderness sites of 1½ to 4 acres in size will be offered.

An engineering study made for Menominee Enterprises estimated that 4,000 homesites could be sold without harming the timber or overcrowding the area.

Own After 40 Years

Homesites cannot be sold outright, Kenote explained. They are available under long term lease-purchase agreements. A lake front lot valued at, say $3,000, would be leased at $180 a year. Minimum lease would run to 10 years, with a maximum of 40 years. After 40 years, occupant of the land would be given outright ownership to the site.

Kenote said that those who lease homesites will be required to start building within 18 months. Once construction is started, completion in six months will be required, he said. All plans and specifications for homes must be approved by Menominee Enterprises, Inc. Kenote said that generally all houses will have to have a minimum of 1,000 square feet of living area.

First lease-purchase agreement for a site on Round lake was signed in Milwaukee last week with Lee Larson, president of Great Lakes Homes, Inc., Sheboygan Falls. Larson's firm, which manufactures precut houses, plans to offer model homes in the area.

Lease-purchase of sites is being handled by Menominee Enterprises at Neopit and Keshena and by the Dallman Realty Agency in Shawano, Wis., Kenote said.

CHAIRS, GARDENS, BUSINESS

Looking for something new in a chair? A lot of new ideas were introduced at the recent home furnishings market in Chicago. There was particular emphasis on odd sized chairs. Take a look at some of the new designs on page 2 of this section.

If you want to make your home gardening tasks easier, another story on page 2 offers some suggestions. You'll find some tips, too, on how to keep your garden watered in these dry summer months.

If the "business of real estate" interests you, take a look at the reports of current events on page 3 of this section.

'Good, but No Boom' Is Forecast for Housing

BY DAVID E. LINK
Editor, Modern Living Section

Families planning to buy or sell a house in the Milwaukee area during the last half of 1963 can expect to find:

- An ample supply of mortgage loan money, at perhaps slightly lower interest rates.
- Prices on new houses up slightly because of increased wages and materials prices. But there may be more "livability" for the new house dollar, with builders paying more attention to design, other amenities.
- A continuing "buyer's market" in existing houses. However, prices for these houses appear to be stabilizing at a "realistic" level after many months of decline.

That was the picture painted here this week in a survey among leaders in the home building, realty brokerage and mortgage lending fields here.

Generally, the people who make their living in the housing industry here could look back on the first half of this year and say "it was pretty good six months." It has been, most could agree, an improvement over the poor showing of the first half of 1962.

Construction of new single family houses in metropolitan Milwaukee is running about 15% ahead of a year ago. Apartment construction is up, too. Mortgages and deeds recorded in Milwaukee county are running ahead of last year. Many mortgage lenders report their volume in housing is better than a year ago.

Most of those queried expected the second half of this year to be better than last year, but not so good as the first half of this year.

Mortgage lenders queried are still concerned about having more money to lend than there are borrowers to take it. A more complete look at this area, offered by the savings and loan group, is given in another story on this page.

Here's what leaders of various housing and realty groups had to say:

Ted Winnicki, president of the Milwaukee Board of Realtors—The outlook is good for the second half. I think the public feels it's a good time to buy. We feel the momentum (of buying) is there and will keep going. Realistic prices have been established on existing properties within the last year. Owners are realizing that a certain amount of depreciation must be considered when placing a price on their houses. As a result, houses seem to be selling

(Please Turn to Page 2, Col. 5)

Ample Loan Funds, Lower Rates Seen

An ample supply of home loan funds with probable lower interest rates is forecast by Milwaukee and Wisconsin savings and loan associations for the rest of 1963.

The forecast is offered in results of a survey published Friday by the federal home loan bank in Chicago. The survey showed the following:

Interest Rates—Of 49 associations in Milwaukee county, 32 associations expect prevailing interest rates on loans will be 5.5% or less by November of this year; 11 said prevailing rate would be 5.75%. This compares with rates reported currently with 29 associations saying rate is 5.5% or less, 15 reporting 5.75%.

Of the 84 reporting associations in Wisconsin outside of Milwaukee county, 59 expected the prevailing rate to hold at 6%. Currently, 66 of the associations are reporting a prevailing rate of 6%.

Mortgage Loan Demand—Current loan demand is described by the 49 reporting associations in Milwaukee county as: "Very good" by 4; "good" by 14; "fair" by 25, and "poor" by 6. Outside Milwaukee county, the 84 other Wisconsin associations reported demand: "Very good" by 23; "good" by 30; "fair" by 27, and "poor" by 4.

The outlook for mortgage loan demand for the next three months by the 49 associations in Milwaukee county: "Very good" by only 1; "good" by 19; "fair" by 24, and "poor" by 3. The associations outside the county reported: "Very good" by 13; "good" by 38; "fair" by 30, and "poor" by 3.

Moving In? It's a Big Project When 'House' Is a Hotel

Moving into a new house is quite a family project, as most anyone who has had the experience will attest.

But multiply this single family problem by 169, throw in the added factors of buying all new carpeting and furniture, AND holding an open house for several hundred people and receiving overnight guests . . . and you'll have some idea of the project facing 34 year old Max Du Beau.

Du Beau is project manager for the Hilton Inn, Milwaukee motor hotel nearing completion at the southwest corner of Wisconsin av. and N. 26th st. The hotel is being built by Towne Realty, Inc., Milwaukee realty and building firm, and has been leased under a management contract to the Hilton Corp.

First Guests Aug. 15

Now swarming with workmen still busy with construction tasks, the hotel is scheduled to receive its first guests Aug. 15, Du Beau said this week. Formal opening — a three day event — is planned Sept. 9-11.

Du Beau is employed by the inns division of the vast Hilton enterprises. He's been on the job here since late April. His job description is simple enough: Get the hotel ready to receive its first guests.

Du Beau's responsible for seeing that all furniture is ordered for the 169 rooms and suites; that all equipment is ordered for restaurants, other facilities; that soap, keys, towels, business machinery is on hand. And it's up to him to see that the necessary help is hired — there'll be about 100 permanent employes for the inn here.



Du Beau

"Scheduling is the biggest problem," Du Beau said in describing his job. "I've got to see that all personnel, equipment and furniture is on hand so that everything can be moved into place as it arrives."

For moving in of furniture in the guest rooms, suites and restaurants, Du Beau will have the help of a "housekeeper."

Housekeeper Is "Key"

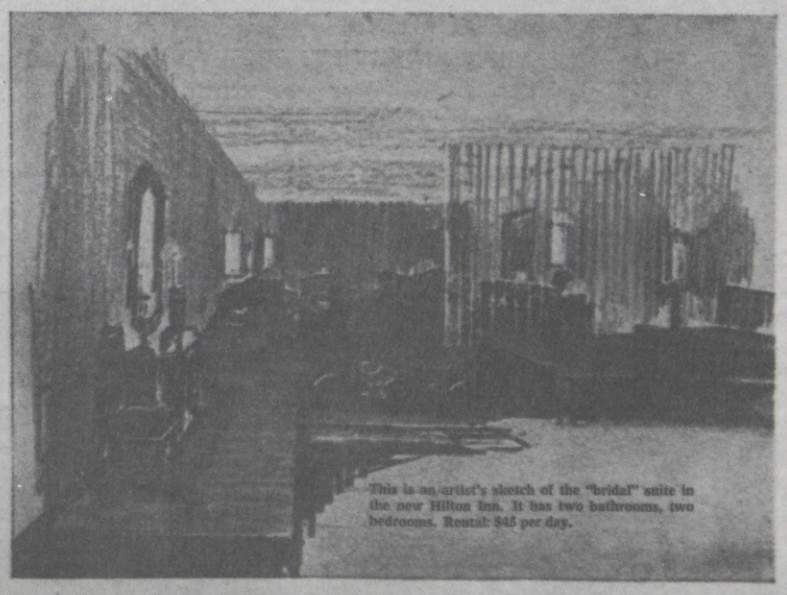
"The housekeeper is the key to moving in," he explained. "A good one can make the job easy, efficient." His housekeeper will be the same one he worked with when he set up a 150 room Hilton Inn in Seattle. Her name: Lois Doyle.

"She'll make the job easier for me," said Du Beau. "I'll

(Please turn to Page 2, Col. 5)



First guests are expected Aug. 15 in the Hilton Inn, nearing completion at the southwest corner of W. Wisconsin av. and N. 26th st. Room rates have been established, will range from $11.50 to $15 a day for singles, from $15.50 to $19 for doubles. Suites will be $25 to $45, the hotel's project manager said. —Sentinel Photo



This is an artist's sketch of the "bridal" suite in the new Hilton Inn. It has two bathrooms, two bedrooms. Rental: $45 per day.

Menominee Enterprises, Inc.
Neopit, Wisconsin



FINE HARDWOODS · PINE · HEMLOCK

This is wonderful Menominee County... 1967!

82 Lakes... 300 Miles of Flowing Streams... Excellent Recreation Lands and Homesites in a 234,000 Acre Forest Wilderness

[illegible] ment of the "Land of the Menominees" and will provide answers to questions [illegible] scenic areas and recreational facilities. Multiple land use is part of a planned program to develop the country's industrial potential and recreational resources while retaining and preserving scenic beauty for the enjoyment of future generations.

Menominee County was established by Act of the Wisconsin State Legislature in July of 1959, and took effect on May 1, 1961 when all Federal government supervision ceased over what had previously been the Menominee Indian Reservation. The Reservation was created by a Federal Treaty in 1854, and represents what remains of a 9,000,000 acre domain which encompassed the eastern one-fourth of the State of Wisconsin and part of Michigan's Upper Peninsula.

In 1961, Menominee Enterprises, Inc. was formed to hold in trust and administer the county's land and timber resources, and operate the Neopit sawmill for the benefit of tribal members. "Forestedge", the Corporation's land development program, was begun in 1962. The visitor can view beautiful summer and year-round homes in this forested wilderness of 82 spring-fed lakes and 300 square miles of heritage lands. Recreational aspects of Forestedge will be enlarged to include the development of a complete resort complex and year-round sports facilities. There are 234,000 acres of land in the Forestedge playground.

Menominee lands have magnificent stands of virgin Pine and Hemlock which cannot be found anywhere else in the Lake States area. The county also boasts fine stands of Maple, Birch, Red Oak, and some White Oak. These hardwoods are prized for mineral stain-free characteristics and highly valued for use in fine furniture, cabinetry, veneer and flooring, and are supplied to manufacturers across the nation and overseas.

Because of the fine forest stands, clear water, railroad and highway access, Menominee County offers excellent potential for new industrial development. A total of 1,265,000,000 board feet of prime sawlogs are standing. Included are 763,000,000 board feet of softwoods including Pine, Hemlock and Cedar; and 502,000,000 board feet of fine hardwoods. In addition, there are 1,969,000 cords of poles and pulpwood available for use by the chemical and paper industries.

Menominee forests are preserved from overcutting and other abuses under State and Federal laws, as well as Menominee Enterprises conservation practices.

SIGHT SEEING — No charge is made for sight seeing, photographing, picnicking at the many scenic and historical spots throughout the county. Visitors are cautioned that the economy of the county is dependent upon its many forested areas; therefore, EXTREME CAUTION MUST BE EXERCISED WITH FIRE AT ALL TIMES. Many roads are private and have gates which may be closed at selected times or during periods of high fire danger. Violation of closed roads is strictly prohibited.

POINTS OF INTEREST — State Highways 55 and 47 offer many beautiful vantage points in scenic Menominee County. The map on the reverse side indicates many of them. Highway 55 is the historic Military Road established by President Lincoln in 1863-64. Designated as part of the Hiawatha Pioneer Trail, it has been completely rebuilt as a scenic highway to the North country. From Highway 55 one may reach the many beautiful sites on the Wolf River. A drive over the road is worth the trip alone.

- By agreement with the State of Wisconsin, during the 1967, 1968 and 1969 seasons, the Wolf River, from Keshena Falls to the north boundary of Menominee County, will be open to public fishing without fee other than a state fishing license. Two hundred feet of land on either side of the river will be available for public use, except private footage located therein. Public campsites will be located at Wolf Rapids, the Dalles, Smokey Falls, Pine Row and Turtle Rapids, all indicated on the map. Camps will be administered by the State Conservation Department. Hunting is absolutely prohibited within the 200-ft. strip on either side of the river, as it is on all Menominee County lands. Rules agreed upon by Menominee Enterprises, Inc., Menominee County and the Conservation Department will govern the use of the area. VISITORS ARE REQUESTED TO OBSERVE THESE RULES AND TO ABIDE BY ALL PRIVATE LAND RULES IN ORDER TO ASSURE THE SUCCESS OF THIS PROGRAM.

- Off of County Trunk WW in the Dead Man Lake area, a virgin stand of White Pine may be viewed. This is the last remaining stand of this specie in the Great Lakes area.

- Together with magnificent scenery, Highway 47 affords access to Peavey Falls and Rainbow Falls, plus the major tributaries of the Wolf and the sawmill at Neopit. With stately pines and hardwoods bordering much of the roadway, the route is unsurpassed in the Midwest for autumn colors.

- At Neopit, conducted tours of the Menominee sawmill are available. The sawmill is the largest and most modern in the Lake States. Operation may be viewed every Thursday, from 9 A.M. to 4 P.M. By special arrangement with the Safety Director of Menominee Enterprises, groups may view operations on other days. Children under 10 years will not be permitted.

- An annual Harvest Festival and Fair is held during the



FORESTEDGE

. . . Homesites in Beautiful Wilderness Settings

Homesite investments in Forestedge will assure years of rewarding returns, without financial risk. It is soundly conceived and organized, and effectively administered by men of integrity and experience. All sites are controlled for minimum building requirements, external appearance, size and placement. The public's faith in Forestedge is expressed by the above standards of quality of homes constructed to date. Clean, clear, unpolluted waters on lakes and rivers are assured for the present and future by stringent sanitary code enforcement.

MENOMINEE

FORESTEDGE

WILDERNESS HOMESITES

A once in a lifetime opportunity . . . vacation homesites in a remote, secluded, virgin wilderness with enjoyment of 234,000 unspoiled acres of woodlands, lakes and streams; all in a planned development. Choice waterfront lots are priced to fit the means of most. Areas are noted on the map.

Forestedge lakes are spring-fed, have sand bottoms and shores, and are surrounded by woods, assuring intimate seclusion in a beautiful wilderness setting. Home plans are subject to regulations for external appearance and size, protecting values through the years.

New developments proposed include enlargement of several lakes areas as indicated on the map. This action will create many excellent summer home sites while substantially increasing the water sport potential in the county. Plans call for maximum recreational use while preserving beauty and preventing pollution.

For further information, or an escorted tour, contact the Menominee Enterprises offices in Neopit or Keshena.



Just a few hours away . . . 2½ hours over well-paved highways from Milwaukee or 4 from Chicago, and you are in Forestedge. For those wishing to fly in, the cities of Shawano and Antigo boast modern airports — located less than 45 minutes travel from Forestedge.



New home construction on Moshaculit Lake.

MENOMINEE COUNTY, WISCONSIN

FORESTEDGE

Recreation and Home Development Areas

MENOMINEE ENTERPRISES, INC.
Neopit, Wisconsin

Neopit Offices — Area Code 715 - Neopit 2251
Keshena Offices — Area Code 715 - Keshena 4211



first week in August. Ceremonial Indian dancing, horse racing, handicrafts and farm exhibits provide some of the attractions of the colorful event.

● From late September through the end of October, hardwood forests are ablaze with an abundance of autumn colors. Camera fans should be well stocked with colored film for this annual autumn "colorama".

● A system of Nature Trails for nature study in Menominee County is planned for 1967. These trails uncover a complete source of history of the area and its people, and provide geologic and natural history data as well.

● Hardy sportsmen will enjoy the annual Ice Fishing Derby held in January or February on Moshawquit Lake. Prizes are awarded for largest specimens caught of various species.

BOATING — Canoeing is limited to the Wolf River, its West Branch and lakes. All boating on the South Branch of the Oconto, Evergreen, and tributaries of the Wolf above Neopit, is discouraged from early May through early September. Sportsmen will understand this necessity, since it disrupts trout fishing.

Canoeists should be cautious of the Wolf and the West Branch of the Wolf River, because of dangerous falls and rapids. These are noted on the reverse side map. Motor boats are prohibited on upper Wolf River.

Campers who have paid fees are allowed boating privileges at lakes and streams on campsites. Motors are prohibited at Sand Lake as a safety measure for children. 10 horsepower motors maximum size allowed on Upper Bass Lake.

CAMPING — Traveling north on Highway 55, free public campsites can be found along the Wolf River at Wolf Rapids, The Dalles, Smokey Falls, Pine Row and Turtle Rapids. The campsites are administered by the State Conservation Department and governed by their rules. Use is limited to the number of camp units at each location.

Three separate private campsites are maintained on Sand Lake, located on County Highway VV, 5 miles east of Keshena. Single family and group camping is permitted, the latter by special arrangement. Water is supplied by outside pumps. Tables and outdoor rest rooms are provided. Camping permits can be purchased from the Patrol Warden or at the Information Office in Keshena, or at the main office of Menominee Enterprises Inc. in Neopit. To accommodate late arrivals, campers may use sites at Sand Lake without permits. They will be checked by the Patrol Warden the next day. Tent or trailer camping is permitted. No electrical connections are available.

By special arrangement, camping permits will be issued for other sites not listed in this folder for those who want to "really rough it". No facilities are provided at these sites.

The fee for camping in the private areas is $3.00 per day. This charge permits fishing by the entire family on any lake in the County, BUT DOES NOT PERMIT TROUT FISHING ON WATERS OTHER THAN THE WOLF RIVER.

PROPERTY USE — Willful destruction, molesting or defacing of trees, plant life, signs, buildings or closed areas is prohibited. Violators will be prosecuted. Berry picking in quantity away from campsites and removal of shrubbery is strictly prohibited.

REFUSE — No refuse or other waste shall be left at any campsite or picnic area except in receptacles or areas provided for that purpose. Please clean areas before leaving.

FIRES — Fires are not permitted except in designated camp and picnic areas. Dead fallen timber may be used for camp fires, but under no conditions is anyone allowed to cut or damage standing vegetation. **Please do not leave fires unattended and make sure they are absolutely extinguished before leaving.**

HUNTING — While the woods of Menominee County support wild life, the deer population is small. Until it is enlarged, the county will not be open for public hunting. Work crews in the woods are also protected by this measure. Until agreements with state and federal agencies are made, all Menominee lands will remain posted.

SNOWMOBILE USE — Designated forest trails are set aside for this purpose. Check with the Information Office in Keshena for snowmobile trails.

HORSES — Menominee County boasts many fine horse trails and annually sponsors a well-attended mass trail ride during the autumn of each year. Use of trails must be arranged. Horse riding must be confined to trails.

PETS — Pets are not allowed on beaches, stream shores, or picnic areas. Pets are permitted in camping areas, provided they are secured by a leash at all times and of no length greater than eight feet.

FIREARMS — The use of firearms, airguns, and bows and arrows is permitted only at designated ranges. Hunting or game killing is not permitted in any area. Toy bows and arrows may be used if safety to others is not endangered.

GENERAL FISHING RULES AND FEES

During 1967 through 1969, fishing on the Wolf River is open to the public without payment of any fee except a Wisconsin license. State laws and regulations must be observed. The area between the Trip Rapids and Ducknest Falls on the Wolf is restricted to "fly fishing only".

PRIVATE LAKES AND STREAMS — Good trout fishing in a natural condition is becoming rare in this part of the United States. Menominee Enterprises is attempting to preserve the county's fine natural fishing. "Kamloops" trout were introduced into several lakes and streams on an experimental basis, and have been found to adapt beyond expectations. Access to these streams is limited and requires special permits. All fees collected for these permits are used to sustain natural trout fishing. The fishing fees are:

Trout Fishing (includes lake fishing and camping privileges)
$5.00 per day per person
$20.00 per week per person (7 days)
$50.00 per season per person

Lake Fishing other than Trout (does not include camping)
$2.00 per day per person
$10.00 per week per person (7 days)
$20.00 per week per family (7 days)
$35.00 per season per family

The following rules must be observed:

1. Permitees must have a Wisconsin fishing license before a Menominee permit will be issued, and must comply with all Wisconsin fishing laws and regulations.
2. Posted springs and streams may not be fished.
3. Boat motors are not permitted on Sand Lake and only motors with 10 horsepower or less are permitted on Upper Bass Lake. Boat motors are prohibited on the Wolf River from Keshena Falls to the north boundary of the county.
4. All boating on the South Branch of the Oconto, the Evergreen and the West Branch of the Wolf River is discouraged.
5. Those who have paid the regular camping fee may fish on all lakes in the county. Camp permits do not allow trout fishing on the Upper Bass in the northwest part of the county, or Crystal Spring Lake in the northeast sector. Trout fishing permits are required for this purpose.

In order to preserve the areas bordering upon the Wolf River, parking sites will be marked. VISITORS AND FISHERMEN ARE REQUESTED TO CAREFULLY OBSERVE PARKING RULES.

Fishing Permits for private lakes and streams may be obtained at:

Antigo
Marine Mart

Berry Lake
Berry Lake Resort
Rondevoo Bar

Breed
Ponsegrau's Store

Cecil
Froelick's Bar

Clintonville
Petka's Bar

Gresham
Stier's Hardware

Keshena
Information Office
Monroe Weso
The Teepee
Wally's Station

Langlade
Wolf River Lodge

Neopit
Boivin's Store
Main Office, Menominee Enterprises, Inc.
St. Anthony's Gift Shop

Phlox
Marx Store

Shawano
Bilmay Hotel
Brunner's Bar
Jerry's Bait Stand
K & G Sports

Suring
Brazeau's Store
Gamble Store

VEHICLE TRAFFIC — Because many roads leading to remote scenic areas and campsites are primarily logging trails and fire lanes, travelers with trailers should observe caution, as should everyone after heavy rains because of slippery road conditions. No speeds over 15 miles per hour are allowed in campsite areas. Observe posted speed limits at all times and be especially alert for logging trucks and other heavy equipment. Travel over roads closed by gates is prohibited. Visitors travel at their own risk.

BREACHES OF THE PEACE — Any breaches of the peace, molestations, or other disorderly conduct should be reported immediately to the Patrol Warden, commissioned Deputy Sheriffs in Keshena, or the Menominee County Sheriff's Office in Neopit: phone 2111.

Litho in USA
25M367

Menominee Enterprises, Inc.
Neopit, Wisconsin



FINE HARDWOODS · PINE · HEMLOCK

FORESTEDGE
in wonderful Menominee County... 1968!

82 Lakes . . . 300 Miles of Flowing Streams . . . Excellent Recreation Lands and Homesites in a 234,000 Acre Forest Wilderness

This folder has been designed to assist your enjoyment of the "Land of the Menominees" and will provide answers to questions concerning scenic areas and recreational facilities. Multiple land use is part of a planned program to develop the country's industrial potential and recreational resources while retaining and preserving scenic beauty for the enjoyment of future generations.

Established by a state legislative act in 1959, Menominee County began to function officially on May 1, 1961 with the cessation of federal supervision of the Menominee Indian Reservation. That same year Menominee Enterprises, Inc. was formed to hold in trust and administer the county's land and timber resources, while operating the Neopit sawmill for tribal benefits.

In 1962 Forestedge, the corporation's land development program, was begun to promote leisure homesites and year-round recreational advantages within 234,000 acres of rugged wilderness. After five years of productive progress, plans were finalized in the fall of 1967 for the West Lake Development near Keshena. Work began early in 1968 on the construction of a dam to create one large lake from several smaller ones. As a result, choice lakeside homesites are being made available for outright purchase for year-round recreational use. In addition, projected plans call for the development of an expansive Visitor Destination Center with complete resort accommodations and comprehensive sports facilities.

Menominee County's 300 square miles of heritage land includes 82 spring-fed lakes and magnificent stands of virgin Pine and Hemlock, as well as Maple, Birch, Red Oak and White Oak. These hardwoods are prized for mineral stain-free characteristics and highly valued by woodworking manufacturers throughout the world. The forests are preserved from overcutting and misuse by state and federal laws and Menominee Enterprises conservation practices.

SIGHT-SEEING — No charge is made for sight-seeing, photographing or picnicking. However, because the county is dependent on its forests, visitors are requested to EXERCISE EXTREME CAUTION WITH FIRES AT ALL TIMES. Use of closed private roads is strictly prohibited.

POINTS OF INTEREST — State Highways 55 and 47 offer many beautiful vantage points in scenic Menominee County. The map on the reverse side indicates many of them. Highway 55 is the historic Military Road established by President Lincoln in 1863-64. Designated as part of the Hiawatha Pioneer Trail, it has been completely rebuilt as a scenic highway to the North country. From Highway 55 one may reach the many beautiful sites on the Wolf River. A drive over the road is worth the trip alone.

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● Off of County Trunk WW in the Dead Man Lake area, a virgin stand of White Pine may be viewed. This is the last remaining stand of this specie in the Great Lakes area.

(Continued on back page)



FORESTEDGE
Homesites in Beautiful Wilderness Settings

Owning a homesite in Forestedge gives promise to years of pleasureable rewards, without financial risk. Soundly conceived, organized and administered, Forestedge provides an unparalleled opportunity to enjoy wholesome living amid the relaxful, natural wonders of a rugged wilderness playground. Here, just waiting to be savored, stand vast acres of tall, majestic forests and clear, spring-fed, sand-bottomed lakes encircled by expansive stretches of clean, unspoiled, sand beaches.

The "West Lake" Development now being established near Keshena will open an extensive new homesite area with incomparable scenic and recreational advantages. To protect every Forestedge investment, all homes must be planned to conform to the minimum standards for appearance, size and placement. Pure, unpolluted waters are forever insured by strict enforcement of a stringent sanitary code. Efforts are being made to provide the area with the finest recreational facilities. An investment in Forestedge is an investment in future security.

(See map on inside for further information)


MENOMINEE COUNTY, WISCONSIN
MENOMINEE
FORESTEDGE
WILDERNESS
HOMESITES
Here is a secluded, woodland dream hideaway — a chance to spend relaxful hours and memorable years in the splendor of towering forests and clear, sand-bottomed lakes.
Just a few hours away . . . 2½ hours over well-paved highways from Milwaukee or 4 from Chicago, and you are in Forestedge. For those wishing to fly in, the cities of Shawano and Antigo boast modern airports — located less than 45 minutes travel from Forestedge.
New West Lake Development
The ideal lakeside vacation-retirement homesite! Snugly remote within quiet pines, West Lake's spring-fed waters and sandy shores are still only minutes away from modern attractions and necessities. Limited and exclusive; pollution-free; assured protection of aesthetic values and financial investments. Lots are available for purchase at reasonable prices. For further details, write, visit or call 4211 Keshena, Wisconsin.
WEST LAKE DEVELOPMENT
County Trunk VV
Dam
KESHENA LAKES
LA MOTTE LAKE
N
New 270 acre lake . . . full two and one-half miles long.
Minimum half acre lot sizes.
(See area east of Keshena on map at right.)
Rivers, Creeks and Lakes
Wilderness Areas
Homesite Development
New Lakes
Private Campsites
Lightly Wooded or Populated Areas
State Operated Campsites
Canoe Trails
State Leased Lands
Portage, Passable for Good Canoeists
Portage; Impassable
Lookout Tower
Fly Fishing Only
State Roads
County Roads
Access Roads
Bass Lakes
West Branch Evergreen River
LaVerne L.
Perote L.
Crowell L.
Hazel L.
Brigham L.
Cott L.
Menominee Creek
Lake Neconish
Lake Naseum
Lake Elma
West Branch Wolf River
Little West Branch Wolf River
ZOAR
Dutchman L. O.
Tumalatten Creek
Hemlock L.
Burney L.
Red River
Mill Creek
Rainbow Falls
Penny Falls
Pamperton Dam
Slough Gundy
Crow Rapids
Beartrap Falls
Spirit Rock
Dead Man's L.
McCall L.
Virgin White Pine Stand
Gilmores Mistake Rapids
Beaver Shanty Rapids
Crystal Spring L.
Turtle L.
Weso L.
Shotgun Eddy
Wolf Rapids
Camp 22 Bridge
Founders L.
Otter Slide
King's Flats
The Trip Rapids
Wolf River
Little Oconto
Fredenburg L.
Sullivans Falls
Duckneast Falls
Big Injun L.
LaBelle L. O.
Vejas L.
Too Kettle Rapids
The Dalles
Pecore Creek
St. Joseph's L.
Dalles Creek
Smokey Falls
LaBelle L.
Pine L.
Grignon L.
Kinepauway L. O.
Pine Row
Five Islands
Vigue Trout Hatchery
Turtle Rapids
White Rapids
Big Eddy Falls
Waukau L.
Rushes L.
Waupaca Rapids
Waupka Rips
Rapids
Falls
Pesliga L.
Long Marsh L.
Big Blacksmith L.
Mashawquit L.
Spring L.
Soposesick L.
Little Blacksmith L.
Pawaosit L.
Keshena Falls
Keshena
Wanoksah L.
Skiff L.
Round L.
Little Sand L.
Sand L.
LaMotte L.
Sand Lake I.O.
Bass L.
Pine L.
Rice L.
Fairgrounds & Woodland Bowl
Pamonicutt Public Camp Ground
Keshena
47
55
M
W

● Together with magnificent scenery, Highway 47 affords access to Peavey Falls and Rainbow Falls, plus the major tributaries of the Wolf and the sawmill at Neopit. With stately pines and hardwoods bordering much of the roadway, the route is unsurpassed in the Midwest for autumn colors.

● At Neopit, conducted tours of the Menominee sawmill are available. The sawmill is the largest and most modern in the Lake States. Operation may be viewed every Thursday, from 9 A.M. to 4 P.M. By special arrangement with the Safety Director of Menominee Enterprises, groups may view operations on other days. Children under 10 years will not be permitted.

● An annual Harvest Festival and Fair is held during the first week in August. Ceremonial Indian dancing, horse racing, handicrafts and farm exhibits provide some of the attractions of the colorful event.

● From late September through the end of October, hardwood forests are ablaze with an abundance of autumn colors. Camera fans should be well stocked with colored film for this annual autumn "colorama".

● A system of Nature Trails uncovers a complete source of history of the area and its people, and provides geologic and natural history data as well.

● Hardy sportsmen enjoy ice fishing throughout the winter.

GIFTS, MOMENTOS — Indian handcrafts and novelties may be purchased at St. Anthony's Gift Shop in Neopit, or the Teepee in Keshena as a momento of your visit to the Land of the Menominees.

BOATING — Canoeing is limited to the Wolf River, its West Branch and lakes. All boating on the South Branch of the Oconto, Evergreen, and tributaries of the Wolf above Neopit, is discouraged from early May through early September. Sportsmen will understand this necessity, since it disrupts trout fishing.

Canoeists should be cautious of the Wolf and the West Branch of the Wolf River, because of dangerous falls and rapids. These are noted on the reverse side map. Motor boats are prohibited on upper Wolf River.

CAMPING — Menominee Enterprises' plans for new campsites are incomplete. Facilities are being planned to comply with new state laws. Camping may not be permitted in 1968; however, inquiries should be made at Menominee Enterprises offices at Neopit or Keshena. Campsites administered and governed by the State Conservation Department are available on the Wolf River. Use is limited by the number of camp units at each location.

● A private camp ground for the general public is operated by George Pamonicutt on the north shore of La Motte Lake, 2 miles east of Keshena on County Highway VV.

PROPERTY USE — Willful destruction, molesting or defacing of trees, plant life, signs, buildings or closed areas is prohibited. Violators will be prosecuted. Berry picking in quantity away from campsites and removal of shrubbery is strictly prohibited.

REFUSE — No refuse or other waste shall be left at any campsite or picnic area except in receptacles or areas provided for that purpose. Please clean areas before leaving.

FIRES — Fires are not permitted except in designated camp and picnic areas. Dead fallen timber may be used for camp fires, but under no conditions is anyone allowed to cut or damage standing vegetation. **Please do not leave fires unattended and make sure they are absolutely extinguished before leaving.**

HUNTING — While the woods of Menominee County support wild life, the deer population is small. Until it is enlarged, the county will not be open for public hunting. Work crews in the woods are also protected by this measure. Until agreements with state and federal agencies are made, all Menominee lands will remain posted.

SNOWMOBILE USE — Check with the Information Office in Keshena for snowmobile areas. Use is restricted to logging trails and private fire lanes. Cross-country travel through forested or tree growing areas is forbidden.

Litho in USA

HORSES — Menominee County boasts many fine horse trails and annually sponsors a well-attended mass trail ride during the autumn of each year. Use of trails must be arranged. Horse riding must be confined to trails.

PETS — Pets are not allowed on beaches, stream shores, or picnic areas. Pets are permitted in camping areas, provided they are secured by a leash at all times and of no length greater than eight feet.

FIREARMS — The use of firearms, airguns, and bows and arrows is permitted only at designated ranges. Hunting or game killing is not permitted in any area. Toy bows and arrows may be used if safety to others is not endangered.

GENERAL FISHING RULES AND FEES

From 1967 through 1969, fishing on the Wolf River is open to the public without payment of any fee except a Wisconsin license. State laws and regulations must be observed. The area between the Trip Rapids and Ducknest Falls on the Wolf is restricted to "fly fishing only".

PRIVATE LAKES AND STREAMS — Good trout fishing in a natural condition is becoming rare in this part of the United States. Menominee Enterprises is attempting to preserve the county's fine natural fishing. "Kamloops" trout were introduced into several lakes and streams on an experimental basis, and have been found to adapt beyond expectations. Access to these streams is limited and requires special permits. All fees collected for these permits are used to sustain natural trout fishing. The fishing fees are:

Trout Fishing (includes lake fishing and camping privileges)
$5.00 per day per person
$20.00 per week per person (7 days)
$50.00 per season per person

Lake Fishing other than Trout (does not include camping)
$2.00 per day per person
$10.00 per week per person (7 days)
$20.00 per week per family (7 days)
$35.00 per season per family

The following rules must be observed:

1. Permitees must have a Wisconsin fishing license before a Menominee permit will be issued, and must comply with all Wisconsin fishing laws and regulations.
2. Posted springs and streams may not be fished.
3. Boat motors are not permitted on Sand Lake and only motors with 10 horsepower or less are permitted on Upper Bass Lake. Boat motors are prohibited on the Wolf River from Keshena Falls to the north boundary of the county.
4. All boating on the South Branch of the Oconto, the Evergreen and the West Branch of the Wolf River is discouraged.
5. Those who have paid the regular camping fee may fish on all lakes in the county. Camp permits do not allow trout fishing on the Upper Bass in the northwest part of the county, or Crystal Spring Lake in the northeast sector. Trout fishing permits are required for this purpose.

In order to preserve the areas bordering upon the Wolf River, parking sites will be marked. VISITORS AND FISHERMEN ARE REQUESTED TO CAREFULLY OBSERVE PARKING RULES.

Fishing Permits for private lakes and streams may be obtained at:

Antigo
Marine Mart

Berry Lake
Berry Lake Resort
Rondevoo Bar

Breed
Ponsegrau's Store

Keshena
Information Office
Monroe Weso
Wally's Station

La Motte Lake
George Pamonicutt

Langlade
Wolf River Lodge

Moshaquit Lake
Mike Weso

Neopit
Boivin's Store
Main Office,
Menominee
Enterprises, Inc.
St. Anthony's Gift Shop

Shawano
Brunner's Bar
Jerry's Bait Stand
K & G Sports

Suring
Brazeau's Store

BREACHES OF THE PEACE — Any breaches of the peace, molestations, or other disorderly conduct should be reported immediately to the Patrol Warden, commissioned Deputy Sheriffs in Keshena, or the Menominee County Sheriff's Office in Neopit: phone 2111.

Mr. GIESE. The Menominee Indian Study Committee report of the year 1965 cites in that report the deeds and the trust agreements, rather and also the lease agreements. The purpose of the trust agreement being to retire these bonds and to repay the interest on those bonds as stated in the Menominee Indian Study report of 1965.

Senator ABOUREZK. Who made this report?

Mr. GIESE. The legislative committee that was created by the State of Wisconsin. You heard Mr. LaFave has been chairman of it for 10 years. They made that report. The obvious answer is was there no opposition up there when this property was sold? Senator, if there had been, none of it would have been sold. That is our problem today, and that is what we are trying to avoid, that we get into holding property that is valuless becauss of all the controversy up there. If the Federal Government could buy us out tomorrow and pay us fair value for the property I am sure we would sell.

Senator ABOUREZK. We are not at that point yet. We are trying to establish what happened at the time it was sold.

Mr. GIESE. I am telling you. There wasn't a bit of controversy when that property was sold.

Senator BARTLETT. Do you have a warranty deed?

Mr. GIESE. Yes, I do.

Senator BARTLETT. What is the date of that?

Mr. GIESE. I had two parcels of property up there. The first one I bought in June of 1966, and that was a quit claim deed that was given to me from an individual that had purchased it from Menominee Enterprises, Inc. The second piece of property I purchased on an installment basis at the same time, on a lease installment, which was really a land contract in 1966. I converted that to a trust agreement, I don't know, somewhere between 1966 and 1968, and then in 1968 I got a letter from the Menominee Enterprises, Inc., in which they said, instead of the trust agreement that you have, we will convert it. They had an offer of cancellation and acceptance that they put out that I signed and they gave me then a warranty deed in lieu of the trust agreement I had because they were going to warranty deeds, and I would rather have had that, too, because they have more acceptability in the State of Wisconsin, although the trust agreement and the warranty deed were one and the same thing.

Senator BARTLETT. Would you say who "they" were?

Mr. GIESE. Menominee Enterprises, Inc.

Senator ABOUREZK. Was that done by the board of directors?

Mr. GIESE. The board of directors and the officers. The people that we dealt with on our lake and these other three lakes, as I testified this morning, were Menominee Enterprises, Inc., people. They were Menominee. We had no way, any of us—that is what I said this morning, Senator, and you questioned about what I meant by good faith—when we came up there we had no inkling, no indication, it was all honey and roses. The Ernst & Ernst report came out in 1967, they have to develop this town, we are going to try to make a go of it. We will try to build a tax base. It was a mutual thing.

Senator ABOUREZK. You heard Mrs. Daly say that most of the Menominee didn't know it was being sold at the time.

Mr. GIESE. I don't know if she did or not. It is like this vote thing here.

Senator ABOUREZK. Wait a minute.

Mr. GIESE. She didn't even live in the county, I don't think, at that time.

Mrs. DALY. I live in the county, and another thing is there are no Menominee signatures on the warranty deeds. If you go and look at your deed, is there a Menominee signature on that deed, and I am going to tell you, no, there isn't.

Mr. GIESE. We dealt with the officers of the corporation in good faith. We were not people buying property up there and going around questioning any more than you people questioned the authority until about 1970.

Senator ABOUREZK. The picture is just a little different than you characterized it this morning, as some kind of invitation.

Mr. GIESE. It was. They had brochures put out.

Senator ABOUREZK. Who are "they", the Menominee?

Mr. GIESE. Menominee Enterprises, Inc.

Senator ABOUREZK. Were the Menominee a majority on the board of directors?

Mr. GIESE. The owners are MEI, that's who sent out the invitations, who had the ads. We haven't got time to run around to 3,700 Menominee and ask if they approve of the sale of land. That is ridiculous. Any more than I question your authority as a U.S. Senator.

Senator ABOUREZK. You can question it all day long, Mr. Giese. It won't do you much good.

Mr. BOYD. With your permission, I would like to shed a little light from my experience with Menominee Enterprises, Inc.

Senator ABOUREZK. We would like to have some light shed.

Mr. BOYD. I was appointed to the board of directors for a 3-year term in 1969. From the date of my appointment to that board of directors, I felt the resentment on the part of the Menominee members of that board of directors for the sale of land. I am speaking of the board of directors. I felt this resentment and I experienced this resentment myself. It was presented as a bill of goods, as the only recourse for the Menominee.

We have learned since then that this is not true.

Senator ABOUREZK. That what is not true?

Mr. BOYD. That sale of land was the only recourse. I have talked to several of the members of the board of directors who were on the board since its inception in 1961. Some of the members who were appointed in later years. Menominee members. They have all expressed this resentment for the sale of land. The general feeling among the Menominee—and I must say that in my own case I was in Milwaukee in the 1960's, in the 1960's up until the time I became associated with Menominee Enterprises—was that we were completely unaware of land transactions up to 1967. We were completely unaware of the magnitude of the project that was being proposed.

When we became aware, we became extremely concerned and I think this is the situation with those members of the board of directors that I have spoken to, and I am sure they would say the same thing.

Mr. KENOTE. I have a document entitled "A Status Report—Menominee, 1967." which gives a basic background of the development of the program.

Senator ABOUREZK. Who wrote the report?

Mr. KENOTE. I wrote a lot of it, but the board of directors and trustees participated in it. It is a combined effort. The status report to the tribal members.

Senator ABOUREZK. Issued by which organization?

Mr. KENOTE. Menominee Enterprises.

Senator ABOUREZK. You are offering that for the record?

Mr. KENOTE. Yes.

Senator ABOUREZK. We will accept it.

[The status report—Menominee Indians 1967 follows:]

MENOMINEE ENTERPRISES, INC.
Neopit Wisconsin

A STATUS REPORT - MENOMINEE INDIANS 1967

This is the third in a series of condensed reports on the overall condition of Menominee affairs, written purposely at a time when important decisions and action on the part of the Menominee people is necessary. The first such report was written in July 1958 and the second in April 1960, one year prior to Termination.

This report intends to outline the Menominee situation as basically and briefly as possible and to recommend a course of action. IT WILL CALL FOR A DECISION and it is written so that the information for a sound decision is provided all shareholders. This decision is extremely important and is required primarily because the prospective revenues, relative to bond interest and taxes, are inadequate to assure the continued existence of Menominee Enterprises, Inc. and Menominee County, Wisconsin.

The Board of Directors and the Menominee Common Stock & Voting Trust have thoroughly reviewed this report and they concur in its publication.

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I. PROGRAM ACCOMPLISHED 1961 - 1967.

The Menominee people, Menominee County and Menominee Enterprises Inc. have shown they could organize and be made to function - although in May 1961 many considered this hopeless and expected a collapse in a couple of years. Much has been written pro and con on this subject and the record best speaks for itself without other discussion here.

Important improvements in personnel and plant operations are evident throughout both divisions. Intricate new problems of government and management, taxation and land title, labor relations, industrial safety and improvement, utility sale or reorganization and operation, community development, and related problems have been resolved or managed. MUCH REMAINS TO BE ACCOMPLISHED !!

Finances have always been a problem. As predicted prior to Termination, Federal and State aid during the formative years would be necessary. After long and hard debate Congress was convinced of this necessity. Its financial aid and the advice and assistance of the State of Wisconsin have been inestimable.

On the human side, there is a very noticeable improvement in the people as a whole. They are more educationally inclined, they are steadier at work, they participate more in public and political affairs, and generally have a greater determination and morale in their will to do. Since 1964 there has been a majority of Menominees on the Board of Directors. There has always been a majority of Menominees on the board of the Voting Trustees. Traditionalism and a love for the past are still quite deep-seated and will show their influence for several generations. This must be taken into account in the decision-making process. With everything considered, it has been the people of Menominee County that have made progress possible !

The Menominee Indians and the residents of Menominee County cannot expect Federal legislation similar to the Nelson-Laird financial aids in the future. The County and its residents must make further effort to become self-sustaining.

II. THE NEXT THREE YEARS: BROADEN THE TAX BASE - BUILD THE ECONOMY.

Four extremely important dates face the Menominee people in the period leading up to 1971. These are all problem dates to be faced and they will loom larger and more ominous as we approach 1971 IF WE DO NOT COMMENCE WHAT IS NECESSARY NOW ! If we understand the problems, analyze and understand our resources, and if we are ready to make a fight to keep going, they are not problems at all. They are matters of adjustment. They do mean a change of attitude and group thinking - something that other communities have to experience every day to survive.

The four important dates and problems are the following:

1. The 1969 session of the State legislature must survey Menominee County and decide whether or not to allow it to continue or to be absorbed by the surrounding counties or the State.

2. At the annual meeting in 1970 the trust certificate holders of Menominee Enterprises Inc. must decide whether or not they want the Menominee Common Stock & Voting Trust to continue.

3. In January 1971 Menominee Enterprises Inc. and the other taxpayers in Menominee County must pay the entire county tax burden without full Nelson-Laird Federal aids.

4. In January 1971 the trust certificates of Menominee Enterprises Inc. (if the Voting Trust then exists) become fully transferable by sale by the owners, subject to options to purchase by Menominee Enterprises Inc. and the State of Wisconsin.

Preparations should commence now to deal with these matters as they arise. More importantly, however, if these matters are to have final meaning to us, we must consider and decide what to do about Menominee Enterprises Inc. in 1967. A review of the following "Statement of Resources" of Menominee County and their potential for development should make it clear that we can provide for the support and preservation of the Menominee community. We can broaden the tax base and build the economy for years to come !

III. A STATEMENT OF RESOURCES.

1. The Menominee Forest.

At Termination time Menominee Enterprises Inc. was handed a Forest Management Plan that had been developed during 1958-1960. The Plan indicated that 30 million board feet of timber could, and should be, harvested annually. We were told that up to 35 million feet OUGHT to be harvested in some years in order to achieve the best growing conditions in some areas. Our previous five-year harvesting average had been LESS than 20 million feet annually. This 50 per cent increase in forest harvest would help tremendously to make Menominee Enterprises Inc. profitable and would supply sufficient tax resources for Menominee County. We were assured of this and the legislature permitted Menominee County to be formed, subject to review by it in 1965 and 1969.

During the years 1962-1965 all stops were pulled in order to reach the production level of 30 million feet in the logging and sawmilling operations. We ran two shifts year-round and sometimes a third, we ran portable mills and contracted others to cut our logs. We proved we could cut, handle and sell the 30 million feet plus by-products.

In June 1966 several jobbers reported that their cutting areas were not yielding the saw log cut indicated by the Forest Management Plan. Company foresters and the Logging Superintendent checked this out and confirmed it. The 1966 and 1967 operations and a new forest study have proven that the 1960 Forest Management Plan was not dependable.

The Forest Management Plan has now been redeveloped by our staff on more realistic bases and approved by the Conservation Commission. Instead of cutting 30 million board feet annually, we will harvest about 22 million, or roughly 25 per cent LESS than we expected and need. Our sales must drop by the same 25 per cent. It has a direct adverse effect on Menominee Enterprises Inc. and Menominee County operations. (NOTE: The Board of Directors and the Trustees in April 1967 filed a suit in the Court of Claims to

preserve our rights to sue and to test the adverse effects of the sustained yield requirement on forest operations.)

2. Logging, Sawmill and Sales.

The ability of business to succeed depends upon adequate sales and competitive production costs. Our operations, of course, are governed in a large part by the yield from our forest. We have to harvest and manufacture woods-run products (that is, anything as it comes out of the forest) because of our sustained yield management requirement. Other mill owners are not so governed and need harvest or buy only woods that yield the best profit margin. Hemlock, which is 25% of our forest, yields us very little in the market place but we must cut it regardless.

The Sales Division has done a splendid job of selling and moving lumber. Pulp and wood chips are a by-product without much profit margin. Net sales will decrease this year and in the future due to (1) less volume to sell, and (2) increased cost per unit due to the same loss of volume and to increased wage and fringe venefits and logging costs. Loss of this volume in the forest harvest effects us adversely in many ways. A serious drop in the national economy and a consequent loss in our sales would be distatrous for the whole County and the Company.

The current Union contract runs from September 1, 1966, through June 30, 1969. Labor and fringe benefits will increase during this period by $124,000.00 per annum. This and logging cost increase of $2.00-plus per thousand during the period of lessening log cut cuts further into earnings of the forest and mill operations. It plainly indicates there can be no further increase in wage or logging rates.

In 1966 we had the best year in the history of Menominee forestry-milling operations! We paid our bills and had $78,344.00 left. This may not happen again. It won't happen in 1967 or soon thereafter. It should be noted that annual bond interest might not be paid in the years right ahead. Interest paid on bonds (stumpage paid to shareholders) the first three full years after Termination (that is, 1962-1963-1964) was NOT EARNED

by $178,000.00 or $113,000.00, $44,000.00 and $21,000.00 respectively. Bond interest was earned only in the two best years of 1965 and 1966.

This situation means that logging and sawmilling operations alone cannot, by themselves, carry the burden of employment needed for county residents, pay your taxes, and make bond interest (or stumpage payments). All other income must be retained and new means developed - AND THIS MUST BE ACCOMPLISHED BEFORE 1971.

3. Industrial Development.

In March 1967 Ernst & Ernst, a management firm, of Washington, D. C., under a grant from the Economic Development Administration of the U.S. Department of Commerce, submitted a report on "Opportunities for Economic Development of Menominee County". Among the possibilities related to our woods industry, the report recommended:

1 - Veneer mill

2 - Dimension or furniture stock

3 - Coreboard

These should be pursued to final feasibility tests. There may be other possibilities. Menominee County needs better job opportunity for its residents and Menominee Enterprises Inc. needs the added income. Federal economic development funds are available if some of the Ernst & Ernst Report recommendations are adopted.

As much as industrial development along these lines is needed, we must proceed with caution. Industrial development alone will not solve all our tax problems. While it will help substantially, we must consider that it will be using raw materials that now provide us profit for a new operation that may not pay its way for some time. There is a question whether or not the required raw material in sufficient amounts is available. Industrialists advise that a proposed investment should show that it can recover about 8% or 9% on the investment before taxes before making it.

(A Statement of Resources)

We need trained management and skilled workmen to support industry requiring refined use of wood or other raw material. We ought to make it possible for companies or investors with "know how" and sufficient financing to participate in industrial development with us. Ernst & Ernst recommends that a basic requirement to attract such investors is the issuance of warranty deeds in necessary land uses.

4. Wolf River Lease or Sale.

In December 1966 the Wolf River Use Agreement was concluded with the State of Wisconsin. It is a temporary agreement through August of 1969, stopping all development from Keshena Falls to the north boundary, paying Menominee Enterprises Inc. $150,000.00 per year. It is intended that the Federal Government would, in the meantime, complete legislation finally preserving this part of the Wolf River in Menominee County as a so-called "Wild River" and paying a sum sufficient to offset the development potential of the River.

The $150,000.00 per year payment has been declared to be no indication of the value of this part of the river. It in no way represents what Menominee County could derive if the River's tax resources were developed instead. Whether final Federal legislation and agreement are achieved is highly problematical at this time.

5. Unused Forest Brush Lands.

Menominee Enterprises Inc. owns about 60,000 acres of unused, non-productive lands, covered with scrub oak, brush, or other valueless cover. It must pay annual taxes on this land. Under a Department of Agriculture program a single private owner can get $2,500.00 per year Federal aid for tree planting. Menominee Enterprises Inc., as a single owner, thus is entitled only to $2,500.00 per year for this purpose. An amendment of the Federal funding rule will be sought in order to enlarge upon this tree planting project.

Menominee Enterprises Inc. is going to move in the direction of the feasibility of raising Christmas trees on a large part of the unused portion of this land, which

(A Statement of Resources)

should produce an income within seven or eight years. The Enterprises will also consider the investment of $5,000.00 to $7,500.00 for annual tree planting so that we will cover more of this unused land for forestry purposes.

6. Recreational Development.

Under recreational development, the Ernst & Ernst Report recommends a full year-round resort hotel complex, including golf, horseback riding, skiing, snowmobiling, and other sports facilities. This development would be located on the west bank of the Wolf River mid-point from Keshena to the south boundary of Menominee County. This site and idea has been reviewed by engineers and land use planners and developers and pronounced feasible.

Ernst & Ernst also recommends, under recreational development, the acceleration of the summer home program. Almost everyone who understands our finance and tax problems concurs that this is the surest and most readily available and least costly means of developing income for Menominee Enterprises Inc. and tax resources for Menominee County. It is estimated that $10,000,000.00 worth of new summer homes and resort facilities will shift one-third of the tax burden off Menominee Enterprises Inc. and the Menominee people, thus making it possible for us to survive.

Ernst & Ernst and all others who understand the problem declare that the only way this can be accomplished IN TIME TO BE OF VALUE TO US, is to create economic development zones where business can be carried on under the usual business forms. To accomplish the foregoing recreational development program, to broaden the tax base, to provide more employment and additional income to the residents of Menominee County, the Board of Directors and the Voting Trustees of Menominee Enterprises Inc. UNANIMOUSLY RECOMMEND the approval of the Resolution contained in the PINK BALLOT which is enclosed with this Report.

The economic development zones would NOT include forest areas, they would NOT include the Wolf River and its tributaries, NOR the other rivers and streams. These

economic development zones would be limited to an area around Neopit for industrial development and an area around Keshena and the southeastern lakes for recreational development. The total area will be defined by description of the land involved, not to exceed 8,760 acres or about 3.7 per cent of the total County.

The Ernst & Ernst plan recommends enlargement of two lakes' areas within these zones. One would contain Wahtohsah, Skice and the old dead lake area between Keshena and the Keshena cemetary, to be called the "West Lake". The other would include Pyawasit, Sapokesick and Big Blacksmith, to be called the "East Lake". These enlargements would create two lakes with improved shoreline in excess of 7-1/2 miles each. They would each have some fine public beach areas. The increase in water table created by the East Lake would stabilize the Long Marsh areas for waterfowl refuge improvement. In these areas we could develop sufficient land for the tax resource development we must have in the next three years.

The U. S. Soil Conservation Service has provided important engineering and technical advice in regard to the proposed lakes development. The West Lake has been declared feasible and further tests are being made on the East Lake. These services have been furnished at no cost to us in order to help us get started on economic development. Federal cost-sharing may be available if necessary approvals are made by us.

7. No Other Resources Available, Except -

We have no silver or copper mines, nor oil, nor gas, and no rivers for panning gold. We have problems of work and deprivement. If these are not recognized and challenged then Menominees become like many other Indians - pawns in a land of plenty! To develop and make pay the resources we do have will take thoughtful approach and determined decision - and this is a resource we can make work.

IV. THE PROBLEM OF COUNTY GOVERNMENT AND COMMUNITY SUPPORT.

The problem of the support and development of Menominee County depends upon the success of Menominee Enterprises Inc. The following outline intends to set forth in brief detail the financial problems that must be met and largely overcome in the next three years. It should make clear why the recommendations in the Ernst & Ernst Report should be adopted. If a determined effort is made on our part to proceed with industrial and recreational development, there are some Federal economic development funds that may be made available for these purposes.

MENOMINEE COUNTY - Now and 1971.

Menominee County was created by act of the Wisconsin State legislature in 1959 and the County became effective on May 1, 1961. The legislature provided for a review of the County and report in 1965 and again in 1969.

In 1959 the legislature was hesitant to create Menominee County, particularly because it was not convinced of its ability to sustain itself. The 1965 review was not conclusive but the legislature was asked, and it permitted, the County to continue. The review and decision in 1969 to continue as a County will depend on the progress that is made between now and that time. The decision made by the legislature will depend upon whether or not the County has a change to become as self-supporting as most other counties. The State has some, and does not want more, distressed counties on its bounty.

These are considerations we must deal with in 1967 and 1968.

County and Public Support Expenditures 1966.

In excess of $1,140,907.00 (not inclusive of State aids paid to Shawano-Menominee Joint School District No. 8 on Menominee's account) was spent in Menominee County for public health, education, welfare, roads, law and order, and related services in 1966.

(The problems of county government and community support)

About 57-1/2% of this total outlay was raised by local taxation, and/or special Federal and State aids derived from the Nelson-Laird funds and the State refund credit from sales taxes respectively. Without the Nelson-Laird aids of $150,000.00 for education and about $50,000.00 for health and welfare, the State refund credits of $74,000.00, and the State tuberculosis aids of about $68,000.00, Menominee County costs would bankrupt its taxpayers!

(NOTE: In addition to the above outlay, the State of Wisconsin appropriated a special road improvement fund of $300,000.00 which employs about forty or more persons, and the Community Action Program has afforded a total of $908,446.00 in earnings for County residents in the last two years.)

In the period May 1, 1961, through September 30, 1966, Menominee Enterprises Inc. has paid taxes of $1,848,551.00. It has paid $2,075,605.00 in bond interest to its bond holders, and $6,257,025.00 in wages to its work force.

Outlook for 1967.

The level of spending for community support purposes in the past several years has been $371,031.00 for county government (the county levy estimate for 1967 is $306,370.00); $66,000.00 for town government and sewer and water services; $3,650.00 for state forestry protection. The 1967 Menominee County share of the school district tax levy is $297,093.00 or an increase over 1966 of $35,247.00.

Based on the above, we can expect a local budget levy of about $737,774.00. From this we can deduct $150,000.00 for school tax and (hopefully) about $50,000.00 for health and welfare under the Nelson-Laird aids. We also can deduct about $74,000 in State refund credit funds. State TB aids and other small revenues not now identifiable may be forthcoming but cannot be accurately determined at this time.

Deducting the known aids of $274,000.00 from $737,774.00 leaves $463,774.00 to be raised by direct property taxation. Of this the Enterprises must pay 82% or

$380,285.00 which is an increase of $81,233.00 over 1966. (If the county government budget levy for 1967 in the amount of $306,370.00 proves adequate, then Menominee Enterprises share woul d be $327,273.00 or an increase of $28,221.00 over 1966.)

A Look at 1971.

The average increase in school taxes across the last three years is $16,841.00 per year. The largest increase occurred in 1967 due to a considerable increase in teachers' salaries and a school bond issue. The 1967 increase over 1966 was $35,247.00 It is not unrealistic to expect that annual school taxes will continue to increase by at least $16,841.00.

An estimate made by the Department of Taxation at Madison in 1965 set out a Menominee County tax levy of $683,744.00 for 1967 - the $737,774.00 estimate now more concrete is $54,030.00 greater than this 1965 estimate.

The State Department of Taxation estimates an annual 5% increase in budget levy for Menominee County. Past experience indicates that this 5% annual increase will probably hold true. Based on this level of increase, the budget levy in 1971 for Menominee County will be $854,064.00. This will be offset by some tail-end Nelson-Laird aids to June 30, 1971, probably to the extent of $100,000.00 ($75,000 for school tax and $25,000 health and welfare). Deducting $74,000.00 for State refund credit for sales tax and the $100,000.00 Nelson-Laird aid, will leave $680,064.00 to be raised by direct local property taxation.

If in the meantime, Menominee Enterprises Inc. has done nothing to improve the tax resources in Menominee County, its share of the taxes for 1971 will be $557,652.00 - OR AN INCREASE OVER 1967 of $177,367.00!

(The problems of county government and community support)

(NOTE: in 1963 lake and river lots were assessed at $91,300.00, paying about $2,739.00 in County taxes. This assessment increased to $1,148,860.00 in 1966 and contributed about $34,470.00 in County taxes. The lake and river lot assessment for 1967 shows an increase of $212,700.00, or an additional tax collection of $6,360.00)

The total tax collection in 1968 attributable to lake and river property will be $40,830.00. This represents about 9% of the local levy required. Menominee Enterprises, Inc., Menominee County, and its residents, need five times this amount to stay in business in 1971 and thereafter!

In 1972 the full burden of taxation must be borne locally. If nothing is done the rate on Menominee Enterprises Inc. and Menominee County residents will be confiscatory.

If nothing is done now, at the annual meeting of 1970 it won't make much difference what is done about the Common Stock & Voting Trust - TIME WILL HAVE RUN OUT!

V. CONCLUSIONS AND COMMENTS.

The conclusions in this report are simple and can be brief:

1. The Menominee forest and sawmilling operations cannot support Menominee County without other improvements, other income, and tax relief.

2. Special Federal aids will end in 1971 and Congress has said there will be no more.

3. Industrial development is necessary, but its profitability is questionable and it will not give necessary tax relief.

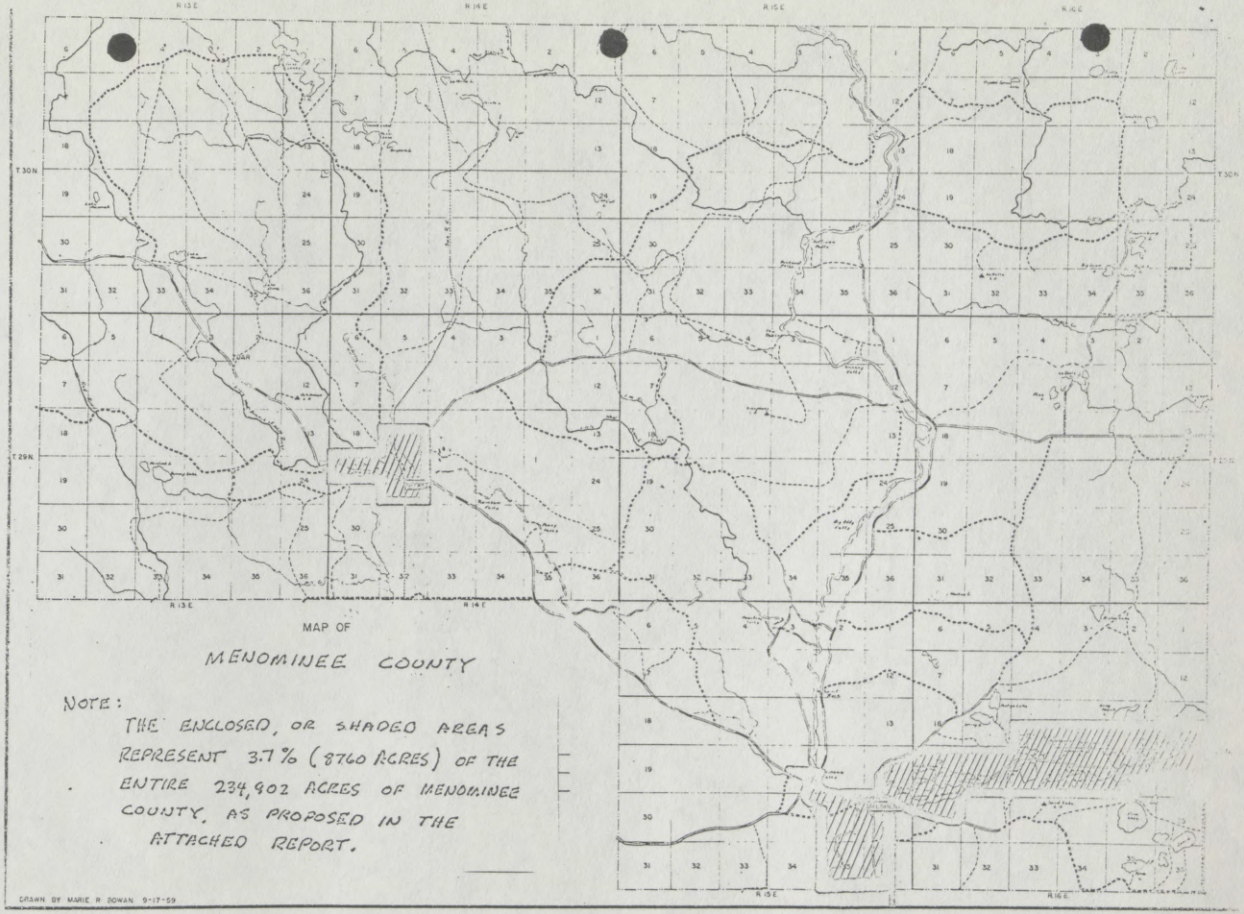
4. Outside financial interests will not seriously consider industrial investment in Menominee County until the tax situation is made stable and safe, and employment is more trained.

5. Recreational development offers the shortest and safest means of developing new income and tax resource.

6. In 1971 Menominee Enterprises Inc. will be in no position to redeem common stock - the State Investment Board of Wisconsin will.

VI. RECOMMENDATIONS.

That a special meeting of the Menominee Common Stock & Voting Trust Certificate Holders (Menominee shareholders) be called as soon as possible to consider and act upon the Ernst & Ernst Report, particularly whether or not to establish economic development zones in Menominee County, within which zones warranty deeds may be issued in land transactions. The areas to be defined by land descriptions. (See map and ballot attached).



MAP OF

MENOMINEE COUNTY

NOTE:

THE ENCLOSED, OR SHADED AREAS REPRESENT 3.7% (8760 ACRES) OF THE ENTIRE 234,902 ACRES OF MENOMINEE COUNTY, AS PROPOSED IN THE ATTACHED REPORT.

DRAWN BY MARIE R BOWAN 9-17-59

PROJECTED MENOMINEE COUNTY TAX CONSEQUENCES
(If no improvement is made in base)

1967 - 1972

	ACTUAL 1966	ESTIMATE 1967	Assume 5% increase to: 1971	1972
ASSESSED VALUATION	$18,059,680	$18,272,233	18,272,233	18,272,233
Menominee Enterprises Inc.	14,956,680	14,936,117		
Lake and River Lots	1,148,860	1,361,560		
Other	1,953,995	1,974,556		
BUDGET ESTIMATE (See note below)		737,744	854,064	896,767
State Refund Subtracted		74,000	74,000	74,000
Nelson-Laird aids subtracted		200,000	100,000*	-
NET LEVY TO BE PAID BY TAXATION		463,744	680,064	822,767
Menominee Enterprises will pay 82%		380,270	557,652	674,668**

* Nelson-Laird aids end on June 30, 1971.

**The tax rate in 1972 would be $44.90 per thousand of valuation assessed. A Menominee home owner assessed at $12,500 would have to pay $561.00 in real estate taxes.

NOTE: In 1966 Menominee Enterprises Inc. paid $420,755 in taxes based on the 1965 levy. In 1967 Menominee Enterprises Inc. pays $299,766 with Nelson-Laird Federal aids applied based on the 1966 levy. The Nelson-Laird aids will relieve taxes by about $200,000 per year through June 30, 1971.

Mr. KENOTE. I also have a letter, a copy of a letter I addressed to the Honorable Congressman Meeds, June 18, 1973, which gives in considerable thumbnail summary, the development of the sale of land to Menominee themselves, posttermination date, the sale of land to non-Indians posttermination date, and the history of the hunting and fishing development.

Senator ABOUREZK. Are you offering that?

Mr. KENOTE. I have only one copy but I will mail directly a certified copy of it.

Senator ABOUREZK. Perhaps we could have one of the staff run a copy now. We would like to keep that or a copy, if you would like to offer it. We will give that back to you as soon as a copy is run. That will be accepted for the record.

[The letter of June 19, 1973, to Hon. Lloyd Meeds follows:]

GEORGE W. KENOTE,
Keshena, Wis., June 18, 1973.

Re Menominee restoration legislation.

Hon. LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR CONGRESSMAN MEEDS: This is to submit memoranda on several matters that seemed to have been left hanging during the hearings held at Keshena, Wisconsin, on the proposed Menomniee restoration bill.

1. Sale and Acquisition of Land by Menominee Indians Post Termination of Federal Supervision.

2. Sale and Acquisition of Menominee Enterprises Lands by non-Indians.

3. Origin of Hunting and Fishing Privileges for Lake and River Lot Owners, Menominee County, Wisconsin.

Pursuant to our brief discusion, I have tried to reduce these to concise thumbnail sketches for inclusion in the record of the hearings in order to clarify inaccurate and inconclusive statements of several who appeared at the hearings. I will attend the hearings in Washington and will be available for amplification if necessary.

Since the hearings I have independently discussed the proposed bill with various tribal members and find a considerable variance and lack of understanding of the potential impacts of the bill. A much broader and intensive report on the untold ramification of the bill are clearly necessary. Otherwise any referendum as proposed in suggested state legislation is meanginless and probably misleading. For instance, prior to termination all Menominee Mills employees were classified as federal employees for purposes of workmen's compensation and unemployment compensation, thus avoiding premium installments and taxing for these purposes. Many employees do not know that these benefits will not be restored. Many believe that medical and hospital benefits will be totally assumed by HEW. They are not aware of the requirements of Title 42, CFR. These are just a couple of examples of non or misunderstanding.

Another important consideration emerges with a cursory review of the proposed reenrollment of Menominee Indians. The understanding of this reenrollment effect that is most prevalent is that all stock (and bond) interest in Menominee Enterprises would dissolve and all former and new enrollees with ¼ degree Menominee blood would succeed to common ownership of all property. If this is true and it is intended to rely on the ¼ degree rule it will not be long before a very minute group of Menominee descendants only will hold entitlement. The course of intermarriage and dilution of Menominee blood makes this apparent. I thought either of the anthropologists might have dealt with this question. This point would seem to demand more than a superficial study. This possibility also bears on the potential disavowal of the vested interest pertaining after the delivery and acceptance of the equities by individual Menominees at termination of federal jurisdiction. Very few of those attending the hearing were more than ½ degree Menominee and many were less.

Proponents of the bill as presented (excepting the so-called Froehlich amendments) represented that they spoke for the Menominee membership. This is to be doubted. Many make the point that the recent town-county supervisors election

clearly shows the preference of a large majority of the resident Indians. DRUMS' candidates did not take a single post out of seven positions. DRUMS' candidates did not win the independent vote in the last MEI trustee election.

When I referred to variance earlier in this letter, I had also in mind the fact that the attendance at the hearings on May 25 and 26 consisted of very few other than DRUMS' members. The so-called productive intensives and productive moderates in the tribe just did not show. Your comment that you were concerned because people would not express themselves, and Congressman Lujan's statement that he was concerned because opposing views were not being expressed, are reflective of a condition that has grown up here in the last couple of years. Individuals and families have been harrassed by threats, midnight telephone calls, damage to property, anonymous letters, and the like, for having different views than DRUMS. The utter divisiveness engendered and encouraged by Judicare and some of the former vista workers have helped to create the climate you have observed. The three disorderely outbursts during the hearings were indicative of this climate. The local AIM group have indicated an even more disruptive attitude.

I fully realize the dilemma this situation creates for your Sub-Committee, particularly in an area where the partisans on the one side declare no compromise. It is also a dilemma for those Menominees who would like to take a more determined and progressive approach to their problems.

In all I thought you conducted the most orderly meeting I have seen here in a long time. There was much said but not very helpful to your Committee. This, too, is part of the dilemma.

Sincerely yours,

GEORGE W. KENOTE.

GEORGE W. KENOTE,
Keshena, Wis., June 18, 1973.

Hon. HAROLD V. FROEHLICH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FROEHLICH: This is to submit copies of materials I am furnishing Congressman Meeds of the Sub-Committee on Indian Affairs. For information purposes.

I was invited to a meeting of the Menominee Council of Chiefs several nights ago. It is apparent that they will be submitting a substitute bill in due course. If I read the discussion right, it will essentially ask for restoration of Indian benefits available to other Indians, it will resist DRUMS' intent of the effect of so-called reenrollment, it will ask for trust status of the forest only with the individual interests to remain as now prevailing on the trust certificate ledger.

We have a chapter of the AIM group now located in Keshena that is trying to show some muscle. Rumored threats indicate considerable further disruption and "burning down" Legend Lake installations. Since Wounded Knee the FBI is keeping book on their activities.

Best wishes and many thanks for your interest in our affairs.

Sincerely yours,

GEORGE W. KENOTE.

GEORGE W. KENOTE,
Keshena, Wis., June 18, 1973.

Hon. DAVID R. OBEY,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN OBEY: Thank you for your note of June 5. It is much appreciated and I want to say that I will continue in an independent way to make comments and observations where and when I believe them necessary. When I first returned to the Menominee problems in 1958, and thereafter, I made it perfectly clear that I was always aware of the various shifting alliances in tribal affairs, that I would remain independent, and that I was going to call shots and say things that would not always be popular. This has been an interesting experience.

I enclose herewith for information a copy of materials I am submitting to Congressman Meeds of the Sub-Committee on Indian Affairs.

Your continuing interest in our affairs is good to behold.

Sincerely yours,

GEORGE W. KENOTE.

MEMORANDUM

SALE AND ACQUISITION OF LAND BY MENOMINEE INDIANS POST TERMINATION OF FEDERAL SUPERVISION

Section 7 of the Menominee Termination Act required that the plan of termination developed by the tribe treat all on the final roll of the tribe with reasonable equity. Stocks and bonds were to be issued tribal members, or their descendants, representing their equity in Menominee Enterprises, Inc., the tribal corporation to be, according to the plan adopted by the Menominee General Council on January 17, 1959. Initially Menominee Enterprises would own all tribal lands. The termination plan as adopted January 17, 1959, provided for leasing to tribal members only. This condition raised "company county" problems for state officials and concerned many Menominees who preferred to own their homesite lands.

On May 15, 1959, to resolve this problem the question of amending Article XII of the articles of incorporation of Menominee Enterprises was referred to the Menominee Tribe by referendum. The result was 448 in favor of sales of land to tribal members with 30 opposed. The article was changed accordingly.

To maintain the "reasonable equity" rule it was understood that a tribal member could not get an equal share of stocks and bonds with other members and additionally get title to private land claims too. To safeguard stock only bonds were made negotiable in exchange for an equal share of land. The tribal buyer could pay cash if he chose. The Board of Directors made it possible for aged and infirm to hold by life tenancy if they so chose. Provision was made for non-landholders to acquire land.

Prior to termination, the Bureau of Indian Affairs established a schedule of private land claims. The land areas were platted, set forth by certified survey, or described by rectangular government descriptions. No appraisals were made by the BIA.

Immediately after termination, Menominee Enterprises established an appraisal team consisting of two tribal members and a professional real estate broker and appraiser. Its instructions were to determine the fair market value of the various claims as compared to similar property in the surrounding county areas, then to make some allowance for the fact Menominee lands were not on the open market as those in non-Indian areas, and to give some recognition tantamount to a homestead right. The professional appraiser, based on this instruction, reported that the schedule of property appraisals represented a value somewhere between 40 and 60 per cent of an unencumbered fair market value. The schedule of valuations represented the bare land values only and *did not include* values on improvements located thereon. The schedules were reviewed and approved by the Board of Directors. An appeal procedure was available to land claimants.

Based on the foregoing, Menominee Enterprises deeded private land claims to those who chose to purchase either by exchange of income bonds or by cash settlement. Aged and infirm were extended life tenancy privileges. Those other than aged or infirm who did not purchase were charged the bare land taxes pertaining and 4 or 5 per cent of appraised value as an annual rental. Those buying bona fide original claims exchanged bonds at face value, those who did not have bona fide original claims exchanged bonds at 70 per cent of face value.

No one was charged doubly for their land claims, no one was charged for improvements on the land claims if they had owned them originally. There were 17 appeals based on valuation or land area. These were heard and adjusted by the board's land use committee.

To assert that tribal members were charged doubly or horrendous prices is just not true.

MEMORANDUM

SALE AND ACQUISITION OF MENOMINEE ENTERPRISES LANDS BY NON-INDIANS

Information circulars and discussions among tribal members and state officials made it amply clear that post termination of federal supervision it would be necessary to develop supplemental corporate and municipal income. It was made clear that recreational development was a prime source of such potential income.

Article XII of the articles of incorporation of Menominee Enterprise provided for the lease of land for such development. This article was approved by tribal referendum on May 15, 1959. Prior to termination the Secretary of the Interior

was asked to aid in the development of an overall recreational development program. The Department response was to send a representative who concluded that recreational development was a feasible course of action.

Immediately post termination Menominee Enterprises initiated a recreational feasibility project. Several substantial companies made studies and proposals, not finally accepted but indicative of the real potential for income development.

With income and tax problems in view, Menominee Enterprises commenced a limited development program on its own initiative. Moshawquit, La Motte, Round and Upper Bass Lakes and selected sites on the Wolf River were designated for development. Comprehensive plats consisting of half acre lots were established on the lower lakes, and 1½ acre certified survey lots were spread thinly on Upper Bass Lake and the Wolf River. The lower lakes eventually developed 144 homesites, Upper Bass Lake 6, and the Wolf River 2. As of May 1, 1972, the tax valuation was $3,091,620 for these areas.

Per the lease authority in Article XII, Menominee Enterprises attempted a lease program only. To prevent speculation and to develop early tax resources, lessees were required to build substantial and approved improvements on their locations within one year. The straight lease idea with the building requirement immediately ran into sales problems. Lessees could not get financing and were resistant to building substantial buildings on leased only premises. The lease was then converted to the lease-purchase contract idea, providing for delivery of a warranty deed at the end of the 40th year on payment of the 41st year's rent. Section 10 of the attached lease form also contained a 50 year term. This was to accommodate savings and loan association requirements at that time. All lease-purchase contracts have been concluded on a 40 year term basis.

After creation of the economic development zones pursuant to director, trustee and certificate holder resolutions of August 10 and September 23, 1967, many of these lease-purchase contracts have been converted to warranty deed closings. The reason behind offering the warranty deed closing to the lease-purchase holders was to overcome the long term effects of inflation. An accounting study had shown that at the end of 40 years at the then rate of inflation, and assuming difficulty with the value appreciation clause in the contract, the rate of return would approximate only about 9 cents on the dollar.

After establishment of the economic development zones in 1967 to hasten development of tax and income resources, Menominee Enterprises went into the Lakes of the Menominees Legend Lake development. Development in other areas was then discontinued.

Legend Lake is, of course, now another story. It has not been permitted to develop its full potential and this has cost Menominee Enterprises and the community a tremendous expense for litigation and loss of substantial and potential income. As of May 1, 1972, Legend Lake had developed $12,500,000 in additional tax base for Menominee County.

In this connection I must take issue with the recent Bureau of Indian Affairs economic report to the House Committee on Appropriations that services necessary to the lakes people will outrun the income from taxes derived therefrom. The history of this situation is simply not true in Wisconsin. It is not true here at Menominee in the ten years we have now been under the recreation development. These people do not bring us welfare problems, they do not bring us school support problems, the road system servicing them is mostly supported by the state public road aid formula. General government and law enforcement expense have increased very little since 1961. The tax income from this operation has been a windfall to the county and a relief of burden on Menominee Enterprises.

EXHIBIT "A"

LEASE OF LAND

This Indenture made and entered into this _____ day of _____, 19_____, between MENOMINEE ENTERPRISES, INC., a Wisconsin corporation, with its principal office and place of business at Neopit, Menominee County, Wisconsin, Lessor, party of the first part, and hereinafter referred to as Lessor, and _____, of _____ County, State of _____, second party, hereinafter referred to as Lessee.

WITNESSETH:

Lessor, for and in consideration of the sum of $_____, in hand paid by Lessee, the receipt whereof is hereby acknowledged by Lessor, has granted, bargained, conveyed, demised and leased, and by these presents does grant, bargain, convey, demise and lease to Lessee the following described land located in Menominee County, to-wit:

The term of this lease is for _____ years, effective and commencing on the _____ day of _____, 196_____, and the annual rental for said term is $_____, payable on the first effective date of this lease at the office of Lessor, and in like amount payable in advance thereafter, annually, on said same date; there having been paid and received, effective the date of this lease, the sum of $_____, annual rental for the first and last years of occupancy of the land described herein. Annual rentals not paid when due shall bear interest at the rate of 6% per annum, compounded semi-annually until paid.

And the Lessor and Lessee in consideration of said leasing agree as follows::

1. The land herein leased is part and parcel of Lessor's "Menominee Forest Lakes Vacation Land Homes" development in Menominee County, Town of Menominee, Wisconsin, per recorded plat thereof; and said land is to be used and occupied for the sole purpose of constructing and maintaining thereon a single family residence together with necessary outbuildings and appurtenances.

2. Lessee may not sell, assign or transfer this lease, and will not lease or sublet or sell the buildings, and structures or appurtenances thereon or any part thereof except as herein expressly permitted, without first obtaining the written consent of the Lessor, which consent shall not be unreasonably withheld. It is understood and agreed that the requirements of this paragraph are intended to protect present or future lessees and owners within the "Menominee Forest Lakes Vacation Lands Homes" development from unwanted or undesirable occupants. In the event of the death of Lessee during the term hereof Lessee's interest herein may be transferred without prior consent of Lessor to Lessee's surviving spouse or to an adult child or grandchild of Lessee: subject, however, to all of the terms and conditions herein stated. In the event, prior to the expiration of the term hereof, Lessee desires to sell his interest in this lease together with any buildings and improvements constructed by Lessee, Lessor will, at Lessee's request, have said buildings and improvements appraised and will seek to find a buyer therefor and a successor lessee hereunder at such appraised value, with payment of the net sales proceeds to be made to Lessee upon completion of any such sale.

3. Except as hereinafter provided, Lessee will pay, when due, any and all taxes and assessments, ordinary or extraordinary, that may be levied or assessed upon or against the leased premises or any structures or improvements thereon which may become a lien, and commencing with the taxes and assessments levied or assessed for the year 19_____. In event Lessee fails to pay any such taxes or assessments when due, or as respects any unpaid rents or charges or defaulted indebtedness or liens incurred by Lessee, Lessor shall have the right to pay the same and to recover the amount of any such advance from Lessee upon demand and until paid Lessor shall have a lien against the leased premises and all improvements located thereon. Lessor will, at its expense, construct a road providing access to the leased premises. Any assessments subsequently [illegible] for additional road improvements shall be paid by the Lessee.

4. Lessee will make no other use of the above premises than herein specified. Lessee will not permit or maintain any nuisance on said premises or sell or suffer to be sold thereon any alcoholic, spiritous, or intoxicating liquors, or permit the use of said premises or buildings or structures located thereon for the purpose of conducting any trade, business, occupation, or profession or for any commercial purpose, whether legal or not. Lessee further covenants to comply with and obey all laws, ordinances and governmental regulations applicable to the use and occupancy of said premises.

5. Lessee shall have the right, without prior consent of Lessor, to mortgage or otherwise pledge his, her or their interest in the leased premises as well as all improvements located thereon subject to all of the terms and conditions hereof; and provided, that any such mortgage or other security instrument shall expressly provide that any default in the terms and conditions of this lease shall also constitute a default in such mortgage or other security instrument, and that every mortgagee or other holder of a security interest in Lessee's interest herein shall agree that in the event of default by Lessee therein, and prior to the commencement of any foreclosure or other similar proceedings it will give Lessor written notice thereof and Lessor shall have the option, exercisable within a period of ninety (90) days after receipt of such notice, to purchase and acquire such mortgage or other security interest by payment of the amount due thereon, in which event the same shall be duly assigned to Lessor. In the event Lessee's interest herein shall be foreclosed or otherwise subject of assignment by reason of enforcement of any mortgage or other security lien placed thereon by Lessee, then any such assignment shall be on and subject to performance and compliance with all of the terms and conditions herein stated.

6. Lessee covenants not to commit waste upon the leased premises and to keep the same safe and in good condition, to maintain and keep all buildings and improvements located thereon in good repair, and that all liability arising out of failure so to do or arising in any manner out of the use and occupancy thereof by Lessee will be assumed by Lessee, and Lessee indemnifies Lessor against any and all claim of liability or loss or damage by reason thereof. Except for mortgages or other security liens permitted in accordance with paragraph 5 hereof, Lessee will not suffer the leased premises or any structure or improvement thereon during the term of this lease to become subject to any lien, charge, or encumbrance whatsoever, and will indemnify and keep indemnified the Lessor against all such charges, liens and encumbrances.

If requested by Lessor, Lessee will execute and deliver to Lessor before the commencement of any construction on the leased premises, a bond, in form satisfactory to Lessor, conditioned for the indemnity of Lessor against all mechanics' and other liens (other than construction mortgages or similar liens) which may arise or be created in or about the erection of any building or buildings, outbuildings, and appurtenances, and providing that when any such construction is completed the said premises shall be free from all such liens.

7. Lessor shall have the right or reasonable entry upon the premises herein leased for all lawful business purposes. Lessor further reserves a four (4) foot strip of land on said premises abutting lakes or streams parallel and adjacent to the shore line thereof for public passageway and easement purposes.

8. Detailed plans for any building or buildings, and appurtenances thereto, proposed to be constructed on the leased premises by Lessee shall be submitted to Lessor for approval with respect to location and standards of architecture, safety, and water, sewage and sanitary facilities. Lessor's right to approve such plans shall be reasonably exercised and, in so far as practicable, all standards adopted by Lessor shall be uniformly applied.

9. Lessor, with respect to the land herein leased, reserves the right to maintain and insure good timber cover, good silviculture; and any trees to be removed shall be removed only by or with the consent of Lessor.

10. If the term hereof shall be less than fifty (50) years, then Lessee shall have an option to renew the same for successive terms of ten (10) years each up to the maximum term of fifty (50) years from the commencement hereof. If the term hereof shall be fifty (50 years, or in the case of successive ten (10) year renewals as above provided, the annual rental payable during each renewal term, or each ten (10) year portion of a fifty (50) year term, shall be adjusted to equal six per cent (6%) of the appraised value of the land comprising the leased premises as determined by a qualified appraiser mutually selected by Lessee and Lessor; provided, that in no event shall the increase or decrease in annual rental payable during a succeeding ten (10) year period exceed twenty-five per cent (25%) of the annual rental paid during the prior ten (10) year period. If Lessee and Lessor cannot agree upon the selection of an appraiser then such appraisal shall be determined by a majority of three appraisers; one each selected by Lessee and Lessor and the third by the two appraisers so selected. Except for the rental adjustment provided above, each renewal term shall be on the same terms and conditions as herein stated. Each renewal option, if any, shall be exercised by written notice to Lessor given not less than ninety (90) days prior to the end of the primary or any renewal term hereof. If this lease be for an initial term of forty (40) years or more, or if for a lesser initial term but renewed up to a total term of forty (40) years, Lessee shall have an option to purchase the leased premises at the end of forty (40) years upon payment in cash of an amount equal to the applicable annual rental in effect for the last effective year of the lease. Such option shall be exercised by written notice to Lessor given not less than ninety (90) days prior to the end of said forty (40) year period. Upon the exercise of said option conveyance of the premises shall be made on the fortieth (40th) anniversary of the commencement of the term hereof by Lessor's warranty deed, free and clear of all liens and encumbrances except the following: municipal and zoning ordinances; recorded easements and restrictions; rights of Lessee or any persons claiming under or through Lessee and acts of Lessee and his, her or their predecessors in interest; taxes and assessments levied or assessed during the term hereof; and such restrictions and easements affecting the use and occupancy of the premises as are contained herein and which Lessor shall determine to continue in effect. Not less than thirty (30) days prior to the time of conveyance Lessor shall furnish to Lessee either, (a) a complete abstract of title covering the premises to be conveyed,

...ished to ... days of the date of delivery thereof; said abstract to show Lessor's title to be marketable and in the condition herein called for; or, an owner's policy of title insurance in the amount of the purchase price, naming Lessee as the insured and which shall guarantee Lessor's title to be in the condition herein called for, subject to the standard conditions and exceptions contained in such policies issued by title companies in Wisconsin. A commitment by a title company, agreeing to issue such a title policy upon the recording of a warranty deed to Lessee, shall be a sufficient performance hereof.

11. (a) If the rent hereby reserved shall be unpaid for a period of thirty (30) days after the same becomes payable, whether formally demanded or not, or if any covenant on the Lessee's part herein contained shall not be performed or observed after thirty (30) days prior written notice thereof to Lessee, or on the expiration of the term hereof, the lease herein granted shall cease and terminate and in any of said cases it shall be lawful for the Lessor to re-enter and repossess the leased premises and (ructures or improvements located thereon.

(b) In the event Lessee shall at any time or times during the term hereof be under any law of the United States found or declared a bankrupt, or under the laws of any state be discharged from his, her or their debts as an insolvent debtor, or shall make a voluntary assignment of property for the benefit of creditors, or suffer a receiver to be appointed over such property, or if any interest in this lease be during said term taken and sold on execution under any judgment adverse to Lessee, or to which consent has been given, or if this lease, or any interest therein be assigned or transferred by operation of law except as herein permitted, then and in any such case it shall be considered as a default hereunder and Lessor may take such action as provided in this paragraph for any other default by Lessee and without the giving of any notice or demand to Lessee.

(c) Notwithstanding the foregoing, lessor agrees that prior to declaring any termination of this lease by reason of a default of Lessee it will give written notice thereof to any mortgagee or other holder of a security interest in the rights of Lessee herein granted who has filed written notice of such mortgage or security interest with Lessor, and such mortgagee or other holder of a security interest shall have thirty (30) days from the time of such notice in which to cure or cause to be cured any such default of Lessee. The remedies herein afforded Lessor shall not be deemed to be exclusive or alternative, but such remedies shall at all times as deemed to be cumulative; and, in addition thereto, Lessor shall have each and every other remedy afforded it by this lease, by any custom or usage or by law.

12. Upon the termination of this lease, whether by expiration of the term or from any other cause whatever, Lessee shall have the right to remove from said land any ing or structure or structures or appurtenances constructed or maintained by him thereon, as herein provided, for the period of ninety (90) days next after the termination of se, and no longer; and title to all such structures or appurtenances or any part thereof remaining upon said land after the lapse of said ninety (90) days shall fully and become the property of the Lessor, its successors or assigns, without any conveyance thereof, and without any liability on the part of the Lessor to pay for the ...me, or any part thereof.

13. Any holdover by Lessee, after termination of this lease for any cause, shall be as a tenant by sufferance; subject, however, to all the terms and conditions hereof including payment of rental herein provided.

14. Lessee shall commence construction of a residence building or buildings on the leased premises within _____ days after the effective date of this lease, and shall complete the same within one hundred eighty (180) days thereafter except only for delays caused by events beyond Lessee's control.

15. No waiver by the Lessor of any convenants herein contained shall be a waiver of any succeeding breach of the same covenant.

16. In the event of a destruction of the buildings or structures on the leased premises during the term hereof, Lessee shall within a reasonable time from the happening of said event comparably rebuild and restore the same unless otherwise agreed by Lessor. In the event of a removal of the buildings or structures on the leased premises at the expiration of the term hereof Lessee will promptly remove all foundations, fill all excavations, level and grade said premises, and, in general, restore said premises to a safe and sightly condition. Lessee shall maintain fire and extended coverage insurance on the insurable improvements owned by Lessee in reasonable amounts and with responsible insurance companies licensed in Wisconsin.

17. If during the term of this lease all or substantially all of the leased premises shall be taken by any public authority under its power of condemnation, this lease shall terminate as of the date possession shall be taken by the acquiring authority, and rents payable hereunder shall be apportioned accordingly. In the event of such termination Lessee shall be permitted to remove from the premises all buildings or other improvements located thereon and owned by Lessee unless said buildings or improvements shall be acquired by the taking authority. In the event said buildings or improvements are acquired by the taking authority pursuant to said proceedings, then Lessee shall be entitled to such part of the condemnation award or compensation attributable to such buildings and improvements owned by Lessee. Except as hereinabove expressly provided, no part of any condemnation award or compensation, whether for the whole or a part of the demised premises, shall belong to Lessee nor shall Lessee, in the event that this lease is terminated as hereinabove provided, have any claim against Lessor for the value of the unexpired term hereof.

18. Lessor covenants and agrees that Lessee, upon keeping and performing all of the terms, covenants and conditions hereof, shall and may peaceably and quietly have, hold and enjoy said premises, for the uses and purposes aforesaid, for the term aforesaid, unless sooner terminated as herein provided.

19. It is understood that Lessor is under no obligation to furnish water or any other utility or other services to the leased premises. Lessor shall, however, pay the cost, if , of installing power line service adjacent to the leased premises, but shall not be liable for the cost of Lessee's connection thereto or for service lines installed at the ... it of Lessee.

20. This lease and the terms, conditions and convenants herein contained shall inure to the benefit of and be binding upon the successors and assigns of Lessor and, of assigned with the written consent of the Lessor or as otherwise herein permitted, shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns or successors of Lessee. In the event Lessor, during the term hereof, shall be dissolved or liquidated then, Lessee may as of the effective date of such dissolution or liquidation exercise the right of option to purchase the leased premises in the manner provided in paragraph 10 hereof. If such option is not exercised by Lessee upon the happening of such event, then this lease and the terms, conditions and covenants herein contained shall inure to the benefit of and be binding upon any successor or successors, assigns, trustee or trustees, of Lessor and shall likewise be binding upon and inure to the benefit of the heirs, executors, administrators and assigns of th Lessee.

21. In the event Lessor terminates this lease for any cause whatever, any rental paid by Lessee for any annual period hereof, shall be forfeit to Lessor as liquidated damages; this, however, without abrogation of any other right or rights of Lessor, or claims by Lessor against Lessee.

IN WITNESS WHEREOF, Menominee Enterprises, Inc., has caused these presents to be signed by _____,

its President, and countersigned by _____, its Secretary, at Neopit, Wisconsin, and its corporate seal to be hereunto affixed, and Lessee has hereunto set his, her or their hand and seal, all on the day and year first above written, in duplicate.

Signed, Sealed and
Delivered in Presence of:

MENOMINEE ENTERPRISES, INC.

_____ By _____
President

_____ By _____
Secretary

(CORPORATE SEAL)

STATE OF WISCONSIN)
MENOMINEE COUNTY) SS.

Personally came before me, this _____ day of _____, 196____ _____, President,

and _____, Secretary, of the above named corporation, to me known to be the persons who execute the foregoing instrument, and to me known to be such President and Secretary of said corporation, and acknowledged that they executed the foregoing instruments as such offices as the act of said corporation, by its authority.

(NOTARIAL SEAL)

_____
Notary Public,
Menominee County, Wisconsin

Signed and Sealed in Presence of:

LESSEE:

_____ _____ (SEAL)

_____ _____ (SEAL)

This instrument was drafted by _____

(This form to be used solely in Menominee County)

MEMORANDUM

ORIGIN OF HUNTING AND FISHING PRIVILEGES FOR LAKE AND RIVER LOT OWNERS, MENOMINEE COUNTY, WIS.

On September 24, 1958, the Menominee Advisory Council voted to conduct a referendum of the Menominee Tribe to determine whether or not to reopen the Menominee Reservation to fishing by outside persons on a fee basis. The purpose was to initiate the development of a new source of tribal income and looking toward the establishment of a recreational industry post federal termination. (In 1933 the reservation had been closed to outside persons for fishing because of forest fire experience in 1932, when roads and fire suppression facilities were not adequate.)

On November 4, 1958, the referendum returns approved the idea by a vote of 306 to 207. A substantial Menominee vote.

On February 28, 1959, the Menominee General Council pursuant to the referendum adopted regulations permitting fishing by non-Indians on a fee-permit system and established a Fishing Permit Control Committee to administer the program. Permit sales outlets were established in various business sites in towns around the reservation in addition to those at tribal offices. This policy was continued by Menominee Enterprises into the post termination period after May 1, 1961.

Administration and accounting for funds was loosely administered. To tighten control of the program and fund accounting Menominee Enterprises assigned the sales and collections responsibility to the company patrol warden.

When Menominee Enterprises commenced the land development program, sales of permits to the general public were discontinued and their issuance was restricted to those leasing or purchasing lake and river lot homesites as a special inducement. In 1963, hunting privileges were added, and both became a matter of contract spelled out in the leases or purchase contracts.

The legal forms were developed by company counsel at the request of management and reported to the Board of Directors. The minutes do not specifically or formally set forth approval. Management proceeded with the land development program and the issuance of hunting and fishing permits to lessees and/or purchasers on the premise the program had board sanction. Later on these contract rights did receive board sanction. This administrative practice continued until August 1, 1970, when the Board of Directors discontinued the policy of issuing hunting and fishing privileges but not the land sales program then proceeding under the Lakes of the Menominee project.

For reference, there is attached hereto a copy of Exhibit A that was made a part of the leases or land purchase contracts running from Menominee Enterprises to lake and river lot purchasers. These are recorded at the Register of Deeds Office in cases where leases or sales were made directly by Menominee Enterprises. The hunting and fishing provisions are in the offers to purchase in the Legend Lake sales and are not recorded, but the provision survives the issuance of a deed according to the terms of the offer to purchase contract.

The Menominee Enterprises board, under DRUMS' influence, has recently moved unilaterally to cancel all these privileges. The matter is now in the circuit courts of Wisconsin.

EXHIBIT "A"

The annual rental herein provided for, at $180.00 per annum, shall be paid at the Shawano National Bank, Shawano, Wisconsin. For the first ten year term of this lease said annual payments, taking into consideration a 6% interest factor, are scheduled, with respect to principal and interest, as follows:

Year	Principal	Interest
1	$73.17	$106.83
2	73.17	106.83
3	73.17	106.83
4	73.17	106.83
5	73.17	106.83
6	73.17	106.83
7	73.17	106.83
8	73.17	106.83
9	73.17	106.83
10	73.17	106.83

Lessor grants to Lessees a personal, nonassignable right to hunt and fish in Menominee County, subject to local and State laws, ordinances and regulations, without cost; such right being an integral part of Lessee's leasehold interest.

Senator ABOUREZK. Now that we are into this area, let me get a few more things straightened out. When did the land sales stop or are they still going on?

Mr. KENOTE. They stopped a year ago July.

Senator ABOUREZK. July, 1972?

Mr. KENOTE. 1972, right. That is at Legend Lake.

Senator ABOUREZK. The Board of Directors of Menominee Enterprises, Inc., is still dominated by non-Indians or is it dominated by Indians now?

Mr. KENOTE. It is totally Indian now.

Senator ABOUREZK. When did that happen?

Mr. KENOTE. I think about 1969, I believe.

Mrs. HARTE. No, last year.

Senator ABOUREZK. Is one of the attorneys able to speak to that?

Mr. BOYD. I am able to answer that I think very accurately. I think the board of directors became controlled by Menominee, representatives of the Menominee, no earlier than 1971, and the real Menominee representatives gained the power in 1972.

Senator ABOUREZK. Did that coincide with the cessation of land sales?

Mr. BOYD. Yes, it does directly.

Senator ABOUREZK. So to be accurate, Mr. Kenote, would it be a fair statement to say the land sales were made while the board of directors was dominated by non-Indians?

Mr. KENOTE. In most of the early cases, yes.

Senator ABOUREZK. All right, I have no more questions.

Senator Bartlett, do you have anything more you want to bring up in this particular area?

Senator BARTLETT. Let's go back to a point we were discussing earlier and a point Mr. Giese raised, section 6(F) which reads: "For the purpose of implementing Subsection (C), the State of Wisconsin may establish such local—and service arrangements as will best provide the State or local government services required by the Menominee Indian Tribe."

The concern you have in wanting this is that the restoration bill might interfere with the rights of the State of Wisconsin to take this action if it so saw fit?

Mr. PRELOZNIK. That is correct, but it easily could read that nothing in this act shall be construed to interfere with the State's right to these particular goals.

Senator BARTLETT. And that language would be just as acceptable?

Mr. PRELOZNIK. Yes.

Senator ABOUREZK. Is that also true of you, Mr. Giese?

Mr. GIESE. I would reserve comment on that at this time, Senator.

Senator BARTLETT. Thank you very much. My concern, and I think possibly yours this morning, was that they were asking Congress to provide authority to the State of Wisconsin which I think they have in the first place. This straightens it out, as far as I am concerned.

Mr. PRELOZNIK. Could I add one comment on the points you were questioning earlier for the record, so the committee is familiar with

the articles of incorporation. The Articles of Incorporation for Menominee Enterprises, Inc., which are recorded both in Madison with the secretary of state and recorded in the county in which the real estate is located, provide under article XI that the board of directors shall have no authority to convey real estate to non-Menominees without prior approval of two-thirds of the holders of the shares. This was available to all purchasers and anyone who inspected the records in terms of conveyances from the corporation, and the thrust of the litigation that I referred to earlier was what constitutes two-thirds of the holders of the shares. It was our position that that meant Menominee. It was the position of some people and the State supreme court that this meant the seven voting trustees now expanded to a larger number. In any event, it required the approval of either the trustees or the Menominee.

As I indicated earlier, a review and inspection of the minutes of the voting trust has indicated that in many instances neither they approved nor did the Menominee approve the sale of land. So that it creates a great vacuum and this is the subject of litigation.

Senator ABOUREZK. Is it established that the Menominee themselves or the Menominee shareholders never approved of any sale? Is that established or not?

Mr. PRELOZNIK. I might add just one other thing. There are some comments that we have raised many lawsuits over the years and this I confess to you. As a matter of fact, when we first started representing Menominee people under the State program and we tried to glean some information from the officers and board of directors of the corporation, I represented some of the Deer family, and we had to go to the Circuit Court of Menominee County to get a look at the minutes of the board of directors and the shareholders. So anyone who tries to convey the impression that the Menominee knew what was going on just doesn't know the difficulty we had in making available to us those particular records at that time. We had to go to the circuit court. We got them at that particular point, but that was somewhere in 1968 or 1969.

Mr. GIESE. Could I have leave to submit documents, newspaper ads and so forth in the 1960's indicating the sale of this property and the brochures?

Senator ABOUREZK. We would very much like to have that.

Mr. GIESE. In answer to Mr. Preloznik's legal suit, I submit that you take a look at *Henry L. Tomow* v. *Menominee Enterprises, N. E. Isaacson and Associates, Inc.* They are a big developer up there. That was decided in June by the Wisconsin Supreme Court as to the validity of those land sales in a voting trust agreement. I would also like to point out the voting trust was established and had to be by law dominated by Menominee.

Senator ABOUREZK. The trust itself?

Mr. GIESE. The voting trust, yes.

Senator ABOUREZK. How were the shares of stock voted by the voting trust, was it cumulative? Did the non-Indian members of the voting trust have proxies or did they have shares they could vote for Menominees that they did vote in fact?

Mr. GIESE. The voting trust actually held the shares of stock in the Menominee Enterprises. The individual Menominee did not hold a share of stock. He holds a voting trust certificate for 100 shares.

Senator ABOUREZK. How were the shares divided between the trustees of that voting trust?

Mr. GIESE. I believe they voted in a block, didn't they, Mr. Preloznik, and not as holders of shares?

Mr. PRELOZNIK. One of the arguments we made to show the ambiguity in the structure, we argued that this, by itself, would demonstrate that the people who drafted the Termination Act never anticipated it would be the trustees who would meet the requirements of article XII because there was only one voting trust certificate and it would be impossible for the people to break up the votes because there was only one certificate. The judge up at Brown County, the circuit judge, held this was one of the reasons why he construed that there was an ambiguity and, therefore, went beyond the documents to bring about an interpretation of the Termination Act.

The State supreme court looked only at the voting trust documents, never bothered to look at the fact that there was only one voting trust certification with the seven trustees had to vote. How they could ever reach a two-thirds with only one certificate, the court didn't bother to explain.

Senator ABOUREZK. Ms. Deer.

Ms. DEER. Mr. Chairman, I just want to add one clarifying statement. I think from the information that Mr. Kenote is presenting and from some of the comments Mr. Giese is making, that the committee will get an erroneous impression that the voting trust was controlled by Menominee. There are two trusts, the voting trust consisting of seven people at the creation of the termination, and there was the Wisconsin assistance trust, which was controlled by the First Wisconsin Trust Co. of Milwaukee. At that time there were minors and incompetents. These votes were controlled by the First Wisconsin Trust Co. in the amount of about 45 percent, and so, from 1961, until the time that DRUMS became involved, and we started a proxy campaign so that our voice would be heard, the white people have been controlling what has been going on up there. I want this to be seen in the record that the voting trust and the First Wisconsin Trust Co. controlled the events, made the decision of the corporation, and of the voting trust, and it was not the Menominee. This is what we are fighting for today, that is restoration of our self-determination.

Also, I think if you look at what Mr. Kenote is proposing—again this goes against what true Menominee want—and that is, we want our land to be held in trust for the tribe as a whole. There were only two tribes in the Midwest that did not accept the Allotment Act of 1877. Our tribe, the Menominee, tried and the Redleg Bank of Chippewa Indians. All the other tribes in one way or another accepted the Allotment Act, and as a result their areas, their reservations were broken up. Ours were not.

If we are looking at what Mr. Kenote is proposing, he is proposing, if I understand him correctly, that the forest lands be put in trust and all the other lands be sold or something, and again, speaking as chairman of the voting trust, with resolutions of support from the voting

trust, as a member of the DRUMS organization, and as a Menominee Indian, I want to emphasize that our people dearly love our land. We view ourselves as a tribal group, and I think you can see from the expressions here that unfortunately there are some people that have been corrupted by the competition, by the profit motive. We, in our work for the restoration, reject those values and want again to retain our life as a tribe. Thank you.

Senator ABOUREZK. Thank you.

Mr. GIESE. Mr. Chairman, without prolonging this, I wonder if, as an exhibit, I could submit the *Henry L. Tomow* case decision. I think you would find it very helpful.

Senator ABOUREZK. We will accept it for the file.

[The decision referred to above was retained in the committee files.]

Senator BARTLETT. Mr. Chairman, could I ask both Mr. Preloznik and Mr. Giese the same question concerning Mr. Preloznik's concern about the inclusion of the words "including existing fishing rights," as far as you are both concerned, could that matter be handled in the report, the legislative history, that there were conveyed fishing rights along with other rights to the property, and that these are under question in the courts at the present time, and that this act neither adds to nor subtracts from those rights?

Mr. PRELOZNIK. I find that acceptable.

Mr. GIESE. I don't see particularly where it would make much difference. I think there might be some argument that it did at least indicate the intent of Congress on those fishing rights, but I see no problem. I think the case is strengthened a little bit, but we do have our contracts and we will be relying on those in litigation.

Senator BARTLETT. Don't you agree that we can neither add to nor subtract from whatever rights you may have?

Mr. GIESE. That's correct. As Mr. Preloznik pointed out 3(C), which I hope will be 3(D), the existing contract rights pretty well cover that anyhow. The chairman was not here at the time. Mr. Preloznik pointed out that that 3(C), as it is presently in the Senate bill, does cover non-Menominees. That is his interpretation, it does cover non-Menominee rights. The chairman indicated that was not his opinion this morning.

Senator BARTLETT. I want to thank very much the ones who testified.

Senator ABOUREZK. That is all the Menominee witnesses. We have a group of witnesses from New York State.

Mr. NECONISH [through interpreter]. I still don't feel good about it. I still have something to tell you. I want you people to help me. I am a Menominee Indian. He has an idea that the people that don't belong on his reservation, he thinks that you folks are inclined to help them. He says I told the Menominee Indians years ago to block off our roads so that no people will come and make trouble for us. That is what is happening today, he says.

He says I want you folks wholeheartedly to help me because I am a Menominee Indian and I want to keep my land.

He said God put me here on Earth. He put us Indians here on this land first. Even so I will be the last one off this land.

Senator ABOUREZK. The group from the Seneca Tribe, are they here? I would like to ask you to limit yourselves to the 10 minutes that we agreed upon, as it is getting late in the day and you, as witnesses,

were unscheduled. We do want to hear what you have to say, but we would appreciate it if you do not prolong it for longer than the 10 minutes.

Give your names to the court reporter and anybody else who speaks.

STATEMENT OF A DELEGATION OF THE SENECA INDIAN PEOPLE, DESCENDANTS OF THE TWO WAMPUM SYSTEM; THE SNIPE CLAN, THE HERON, THE BEAVER, THE TURTLE, THE WOLF, AND THE DEER; HEADSMAN HAROLD PARKER, SR., SENECA; LEGAL ADVISER, MEREDITH QUINN, DAKOTA; FRED KENNEDY, PEARL WHITE, DAVE KENNEDY, SUSAN JOHN, CHARLEMAGNE POODRY, MARTHA BUTTON, GAIL BUTTON, DORIS HARRIS, AND LESTER MAYBEE, SENECAS

Mr. PARKER. My name is Harold Parker, Sr. I have a long line of Seneca traditional background because this goes back to a time when Gen. Eli Parker was an aide to General Grant, who was a chief of the Seneca Tribe of Indians. I am a descendant of General Parker. He was my great uncle.

What we are to present here today, is the fact that we are returning back to our traditional form of government, and, up to the present time, I have, except for this gentleman here, Meredith Quinn, who is a legal adviser on a lot of our problems. I think he can present to you more briefly, what we are about to present to this committee.

I give thanks to this committee for granting us the privilege of listening to our program, our plans.

Mr. QUINN. My name is Meredith Quinn, I am a Sioux from Sisseton, S. Dak.

We come here as a delegation from the traditional people of the Seneca Nation. I will read the declaration that we wrote up and mailed to both the Senate and the House of Representatives, called the Declaration of the Seneca Indian People.

When a Nation of freeborn people has been subjected for generations to a government wrongfully imposed from without; and when that imposed government has continually and incessantly cheated, defrauded, and degraded the very spirit of its people; it is this Nation's right and duty to the generations yet unborn, under the law of the Creator which ordains that right, to cast off the offending government and reassert its own sovereignty. Respect for our sister Nations of the Earth requires that we set forth here the reasons for this severance, which comes only after our petitioning for redress, in the most humble terms and through more than seven score years, was answered with continuous injury.

Whereas, the State of New York, with the delegated authority of the United States Government, did present a form of government to the Seneca Nation classed as an Elective System under "Corporate Charter", which has to be an improvement over our ancient and traditional Chief system of government. It was agreed that this new system was to be instituted on a trial basis only, as continually proclaimed in the Longhouse in the invariant Oral Tradition of our people.

And whereas the enactments of the United States Congress pertaining thereto do falsely and with premeditation state that the Seneca Indians "abolished" their traditional system of government, in contravention of the facts here established by Aboriginal right, based on oral tradition of the Native having treaties with the Government of the United States.

And whereas, the State of New York, in giving recognition to this Elective Government, under said corporate charter, through a legal act of the Legislature of New York transferred the powers of the Seneca Chiefs to this new Elective Sys-

tem, however, without the authority of the Wampum Belts, the surveillance and control of the Clam Mothers, and the conduct of business in the Longhouse, this Elective System has no sovereign power. Only the administrative function of the Chiefs was thus transferred. Further, with the passage of Public Law 88–533, which terminated the supervision of federal jurisdiction, this administrative power reverts back to the traditional Seneca Indians of the Longhouse.

And whereas, the successive governing bodies under this Elective System, instruments of the State of New York, did squander, mismanage and otherwise deplete the assets and resources of the Seneca People with no provision for redress.

And whereas, the release of federal supervision by Public Law 88–533, enacted for those Seneca Indians faithful, and owing allegiance to this Elective System, released the traditional Seneca Indian people from any further obligation to this Elective System; and did also release all lands covered by treaty with the sovereign Seneca Indian people, including those lands presently occupied by, or under lease to, non-Indians or organizations at all levels.

Now, therefore, we, the undersigned Traditional Seneca Indian People and members, acting in concert in the traditional way, do declare and reassert our soverign Nation. We do further repudiate, and disavow the jurisdiction of the United States Department of the Interior, or of the State of New York, over Traditional Seneca Indian People or their territory; the authority and applicability of the termination act entitled Public Law 88–533; and the validity of the land claims Enrollment Ordinance. In future, affirmation of rights at all levels of diplomacy and contact between the Traditional Seneca Indian People and the Government of the United States will be reviewed with the secretary of State. Disputes will be heard only through a Court of international competence.

With a firm resolve, and reliance on the protection of the Creator in the fulfillment of our prophecies, we pledge unto each other our lives and hopes.

Signed this 14th day of September, 1973.

De facto Legal Advisor, Meredith M. Quinn, Dakota.

Mr. QUINN. I myself would like to go on record also, that as the international advisor for the Sioux of Wounded Knee, and now the Seneca national, I will present in less than 30 days a 50-page briefing disqualifying attorneys, judges, and courts on aboriginal Indian sovereign rights, and to also set up for the first time a naturalization organization to help Indians become legal citizens of the United States, and to also make possible legal advice for the Indian that does not have to adhere to this Department's ruling and regulations but to owe their allegiance and representation to the Indian nations alone.

Today the defenders of Wounded Knee are charged with criminal acts dealing with allegiance to the United States Government. Yet on 20 occasions the concept of "Letters of Marque" was enacted to try and eradicate Russell Means and Dennis Banks who were in Wounded Knee. The United States Government, I feel, was exercising two legal soveregin concepts, theses, and the Indian nations, with no redress for the Indian national. It would be like having the cake and eat it too. It also would protect it in any future problems such as Wounded Knee.

We would be able to be represented by legal advisors not owing their allegiance to the Constitution of the United States. Thank you.

Mr. MAYBEE. I am Lester Maybee. I belong to the Turtle Clan. I would like to say this as part of the record.

As these people from the Menominee Tribe just told you how dearly they love their land, we have been told by other than Indians that we are living in concentration camps, that it is bad for Indians to be living on reservations. I would like you to see our reservation and see what pride the people do take in the reservation. It is the furthest from the truth when people say that it is bad for Indians to be on reservations.

The Indian looks at his land and his woods with a sense of pride, knowing that there is peace and contentment there. Nowhere else, anywhere in the country, can you go and find peace and contentment. Even the white people that come there among our people find this to be true. They say that life slows down a great deal when you get to the reservation.

We would like to go on record that the Indians do love their land. They don't want it taken away. They want to be able to determine what they do with their lives.

We have a number of Indian people today who are in colleges, much more than there was before, but we feel there should be something more done in the way of helping the kids in education.

I have a son who just entered college and from now until the first of the year he is allowed $18 for room and board, which, I think, is a crime, because of the fact that the Seneca Nation, right now, has over $1 million in an educational fund. I think that it should be provided so that the kids can get a good education without having to worry so much about money. I thank you.

Senator ABOUREZK. And I thank all of you for your testimony.

Mr. PARKER. I wish to express my thanks for giving us the privilege of presenting our planned program before this honorable body.

Senator ABOUREZK. The hearing is adjourned.

[Whereupon, at 5:10 p.m., the hearing was adjourned subject to the call of the Chair.]

MENOMINEE RESTORATION ACT

WEDNESDAY, SEPTEMBER 26, 1973

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

The subcommittee met at 9 a.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; Forrest Gerard, professional staff member; and Kathy Burns, staff assistant.

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

Senator ABOUREZK. This is a continuation of the subcommittee's open public hearing on S. 1687, a bill to restore Federal recognition to the Menominee Tribe of Wisconsin.

The disastrous results inflicted upon the Menominee people, both individually and collectively, by the act of June 17, 1954, which terminated the Federal relations over the Menominee Tribe are well known to this committee. This story was presented forcefully but objectively by the Menominee people themselves during a hearing on S. 1687 held on September 17, 1973.

Today, the subcommittee will receive testimony from officials from the Departments of the Interior and Health, Education, and Welfare since both Departments will be affected most directly if the Menominee restoration legislation is approved by the Congress. In addition, several highly qualified professionals who have intimate knowledge of the Menominee and the impact of termination are scheduled to testify through a panel, as well as several individual witnesses.

I will at this time, insert a news release from the League of Women Voters and a telegram received by Senator Jackson.

[The material referred to above follows:]

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news release

The League of Women Voters of the United States

September 25, 1973

STATEMENT TO THE SUBCOMMITTEE ON INDIAN AFFAIRS
of the
SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE

by
THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

on
S 1687 - THE MENOMINEE RESTORATION ACT

The League of Women Voters supports the Menominee Restoration Act -- S 1687 -- because we believe that the responsibility for solving the serious problems now being faced by the Menominee Indian Tribe of Wisconsin is a federal responsibility. Passage of S 1687 would restore to the Menominee those basic rights and services which they sorely need and which were terminated at their expense and without their full understanding. And, of utmost importance, it would restore their land, so necessary to their survival as the Menominee Indian Tribe of Wisconsin.

President Nixon declared in 1970 that "forced termination" was wrong, adding that its practical effects where the policy had been implemented were harmful. He sent a proposal to Congress to renounce, repudiate and repeal House Concurrent Resolution 108 of the 83rd Congress. Three years have passed since the President's message and such a bill has yet to be passed by both Houses of Congress. Passage of S 1687 would be a major and necessary step in carrying out the Administration's stated intent of 1970. It would also reinforce the Administration's position that termination is wrong; it would allay the apprehension of many Indians who perceive termination as a real and imminent threat.

We urge the Subcommittee to bear in mind that while the Menominee seek to re-establish their trust relationship with the federal government, they do not want to return to the restrictive paternalistic policies of the past. It is important, therefore, that the Restoration Act allocate maximum control for planning and development to the Menominee. We ask the Subcommittee to amend S 1687 to restore the reservation to trust status, and to do so effective upon enactment, rather than after a two-year delay.

Why does the League of Women Voters -- a non-Indian organization -- have any interest in the Restoration Act before this Subcommittee?

For years, the League has supported federal policies and programs that would enable all Americans to gain equal access to housing, employment and quality education, and that would help equip Americans to disentangle themselves from the web of poverty and discrimination. Among the minority groups thus entangled are the American Indians whose problems have been largely ignored. Yet, the First Americans are an important, vital segment of American society. No history of this country's development would be complete without attention to their basic needs and development of the means to resolve them. At the 30th National League Convention held in May, 1972, the delegate body, therefore, added a new component to our national human resources position which states: "Support of equal rights for all regardless of race or sex, with recognition of the special needs of American Indians; action to combat poverty and discrimination and to provide equal access to employment, housing, and quality education."

League members recognize that the needs and concerns of American Indians are unique and deserve special attention. Covenants between Indian nations and

the United States and subsequent statutes, Executive Orders and Acts of Congress have created a special trust relationship for Native Americans, leaving the federally recognized tribes primarily dependent on the federal government for community services. This unique status means that, often, Indian tribes have been untouched by social and economic benefits legislated in recent years. The services and assistance rendered by the Bureau of Indian Affairs and Indian Health Service do provide reservation Indians with some basic life support, yet the Indians are still plagued by the problems of inadequate housing, ominous unemployment rates and an educational system which is often hostile. All of these well-documented symptoms of deprivation, however, are overshadowed by the Native Americans' tenacious and lengthy fight to hold onto those philosophies, beliefs and attitudes that make them distinctly Indian.

Many problems which beset American Indians are due largely to shifting national policies. On the one hand, the federal government affirmed Indian tribal sovereignty and the pre-existing right of tribes to govern their internal affairs. Then on the other hand, a policy has evolved which has forced many Indians to move into the American mainstream with scant preparation. This topsy-turvy policy has been effected both through legislation and such policies as BIA's Relocation Program. In general, the confused policies grew out of the belief of a relatively few individuals that Indians should not be the concern of the federal government, but rather that they should stand on their own feet and compete with the rest of Americans.

It was largely out of the belief that a final solution could be found for the Indian problem that the legislative base for the termination policy was established. In 1953 Congress passed House Concurrent Resolution 108, which called for the end of

federal supervision over Indian tribes, and Public Law 280, which transferred the federal jurisdiction over law and order on certain Indian reservations to individual states.

Termination was brought to a partial halt in September 1958, but only after 6 tribes had their federal trust relationship abolished, including the well-known Menominee and Klamath Indian Tribes. Where implemented, the act and policy proved disastrous. Even today, the mere mention of the word termination inhibits some Indians from participating in activities such as running for a school board position, because they do not want to get their tribe in trouble; they do not want to be terminated. The threat of termination is an ever-present weapon in the hands of people who would like to keep American Indians in a status of less-than-full citizenship.

How do all of these general problems Indians have relate to the Menominee and their campaign to have their trust status restored?

First, termination is the name of the policy and practice which cut the Menominee off from a formerly thriving way of life. The government sought to abolish the historic trust relationship between the federal government and these Indian people, to put an end to the tax-exempt status of Indian lands, to relieve itself of the responsibility for the economic and social well-being of the Menominee Indians.

Second, the Menominee Indian Tribe of Wisconsin has become a symbol: a symbol of how Indians are unwitting victims of inconsistent and conflicting national policies in Indain affairs; a symbol of the determination and perseverance American Indians have to protect their own cultures and lifestyles, while at the same time benefitting from the fruits of life available in the United States.

Termination for the Menominee Tribe was precipitous. In 1953, the tribe requested that $5 million of the $7.6 million judgment they had won as a result of a U.S. Court of Claims case against the BIA for mismanagement of their forest resources be distributed in per capita payments to individual Menominee. Congress reacted and moved to make payment of that money conditional on termination of their trust relationship.

This decision to terminate the Menominee in 1954 was not based on a realistic appraisal of their chances to survive and compete with white, mainstream Americans, but on a superficial comparison of their "paper prosperity" with other, less prosperous tribes.

Most committee members are aware of the relative prosperity of the Menominee prior to the 1954 Termination Act: they were able to pay for most of their community services and had their own hospital. The surrounding timberland was their sustainer, providing employment opportunities and income to the Menominee. There was fishing in the Wolf River and in the beautiful lake waters.

Following termination, however, there was a rapid descent from a once stable and progressive Menominee economy to a state of impoverishment. It became necessary, from time to time, for Congress to make stop-gap appropriations to curb the tribal plunge into total decline.

Statistics can point out the dollars and cents burden the Menominee have had to shoulder in trying to raise revenue to pay for taxes when they were incorporated as Menominee County. Studies are full of the accounts of individual Menominee having to sell their precious land in order to cope with tax and bond obligations. But statistics cannot convey to us the day-to-day problems individual Menominee have had to cope with because there was no choice.

In real life terms, termination for the Menominee has meant that the tribal treasury has long since been depleted; they now must pay for water and utilities, the lumbering operation teeters on insolvency, the hospital is closed and the Menominee have been without a doctor or dentist for 11 years. Their children have to attend schools in neighboring Shawano County, which presents another set of problems. The high birth rate, coupled with a lack of employment opportunities, has forced many Menominee to receive welfare assistance. On top of it all, the Menominee point out in FREEDOM WITH RESERVATION that since termination they have had "less self-determination and control over their own affairs and must cope with more outsiders having decision-making power over them than was ever the case as a reservation tribe under Indian Bureau Administration."*

Despite all these debilitating handicaps, the Menominee have conducted a vigorous campaign these past three years to get legislation introduced in Congress that would repeal the 1954 Menominee Termination Act, restore to the Menominee federally-funded community services, funding, technical assistance and other forms of aid because of their status as American Indians.

The League of Women Voters urges quick committee action on the MENOMINEE RESTORATION ACT so that this session of the 93rd Congress will have time to pass S 1687. Failure to pass this act would have disastrous effects on already strained relations between the United States and the First Americans. We commend the Subcommittee for holding hearings regarding the Menominee Restoration Act and would also like to take this opportunity to ask members of the Subcommittee and full Interior Committee to hold oversight hearings to discuss unresolved treaty rights questions and other pertinent matters which stand in the way of a meaningful working relationship between the federal government and Indian citizens.

*Deborah Shames, ed., Freedom with Reservation (Madison, Wisconsin, 1972), p. 11.

TELEGRAM

OCTOBER 12, 1973

THE HONORABLE HENRY M. JACKSON
CHAIRMAN, COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS
UNITED STATES SENATE
WASHINGTON, D. C.

THE NAVAJO NATION STRONGLY SUPPORTS THE BILLS H. R. 10717 AND S. 1687 ENTITLED THE MENOMINEE RESTORATION ACT. THE PASSING OF THIS ACT WILL CORRECT THE GREAT INJUSTICE OF TERMINATION UNDER WHICH THE MENOMINEES HAVE SUFFERED SINCE 1961. WE URGE YOUR SUPPORT AND RAPID PASSAGE OF THIS HISTORIC PIECE OF INDIAN LEGISLATION. UNTIL THE DISASTROUS POLICY OF TERMINATION IS REVERSED AND THE MENOMINEE PEOPLE AGAIN ALLOWED TO FUNCTION AS A SELF-SUFFICIENT TRIBE THIS NATION'S INDIAN PEOPLE WILL REGARD THE GOVERNMENT AS UNYIELDING IN THEIR POLICY AGAINST INDIAN SELF-DETERMINATION.

PETER MACDONALD
CHAIRMAN
THE NAVAJO NATION

Senator ABOUREZK. The first witness we have this morning is Mr. John Kyl, Assistant Secretary of the Interior for Congressional and Public Affairs. We are very happy to see Mr. Kyl here once again this morning with his staff members with him.

John, would you please testify.

Mr. KYL. Thank you, Mr. Chairman.

May I introduce again upon my left Mr. Robert Bruce of BIA and on my left Mr. Dennis Drabell of Interior's legislative office.

STATEMENT OF HON. JOHN H. KYL, ASSISTANT SECRETARY OF THE INTERIOR FOR CONGRESSIONAL AND PUBLIC AFFAIRS

Mr. KYL. We are pleased to be here this morning to express strong support for S. 1687 with amendments, which we offer to this committee.

The bill extends Federal recognition to the Menominee Indian Tribe of Wisconsin, repeals the act of June 17, 1954, whereby Federal services to the Menominee Tribe were terminated, and reinstates all the rights and privileges of the tribe and its members which may have been lost or diminished as a result of the passage of the termination act.

The bill also provides the framework for the adoption of new governing documents and for the election of officers of the tribe. It authorizes the tendering of the assets of Menominee Enterprises, Inc., being the corporation formed to manage the tribal assets after termination, to the Secretary of the Interior to be held in trust for the tribe. It should be noted, however, that this transaction will not occur until 2 years after the bill is enacted in order to afford the Secretary and the tribe ample time to negotiate its terms.

You will remember, Senator, the Menominee Termination Act was the first legislative action resulting from House Concurrent Resolution 108, which passed the Congress on August 1, 1953. This resolution had as its objective the phasing out of Federal supervision and control over Indians. There are few, if any, who will argue that termination was not a disaster for the Menominee people. At the time of termination, they were recognized as one of the most advanced and prosperous tribes. They employed revenues from their lumber industry to make their reservation progress work.

They had substantial funds on deposit, and they managed their assets for the continuing benefit of the tribe and its members.

Today, we find the Menominee people concerned that they will lose their most valuable asset, their land, if they continue their present path. Menominee Enterprises, Inc., has disposed of approximately 14,000 acres of the tribe's land base. These land sales have been necessary for the corporation to be able to show at net earning position in 3 out of the last 4 years.

There is every indication that the sales would have to continue if the corporation were to remain solvent, and thus the tribal land base would be further eroded. In addition, a financial analysis prepared in April 1971, by a private consulting firm, using computerized projections of earnings and profits, indicated serious difficulties for the corporation after 1975 if its lumber mill were not updated and if its economic base were not broadened.

These bleak facts point to the conclusion that restoration of the Federal trust relationship is the answer to the Menominees' grim economic situation, a conclusion with which we concur.

This restoration would provide immediately the full range of assistance that is available to other federally recognized tribes. This solution is entirely consistent with the position taken by President Nixon in his Indian message to the Congress on July 8, 1970, in that it will rectify the kind of forced termination which he repudiated. It is our understanding that restoration has the support of most of the Menominee people and thus it carries out the President's aim of Indian self-determination.

Now, as drafted, S. 1687 would restore the Menominees to a unique trust relationship, one in which the Secretary of the Interior would have only a consulting role in managing the tribal assets. We do not believe that such a limited role can ultimately be squared with the responsibility that serving as trustee for tribal resources places upon the Secretary—to preserve and protect them to the best of his abilities.

For this reason, we are recommending that this section of S. 1687 be deleted. In its place, we recommend that the Menominee people be restored to the Federal trust relationship under the conditions they accepted in a general council meeting on October 17, 1934, that is, the terms of the Indian Reorganization Act. That act sets out the essential relationship between the Secretary of the Interior and the tribes that have accepted its provisions. Those provisions, which were applicable to the Menominees before termination, would once again apply.

The other major amendment which we recommend would require the Menominees to transfer a land base to the Secretary within 2 years of enactment. Otherwise, the tribe would lose the Indian services which it will begin to receive as soon as this bill is enacted. We believe that this provision is appropriate in that one of the key elements in Federal recognition is a land base, and if the Menominee people decide for some reason that they do not wish to create a reservation from their assets, then their recognition should lapse.

We urge your prompt action on this bill so that the Menominees can rejoin the Indian community in a trust relationship with the Federal Government as soon as possible.

That concludes my statement, Senator, and I would be happy to respond to any questions you might have.

Senator ABOUREZK. All right, thank you very much, Mr. Secretary.

Before I pose the questions that we have prepared I would ask if you and your staff would care to go over the amendments separately, and provide for the committee reasons why you think the bill ought to be amended that way, so that we can cut that up.

Mr. KYL. I believe the written report does that very thoroughly, sir. We will follow your desire in any event.

Senator ABOUREZK. Maybe we can get some dialog, perhaps, from you.

Mr. KYL. Fine.

I believe the first amendment, sir, is on page 4. We do not support the manner in which S. 1687 would restore the Federal Indian relationship with the Menominees. Section 7 of the bill would create a unique relationship, which I mentioned, whereby the Secretary of the Inte-

rior would play only a consulting role in the tribe's management of its trust assets.

Ordinarily, the Secretary would have approval authority over such management, because he, as trustee, would have the responsibility to hold the tribal assets and to take all necessary steps to protect them so that, should the trust be dissolved, he could pass them on to the beneficiaries in an unenumbered state.

We believe that the normal trust relationship should apply to the Menominees. This is not to question the judgment of the Menominees; indeed, as we have said, they have done a creditable job of managing their affairs since termination. The rationale for our adopting this position is simply that it is the only one whereby the Secretary can properly fulfill his duties toward the Menominees' trust assets.

Senator ABOUREZK. I wonder if I understand that the Department wants to go back to the traditional trust relationship that stands between the Indian people and the Government. I wonder if now wouldn't be the time to provide real meaning to the word "self-determination," and proceed with the experiment that the Menominees have requested in their drafting of this bill.

It seems to me that to say, "We're going to go back and have the Secretary rule as a total master over the wards that the Secretary is in charge of" would be a reversion into the "old ways" which have been under fire in recent years.

Mr. KYL. Now, let's look at one item that is involved here, sir. One of the reasons that the Menominees are seeking a trust relationship to replace the termination status is that they are worried about their land base.

Now, of course, if this land were not put in trust there is not any guarantee that the same kind of diminution of our holdings would not continue because of the attractiveness of getting cash immediately.

There is a second element involved. A good number of the funds available to Indian tribes are based on the fact that that land is held in trust—for instance, on impacted aid for education; and that aid to education would be diminished if they had a status which was different.

And I thing we have to recognize, too, that there are a number of intratribal problems that could arise from a kind of halfway status or a status whereby the Secretary merely gave advice in the handling of the trust properties. There is a State relationship, a county relationship, as well as a Federal relationship.

Mr. GERARD. Mr. Kyl, we think it would be very appropriate to pose some questions on the various amendments.

First, on what consideration does the Department base its policy that a tribe cannot have full Federal recognition without having a land base? Is that in the statute or the regulations?

Mr. KYL. No, it isn't.

And we do not say that either because it is not totally true. Traditionally and in the present pattern—absent any new legislation—the Federal responsibility which has been established is related to a land base in almost all cases. Not entirely; we do have some settlements where Indians do, indeed, own their own property which they had purchased. We also have other tribes which do not have a pure land base.

Mr. GERARD. You are stating that the establishment of a land base is not an absolute concern, is that correct?

Mr. KYL. That's correct.

And, of course, it is a subject which you and I both recognize needs further study.

Mr. GERARD. In light of the entire history of termination, don't you think that the tribe is entirely justified in being concerned about a contingency provision?

Mr. KYL. I'm sorry, sir, I missed the last part of your question.

Mr. GERARD. That the tribe is entirely justified in its concern about a contingency provision which might cause them to lose their benefits of expiration in the future.

Mr. KYL. The language we suggest would be that there should be an appropriate land base. It is subject to negotiation for 2 years.

The whole logic here, it seems to me, is that the Menominees and we are both concerned about losing the land base—because when it has been out of trust it has been dissipated. Also there are advantages in regard to educational impact aid programs. And when we look at a third factor, the complications rising from the unique nature of the situation with local government, county government, State government matters of taxation and regulatory authority over land, I thank our position is a sound one.

Mr. GERARD. It seems from the hearing record established a week or so ago by the Menominees themselves through voluminous correspondence and other material submitted to the committee that the case has already been made, that the Menominees want their land to be held in trust. It just seems a little confusing to us why this continguency thing had to be incorporated.

Mr. KYL. Well, it was not a contingency designed to militate against the Indians. It was one designed to give the Indians a full chance to study and negotiate with the Government.

Mr. GERARD. Are there any questions in the minds of Interior officials that there might be some reason why the Menominees would not place or want their lands to be held in trust?

Mr. KYL. Perhaps I could best dispel any problem you have by saying that if the committee, the Congress in its wisdom saw the desirability of making this transfer of land into trust status immediately, we would not have any objection whatsoever.

Mr. GERARD. Two additional questions. Since the tribe has every reason to attempt to transfer the land base to the Secretary as soon as possible, does the contingency provision mean that the tribe might lose the benefits of restoration solely by means of delay by other parties, possibly the Department itself or outside interests?

Mr. KYL. I would respond again the same way I did a moment ago. I do want to inject this factor, of course, in that there are some private lands and there is the possibility of some of those tribal lands being transferred to the tribes.

I say again, for emphasis, the thrust in this 2-year proposition is not designed to injure the rights of the Indians or give cause whatsoever for backing off of the repeal of termination. It's just a practical consideration, in view of the kind of time it takes to do certain things in the way of property transfers, et cetera.

And we do want the Menominees to have a full period for negotiating to their best advantage. But there is no thought in the Department of anything except an absolute good faith acceptance of the Menominee in a trust relationship.

Mr. GERARD. Well, it would be true that if the Secretary failed to act there is the possibility that the Menominees would lose the benefits of restoration.

Mr. KYL. Well, if that is a concern and if you would not desire to make the transfer into trust status immediate and total, we have no objection to that.

Senator ABOUREZK. If the Secretary would go over the amendments as we did the first one, we will try to make a good record in this matter.

Mr. KYL. Splendid, sir.

Section No. 3 of the bill entends recognition to the Menominee Tribe as of the date of enactment of the bill and repeals the act of June 17, 1954. The section also protects the rights of the members of the tribe. While endorsing the reinstatement of the Menominee Tribe, we wish to point out that the Menominees agreed in a general council meeting on October 27, 1934, to accept the provisions of the act of June 18, 1934, as amended, commonly known as the Indian Reorganization Act, the document that is the basis of government for most of the tribes recognized by the Secretary of the Interior.

Since that action has not been repudiated by the Menominee people, they would still be subject to its provisions when they are reinstated. In addition, we believe that the general policy of this Department with regard to the provision of Federal services to Indians—that such services are a function of the Indians' having trust land bases—should be adhered to vis-avis the Menominees. Thus, should the Menominees have decided, at the end of the 2-year negotiation period with the Secretary of the Interior, provided by section 6 of this bill, not to turn assets over to the Secretary for the establishment of a reservation, we believe that their Federal recognition should lapse. To carry out these recommendations, section 3(a) should be stricken and the following should be substituted in lieu thereof:

"Sec. 3(a). Effective on the date of enactment of this act, notwithstanding the provisions of the act of June 17, 1954, chapter 303 (68 Stat. 250; 25 U.S.C. 891–902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the act of June 18, 1934, chapter 576 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, are made applicable to it. *Provided, however,* That extension of Federal recognition to the Menominee Indian Tribe of Wisconsin beyond the 2-year period provided in section 6 of this act shall be contingent upon the establishment of an appropriate tribal land base to be held in trust by the Secretary of the Interior pursuant to that section."

Would you like to have me continue that, sir?

Senator ABOUREZK. Yes.

Mr. KYL [continuing].

We recommend the addition of a new provision to section 3 to enable the Secretary to grant to the Menominee tribe, upon its request, funds appropriated to carry out Indian programs administered by the Secretary. Such funds could be spent by the tribe for the general purposes for which they were appropriated. This authority is the same as that which the Secretary would have with regard to all tribes if S. 2038, the Indian Tribal Government Grant Act, recently proposed by this Department, is enacted. We believe that the Menominees' more than 10 years of complete self-government are a strong indication that such a provision could be a most useful one for them to have in dealing with the Federal Government after their restoration. Accordingly, we recommend the addition of a new subsection 3(d).

Now, what we have done here, in all honesty, we have just taken the language out of the Block Grant Act, with which I am sure the Senator is familiar, and we have applied it in this instance. So we could

have a pilot operation, which we think would be in order because of the fine experience the Menominees have gained in handling their affairs.

In providing to the Menominee Indian Tribe of Wisconsin such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary of the Interior is authorized, for the funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the Menominee Indian Tribe of Wisconsin and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated.

Senator ABOUREZK. No questions on that section.

Mr. KYL. Section 4(a) authorizes the Secretary of the Interior to set into motion the action that will result in the election of the Menominee Restoration Committee. This committee will initiate the return of the Menominees to the trust relationship with the United States. We believe that such a committee is needed and that the best means of ascertaining the preferences of the Menominees as to its composition would be through a secret ballot election held under the supervision of the Secretary of the Interior. The nomination process could be handled in accordance with a general council meeting called for that purpose. Although we recognize that restoration should proceed as rapidly as possible, we believe that the time limits imposed by the bill—the Secretary is directed to announce within 15 days of enactment a general council meeting of the tribe to elect the committee, to be held within 60 days of enactment—may be too short to allow for notification of all interested persons. We suggest that these time frames be extended, so that there can be no question about sufficient time for notification of all Menominees.

Now, the reason we do this, Senator, is simply experience. Normally we set dates which are in excess, which are longer periods than those printed here. And normally we get a request from the tribe for an extension of the period because there has been some difficulty in reaching all the people that should be reached.

The publications and newspapers, the sending of letters and so on—the normal processes—to not even guarantee that we could take care of such things in a very brief period. This is not a delaying tactic, and again this is in consideration of the Menominees because we want to make sure that all of them have had an opportunity to participate.

Senator ABOUREZK. OK.

I believe the attorneys for the Menominees a week or so ago indicated that they did not consider any of these time periods to be hard and fast and they would be open to negotiation.

Have they talked to the Department yet at all about dates?

Mr. KYL. Not that my colleagues knew about, sir.

Senator ABOUREZK. Is the Department open for negotiation?

Mr. KYL. Of course, sir.

Senator ABOUREZK. Well, we will furnish some kind of meeting so that that language can be worked out, to be worked out both to the benefit of the Department and to the Menominees. We will accept your collective judgment on that matter.

Mr. KYL. There is an additional amendment in that regard, sir. We have a problem with this subsection, specifically in its provision which includes, as persons eligible to vote in the meeting to elect the restoration committee, descendants of persons named on the final 1954 Menominee roll. We cannot with certainty identify such persons, even in the longer time period which our amendment suggested in the previous paragraph would afford. In addition, since section 4(b) imposes a one-quarter blood requirement for enrollment of descendants, this provision would allow descendents who will not qualify for membership to participate in the election of the committee. We believe that the only practical recourse at this point is to limit voting for the restoration committee to living enrollees on the 1954 roll. To implement these recommendations, subsection 4(a) should be stricken and the following new subsection should be substituted therefor.

Senator ABOUREZK. That may present the problem of one of the descendants coming or falling without the one-quarter bloodline requirement. I think I misunderstood it.

Mr. KYL. The problem of timing we have too, sir. We have nine rolls in preparation at the present time—among them the Mississippi Sioux; Pembina Chippewa; Fort Peck Sioux appeal, division of the Assiniboine, Aberdeen, and Billings areas—these all have time limits, too.

The preparation of these rolls is sometimes a very tedious chore. We need time to make sure that we handle everything with justice and equity to the individuals.

Senator ABOUREZK. I think a discussion between the Menominees and the Department would be very helpful in this regard before we finish a markup of the bill. They are apparently open to all negotiation, all dates that occur within the bill, all time periods.

Mr. KYL [reading]:

We recommend that this section be amended to endow the Secretary, who must approve the Menominee roll, with the ultimate responsibility for seeing to its preparation. This change can be accomplished by deleting the second sentence of subsection 4(b) beginning on line 15, page 3 and by substituting in lieu thereof the sentence, "The Secretary, in connection or under contract with, the Menominee Restoration Committee, shall proceed to make current that roll in accordance with the terms of this Act". We also recommend a clarifying amendment. The sentence beginning on line 19 sets out the persons that may be added to the roll reopened by section 4. We recommend the deletion of the words "a person who is or was enrolled" as they appear in line 20 of page 3 and the insertion in lieu thereof of the words "an enrollee".

Finally, we recommend deletion of the last sentence of subsection 4(b). This sentence would require the Secretary of the Interior to rule on all appeals of enrollment actions within sixty days of their submission. We recommend this amendment because we believe that the entire enrollment process, including appeals, should be dealt with by the Secretary via his authority to issue rules and regulations under Section 9.

Subsection 5(b) provides for submission to the voting membership of the tribal constitution and bylaws drafted by the Menominee Restoration Committee. We have no objection to this provision, but point out the fact that this constitution and bylaws will be drafted and approved pursuant to the provisions of the Act of June 18, 1934, as amended, since it is the provisions of the Act that govern the procedure to be followed as indicated in our comments on section 3(a) above.

Subsection 5(c) provides for the election of the tribal governing officials——

Senator ABOUREZK. Excuse me.

Mr. KYL. Yes, sir.

Senator ABOUREZK. Did you intend to skip over 5(a) or is that by accident?

Mr. KYL. No, I didn't know if you wanted to pursue the exact language. That is again a time situation, which I thought you wanted us to negotiate with the tribe, sir.

Senator ABOUREZK. That is OK, fine.

Mr. KYL [reading]:

Section 5(c) provides for the election of the tribal governing officials. The election of such officials is a well-recognized internal tribal matter in which the Secretary of the Interior has no part other than to satisfy himself that the provisions of the tribal governing documents relating to such elections are complied with. Accordingly, we recommend that all of the subsection 5(c) be deleted and the following substituted therefor:

"(c) Within one hundred and twenty days after the tribe adopts a constitution and bylaws, the Menominee Restoration Committee shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. Absentee balloting shall be permitted. All tribal members who are 18 years of age or over on the date of the election shall be entitled to vote in the election."

Subsection 5(e) states that provisions of the Act of June 18, 1934, as amended, shall not cover the elections provided for in the bill. We recommend the deletion of this subsection. Amendments recommended in this report make the tribe subject to the provisions of the Act of June 18, 1934, as amended, making this section inconsistent with that recommendation.

Subsection 6(d) directs the Secretary of the Interior to accept any real property located within or adjacent to Menominee County, Wisconsin, transferred to him by Menominee tribal members to be held in trust for the Menominee Tribe, with said assets to be subject to all valid existing rights. This provision is needed to allow the Secretary of the Interior to accept donations of land from individuals. It should be pointed out that all land transferred under this provision would be a gift to the tribe in that the trust title could be taken only in name of the tribe and not in the name of the individual.

Section 7 of S. 1687 is the means whereby the Menominees would be restored to a unique trust relationship, one in which the Secretary of the Interior was a consultant, rather than the responsible party, with regard to the management of Menominee trust assets. Under section 7 this unique relationship would be embodied in the Menominee constitution. As we have discussed before, we do not favor such a limited role for the Secretary with regard to Menominee trust assets. If the amendment recommended by this report that makes the tribe subject to the Act of June 18, 1934, as amended, is adopted, the Secretary of the Interior will have full responsibility for the tribal trust land and will exercise that responsibility. Similarly, that Act provides the Secretary with the authority to approve the tribal constitution prior to its adoption. Therefore, we recommend that these portions of section 7 be stricken. The remaining portion of that section deals with the regulation of fishing and lakes by the State of Wisconsin. We question the propriety of legislating directives such as this with regard to a State and believe that this matter is one best left to negotiation between the tribe and the State. For these reasons, we recommend that all of section 7 be stricken and that subsequent sections be renumbered accordingly.

Section 8 gets to another matter which I think you, Senator, will be especially interested.

Section 8 sets out policy consideration for the education of Menominee students. We see no need for such a special provision and strongly believe that Menominee students should be treated the same as other Indian students in like circumstances. Therefore, we recommend the deletion of Section 8 in its entirety and the corresponding renumbering of subsequent sections.

As a matter of fact, if we read this language correctly—and I believe we do—this section dealing with the Menominee would, in fact, affect all other Indian children and would place them at a status lower

than the Menominees as far as funding is concerned, thus resulting in a complication.

We do have enclosed here, sir, some cost estimates on the final page of the report.

Mr. GERARD. Mr. Kyl, would you go to section 6(a) of S. 1687, which reads: "Subsections (c) and (d) of this section shall not become effective until two years following the enactment of this Act."

Will you describe for the benefit of the committee and staff the meaning of that particular provision?

Mr. KYL. I am not sure I understood your question. May I ask Mr. Bruce to respond?

Mr. BRUCE. You want us to describe what happened as we entered the negotiation?

Mr. GERARD. Does this mean essentially that the land would not be taken in trust until 2 years?

Mr. BRUCE. It means, as we understand it, we have 2 years from the date of enactment in which to sit down with the Menominee Tribe principally, but also involved are the Menominee County government and the State of Wisconsin, to work out conditions under which the Secretary will take that land in trust.

And I'm sure, from testimony and other facts before the committee, you are aware that that may be a very complicated and involved procedure. We hope that it will not take 2 years because there are some unfortunate economic consequences that will flow through the failure to take that land in trust as soon as possible.

And we do not intend to take the full 2 years. We just want to give ourselves enough time just in case it is needed.

Mr. KYL. We think it should be worked out as soon as possible, sir.

Mr. GERARD. All right.

On page 8 of the bill, line 3, item 3 regarding the regulation of hunting and fishing rights and the stocking of several lakes, I think your position is that that line should be stricken; is that correct?

Mr. BRUCE. That is correct, if I may answer that, Mr. Gerard.

Mr. GERARD. Would the deletion of that language in any way jeopardize any service from the Senate toward the Menominees in terms of stocking the lakes and streams? I presume the State fish and game department does receive Federal resources for its various programs?

Mr. BRUCE. I'm sure that they do, and I would think it would be a matter simply of negotiation between the tribe and the State as to the facility and how it would be handled.

Of course, the lakes within the reservation would change somewhat in status. They are now within the public lands, the county in Wisconsin. And, as with any other county, there are certain responsibilities of the county government of the State to those lands and to those lakes.

Now once they become a reservation their status will change somewhat, and it is proposed that any landowner will have the right to limit ingress to and egress from the tribal lands which surround those lakes. But I think that the tribe and the State will have to work out some kind of an agreement as to who will go to the lakes, who can fish and who cannot.

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As you know, Wisconsin is a 280 State, and so the State of Wisconsin does have police powers with reference to criminal and civil matters with regard to the Indians in that State.

Mr. GERARD. All right, I have one final question, Mr. Chairman.

In reading the bill through I failed to detect any provision which would indicate when the roll of the Menominee Restoration Committee is completed. Is there any likelihood that in the absence of such language there might possibly emerge a conflict between the restoration committee and the tribal governing bodies which come into existence? Can you identify for me any place in the bill where the restoration committee roll does, in fact, end?

Mr. BRUCE. Yes, I think so, Mr. Gerard, in that on page 3 it says: "Upon the installation of elected constitutional offices of the Menominee Indian Tribe of Wisconsin, the Secretary and the Menominee Restoration Committee shall deliver records, files, and any other material relating to enrollment matters to the tribal governing body".

It reads further: "All further work in bringing and maintaining current the tribal roll shall be performed in such manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final."

I read that to mean that when the tribal governing body comes into existence it can demand that the restoration committee turn all of its activities to it and that it begins to function then——

Mr. GERARD. Wouldn't it be better to have that specifically set out in the statute, in your opinion?

Mr. BRUCE. We would have no objection to it, if you think it needs to be clarified—but we think it is clear.

Senator ABOUREZK. In your breakdown on the last page of your report, the budget breakdown for the first years as indicated——

Mr. BRUCE. Yes, sir.

Senator ABOUREZK. I wonder if you would provide us sometime this week before the week is out a detailed breakdown of these figures, these budget figures that you have?

Mr. BRUCE. We will do it to the best of our ability, Mr. Chairman, but these are estimates based upon our experience when we were dealing with the Menominees. Now we can only guess at the numbers of people that would ultimately be tribal members, because if you go over the rolls, the 1954 roll Mr. Chairman, you will find that a large number of those people there are quarter-bloods.

Now, if such an individual happens to marry a non-Menominee, all their descendants would not qualify. On the other hand if he marries a Menominee, the descendants would qualify. These figures are based on best guesses.

And so what I am saying is what type of particulars are you interested in?

Senator ABOUREZK. Yes; I understand and recognize your being forced to guess at this. But for example the education category, perhaps you could furnish the committee with a better breakdown of that content. What is the plan for it as well as the number of people that you estimated? We understand that would be an estimate.

Mr. BRUCE. All but $75,000 of that money is Johnson-O'Malley money which we believe would be paid to the State. And that is again based on an estimate which we believe would be to the number of students which would qualify. The other $75,000 of that money or approximately that—it could be less or it could be more—is for higher education grants for the Menominee students which they are not now eligible for; and they will become eligible for this once their tribal membership is established.

[Subsequent to the hearings Mr. Bruce submitted the following information:]

Hon. JAMES ABOUREZK,
Chairman, Subcommittee on Indian Affairs,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your questions during the hearings before the Indian Affairs Subcommittee concerning the costs estimates attached to the report of the Department of the Interior on S. 1687, a bill "To repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians, and for other purposes."

The $1,369,000 figure submitted with the report of the Department of the Interior is an estimate of the cost of extending services under the jurisdiction of the Department of the Interior to the Menominee Tribe. The actual cost of extending services may actually be more or less. Our estimate was based on what such services had cost us prior to termination, and the present cost of the same kind of services to like groups of Indians. We cannot accurately predict the effect the contract-grant provision we have asked be added to the bill will have on total costs.

You seemed to be particularly interested in the basis for our estimate for furnishing education services. The $420,000 would be broken into two categories, one being $345,000 for Johnson-O'Malley funds for an estimated 1,145 Menominee students attending Wisconsin public schools in grades kindergarten through grade 12, and two being $75,000 to be used for higher education grants for the approximately 150 Menominee students that might qualify for such grants.

It is our intention to work with the Menominee Tribe to meet their service requirements, hopefully under a contract-grant procedure, when the Menominee legislation is finally approved.

Sincerely yours,

/s/ BRUCE,
RALPH R. REESER,
Acting Director, Office of Public Affairs.

Senator ABOUREZK. Do you have any objection that the Menominee Restoration Committee have interim authority after the act is passed and before the tribal government is established to contract for BIA services?

Mr. KYL. This is after the act is passed?

Senator ABOUREZK. After the act is passed and before the tribal government can be established, do you have any objection to the Restoration Committee being the authority to contract for BIA services?

Mr. BRUCE. If I may, sir, there are some problems with that. I am not going to say yes or no, Mr. Chairman. We would like to look at it. But when we contract with a tribe we have an entity that has certain kinds of responsibilities, certain kinds of protections under the law; it has sovereignity—this means that it can and cannot be sued under certain circumstances, et cetera.

And now what we have may be a body that has undefined responsibilities and undefined obligations. If someone had a tort case against the interim committee or had a contract violated by it, who would they sue, what kind of assets could they reach? What I am saying is there are some problems with this that I am not sure that we are going to be able to overcome. We may be able to, but I am not certain.

When we deal with a tribe we are dealing with an entirely different kind of situation. We dealt with these bodies for a period of time and we know what their responsibilities and obligations are.

But I hope that that is not a runaround answer because it is not intended to be. I am just saying there are hard legal problems with this kind of thing. As you know the act very carefully limits the authority of the Restoration Committee.

Senator ABOUREZK. Perhaps the Interior Solicitor could provide a memorandum of that on a legal nature.

Mr. KYL. Let me point out, Senator, the necessity of the amendment of the act, as I understand it, which would otherwise permit people to vote in the election for the interim committee who would not be eligible to vote as enrolled members of the tribe.

Senator ABOUREZK. One of the dangers is that if there is no interim contracting authority for the Indian people that a large bureaucracy might spring out which possibly could be hard to shake once the Menominees try to get into business.

Mr. KYL. To be honest with you, sir, we have not contemplated that particular thing in the discussions, and I would appreciate your indulging us the opportunity to look at this rather thoroughly. There are a number of legal questions involved, which I know we will have to take to the Solictor.

Senator BARTLETT. We would like to have your opinion on it, if we could, as well as the legal memorandum. And after you toss around the alternatives, perhaps you could give us a recommendation on that?

Mr. KYL. Short of that action there may be another problem that the committee in its wisdom would like to correct in the bill. I can see the possibility of problems, too, in having a lapse period involved here, during which there would be a limbo regarding the benefits which should go to the tribe.

I don't think interim contracting, would be the only possible solution to that problem. We would have to take a look at that, and I would hope the committee would, too.

Senator ABOUREZK. Well, I want to thank you very much for your testimony this morning, and we will expect from you those things that we requested.

Mr. KYL. Yes, sir. I thank you very much.

[Subsequent to the hearings the Department of the Interior submitted the following:]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., November 2, 1973.

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

DEAR MR. CHAIRMAN: This responds to an oral request made by counsel at a hearing held by the Subcommittee on Indian Affairs concerning S. 1687, the

Menominee Restoration Act, September 26, 1973. The question raised concerned the legal implications of the United States contracting for performance of Indian services by the Menominee Restoration Committee prior to the formal reconstitution of the tribe.

We believe that there is a problem in contracting with the Menominee Restoration Committee, which is defined in section 2(3) of S. 1687 as that committee of nine Menominee Indians who shall be elected at a general council meeting called by the Secretary pursuant to section 4(a) of S. 1687. A committee is simply a collection of individuals acting together for certain purposes, but it is not a legal entity capable of contracting in its own right. The individual members of a committee may, acting collectively as a kind of informal partnership or association, enter into contracts, but a committee, as such, has no such status or powers.

We have a letter dated October 2, 1973, from Mr. Charles F. Wilkinson of the Native American Rights Fund, suggesting that section 3(a) of S. 1687 be amended (in addition to the amendment proposed by this Department) specifically to provide that the Menominee Restoration Committee shall have full authority and capacity to receive certain grants, to make certain contracts, and to bind the Menominee tribal governing body as the successor in interest to the Menominee Restoration Committee.

If the bill were amended as suggested by Mr. Wilkinson, the Menominee Restoration Committee would be clothed with the authority to contract. Taken as a whole, and as so amended, the bill would appear to authorize the Committee to act for and on behalf of the Menominee Tribe until the tribal government body comes into being. If that is the intention, and conceptually it is far preferable to adopt that approach, we suggest that the capacity of the Committee to contract on behalf of the tribe rather than in its own right be made clear. Contracting with the tribe, by and through the Committee would place the tribe in the position of any other independent contracting tribe, shielding the United States from tort claims arising from performance of the contract, yet preserving whatever immunity from suit the Menominee Tribe may still have. If different consequences are desired, the bill should expressly provide for them.

Sincerely yours,

KEN M. BROWN,
Legislative Counsel.

Senator ABOUREZK. The next witness is Ms. Julia Vadala, Acting Deputy Assistant Secretary for Human Development at the Department of Health, Education, and Welfare. She is accompanied by Dr. Emery Johnson, Director of the Indian Health Service and Mr. Robert Howard, Director of the Office of Native American Programs. Also from the Department is Mrs. Joan Hutchinson, Deputy Assistant Secretary for Legislation.

We would like to welcome all of you here this morning.

Ms. VADALA. Thank you very much. We are pleased to be here, Senator.

Senator ABOUREZK. Yes.

STATEMENT OF JULIA VADALA, ACTING DEPUTY ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Ms. VADALA. We are pleased to be here to testify in support of S. 1687. You have already introduced the people who are with me, and we would be pleased to respond to the questions that you may have after our brief statement.

Legislation was enacted on June 17, 1954, which terminated Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe.

S. 1687 would restore to the Menominee Tribe of Wisconsin those Federal services now furnished to other federally recognized Indian tribes.

In his July 8, 1970 message to Congress, the President pointed out the importance of maintaining the special relationship between Native Americans and the Federal Government; the harmful effects the termination policy had had; and he requested that Congress repeal H. Con. Res. 108. Since that message, the administration has asked the Congress to enact various bills which would assist in carrying out the President's policy of self-determination for native Americans.

The administration is aware of the dangers of a paternalistic Indian policy. Legislation which would guarantee the protection of the trust relationship while allowing for maximum self-determination is contained in three bills presently before this Congress—S. 1340, S. 1342, and 1343. These measures provide for voluntary Indian control of Indian programs or portions of programs. We urge committee consideration of these measures at an early date in order to allow maximum flexibility to the Indians in pursuit of the goal of self-determination.

The right of retrocession minimizes the risks involved for the tribe while encouraging self-determination and Indian control.

For your information, Mr. Chairman, we would like to present this committee with the financial and budgetary implications of this restoration. The Indian Health Service has estimated that the annual cost for providing comprehensive health services for the Menominee people would be $1.3 million. Additionally, it has been estimated that about $1.8 million would be required to meet sanitation facilities construction needs of the tribe.

If this bill is enacted, we at the Department of Health, Education, and Welfare are prepared to provide appropriate services to the Menominee Tribe of Wisconsin. Additionally, technical assistance to the tribe will be provided within the Office of the Assistant Secretary for Human Development to assist the tribe in the full range of Federal assistance forthcoming to the Menominees.

Restoration of the Federal relationship, and the services provided pursuant to the restoration will relieve the Menominees of some of the burdens which they have had to carry since termination.

We recommend an amendment to S. 1687 to clarify the eligibility of the Menominee people for Indian health service programs. In this regard, we also recommend that the bill be amended to provide for the delivery of health services to the tribe or its members either directly or through contract, or by means of a grant payment to the tribe, as the tribal authority may elect.

With these comments, I am open to any questions that you may have.

Senator ABOUREZK. All right. Thank you very much.

I would like to ask first of all if the Indian Health Service intends to build a hospital up there, if there is none, or do you contemplate contracting for the services?

Mr. VADALA. No, sir.

We do not intend to build a hospital at this time, and the services would primarily be provided through the contracts with the Indians or with the tribe.

Senator ABOUREZK. What facilities are available for the people of the tribe?

Ms. VADALA. As I understand it there are two hospitals outside the county right now that do provide services. There is one professional physician who is in Menominee County who is in the National Health Service Corps who will be there for 1 year and there are two nurses who are currently in the county.

We feel that the Indian Health Service would be able, through their contract arrangements, to make sure that the eligible population does receive appropriate care.

Senator ABOUREZK. How far will they have to travel to go to a hospital, for example? What is the furthest distance?

Ms. VADALA. I don't know. Let me ask Dr. Johnson, Senator.

Senator ABOUREZK. Dr. Johnson, would you like to comment on this?

Dr. JOHNSON. Yes.

There are hospitals within 30 to 40 miles of the majority of the population on the reservation.

Senator ABOUREZK. Has the Health Service planned any kind of an ambulance program to be available out in the community that will take people to a hospital if necessary?

Dr. JOHNSON. I think, Mr. Chairman, that our position at the moment has been that we would prefer to develop the program with the Menominee group upon completion of the bill. There are a number of optional ways in which one can insure the most appropriate health services for them.

And in the absence of legislative authority we have not gone into that type of arrangement.

Senator ABOUREZK. I think that is admirable of you to do that. Very seldom are the Indians ever consulted on how those services will be provided. And I assume that will be the case in regard to visiting nurses or traveling nurse teams and doctor teams and so on?

Dr. JOHNSON. Yes.

We have had some informal discussions with various Menominees, but there has not been any formal discussion in this instance in regard to this in the absence of legislative authority to deal with this.

Senator ABOUREZK. Have you considered an out-patient clinic to provide out-patient services for the Indian people in the larger population centers where the Menominee people are at a closer point, is what I am trying to say.

Dr. JOHNSON. Well, certainly the fundamental principles of delivery of health services require that you have a primary access point for the population at a convenient place. We estimate somewhere in the neighborhood of 2,500 in Menominee County, and the distances to the currently available health facilities off-reservation, certainly a primary health facility of some type will be required. The exact location and extent of it, it seems to me, would be a subject for discussion with the group at the appropriate time.

Senator ABOUREZK. Have you done enough of an investigation in Menominee County to know whether or not the condition of the people has deteriorated any as a result of termination?

Dr. JOHNSON. I would have to be very, very careful in answering that question, Mr. Chairman, since the termination took place prior to the time that the Indian health service became involved with Indian affairs. We do not have a very good baseline of health status for the Menominee Reservation; this is in contrast to the baseline that we

established in 1955 when we took over the old Bureau of Indian Affairs health program. So our baseline is very shaky subsequent to that time.

We have not been involved either in carrying out the type of analysis and data collection and so forth of vital events and health statistics, again that we would have in the case of a reservation or a population that we would be responsible for.

I can give you the feeling that we have based on the State statistics that we have been able to collect and some independent surveys that have been done by various groups. It is my impression that the health status of the Menominees has lagged significantly over these last some 20 years; that the health status is deficient—and obviously and seriously deficient—in relation to other citizens in the State of Wisconsin.

I believe it would be inferior in health status to most of the other Indian tribes with which we have been involved in for a number of years.

Senator ABOUREZK. Well, is the proposed budget which you outline here today, does that include an initial sort of crash program to try to bring about a higher level of the health condition of the Menominee people?

Ms. VADALA. Let me clarify, sir, this is not a proposed budget. We would just like to clarify what our estimate would be. To get geared up for plans for immediate services we figure would be about 2 months and 6 months would be provided for health and sanitation facilities which would be proposed.

As Dr. Johnson pointed out, we don't anticipate this to be a crash program because we do want to insure full consultation with the Indian people. But we also want to be able to provide for any person who is ill services that any other recognized Indian body receives.

Senator ABOUREZK. Would you embark on some kind of preventive health program right away?

Ms. VADALA. Yes, sir.

Senator ABOUREZK. That is anticipated?

Ms. VADALA. Yes, sir.

And as you know, the Indian Health Service does provide a full range of preventive, rehabilitative, and therapeutic services, particularly in the rural areas where there are not accessible facilities of care. Menominee County certainly qualifies under that category.

Senator ABOUREZK. Is there any likelihood the reestablishment of BIA and Indian Health Services might possibly jeopardize the Menominees' eligibility for any other federally subsidized social services?

Ms. VADALA. No, sir.

That is quite clear and it has been made particularly clear on a question of medicaid services back in 1968 when there was some question whether the State would retain its obligation to provide for medicaid for eligible populations.

We view the Indian Health Service's role as supplementary to what any other American citizen has in their own right according to the eligibility of these systems programs.

Senator ABOUREZK. What about general assistance? Would the county be expected to do that, or the State of Wisconsin, or would the Indian Health Service or BIA?

Mrs. HUTCHINSON. These are residual programs, the Indian programs. The public assistance programs, which are State run, may be

county-administered, as well as the social services program. It is a Federal-State relationship, and they will all be eligible under those programs if they meet the eligibility criteria.

Senator ABOUREZK. It would be a normal procedure then?

Mrs. HUTCHINSON. Yes.

And that has been clarified in a letter sent out by the Social Rehabilitation Service.

Senator ABOUREZK. Would you be able to provide those letters for the committee, please?

Mrs. HUTCHINSON. Yes.

Senator ABOUREZK. Thank you.

[The letters referred to above follow:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL AND REHABILITATION SERVICE,
Washington, D.C., April 18, 1968.

To: State agencies administering approved public assistance plans.

Subject: Eligibility of Indians, Including Those Living on Reservations, for Medical Care and Services Under Provisions of Social Security Act.

Questions have been raised which indicate States may not be clear as to the eligibility of Indians for medical care and services provided under the Social Security Act.

The following interpretations are aimed at resolving any uncertainty in this regard:

1. Indians shall have the same rights to receipt of medical services under a State plan approved under any of the public assistance titles of the Social Security Act, including title XIX, as do all other individuals in the State who meet the State's eligibility requirements.

2. In the case of a person who qualifies as an Indian beneficiary, the Division of Indian Health, Public Health Service, Department of Health, Education, and Welfare, may assume *residual* responsibility for medical care and services not included in the appropriate State plan, and for items that are encompassed by the plan, if such Indian chooses to utilize the Indian health facilities, without affecting the eligibility of the Indian under the State's medical assistance or other public assistance program.

3. Under the provisions of its approved medical assistance plan or other public assistance plans, the State agency responsible for such plans has *primary* responsibility for meeting the cost of the services provided therein for all individuals, regardless of race, who apply and are found eligible.

Sincerely,

STEPHEN P. SIMONDS, *Commissioner.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL AND REHABILITATION SERVICE,
Washington, D.C., March 3, 1969.

To: State Agencies Administering Approved Public Assistance Plans.

Subject: Eligibility of Indians, Including Those Living on Reservations for Assistance and Service Under Provisions of the Social Security Act.

Questions have been raised which indicate States may not be clear as to the eligibility of Indians for financial assistance and services provided under the Social Security Act.

The following interpretations are aimed at resolving any uncertanity in this regard:

1. State plan provision putting into effect titles I, IV, X, XIV, XVI, and XIX must be available State-wide to all eligible individuals. This includes State plan provisions added as a result of the 1967 legislation with reference to AFDC-Emergency assistance, unemployed fathers, and foster care.

2. Financial assistance through the Bureau of Indian Affairs, U.S. Department of the Interior (as well as medical assistance through Indian Health Service, Public Health Service, U.S. Department of Health, Education, and Welfare (see State Letter No. 1031)), is not available to individuals eligible for assistance from any other source.

Assistance, therefore from the Bureau of Indian Affairs, Department of the Interior, cannot be considered a basic resource in determining an individual's eligibility for a federally assisted program under the Social Security Act, since that resource is not actually available to persons eligible for the public assistance programs.

3. The Social Security Act provides that Federal sharing is available, under certain conditions when a child has been removed from his own home as the result of a judicial determination. The court or other judicial authority must have jurisdiction in such matters. Indian tribal courts and courts of Indian offenses are courts of competent jurisdiction in this respect, and are so recognized by the laws and regulations of the United States.

Therefore, on Indian reservations, the authority of the tribal court to make such judicial determinations must be recognized by the State welfare agency as a proper authority for this provision of the Act.

4. This issuance does not replace or in any way modify State Letter No. 1031 which relates to medical assistance.

Sincerely,

STEPHEN P. SIMONDS, *Commissioner.*

NOVEMBER 29, 1965.

To all bureau staff.

Subject: Medical Care for Reservation Indians (List under Indians and Medical Aid for the Aged; file under FS 12–4)

Representatives of the Division of Indian Health, the Bureau of Family Services, and the Office of the General Counsel have met and agreed to the following points to be followed with respect to eligibility under the MAA plan:

Indians shall have the same rights to receipt of MAA under the State plan as do all other individuals in the State who meet eligibility requirements.

In the case of a person who qualifies as an Indian beneficiary, the Division of Indian Health may assume residual responsibility for medical care and services not included in the State's MAA plan, and for items that are encompassed by the plan if such Indian chooses to utilize the Indian services program, without affecting the eligibility of the Indian under the State program.

Under the provisions of its approved MAA plan and the Handbook Supplement, the State Welfare Department has *primary* responsibility for meeting the cost of the services included in the plan for all individuals, regardless of race, who apply and are found eligible.

Source: Memo dated 8/16/65, Bannister to Mapes—Medical Care for Reservation Indians.
Reference: Handbook of Public Assistance Administration—Supplement C—CR–2000).

Senator ABOUREZK. If Federal recognition is approved for the Menominees, would the tribe be allowed to establish its own community action program?

Ms. VADALA. As you know, the question of the action program has not yet quite been settled. I think it is more important to know that perhaps the Department of Health, Education, and Welfare did receive a great number of the old Indian programs and we do have the authority to continue with the programs that we did receive from the Office of Economic Opportunity—perhaps not designated "community action programs," but the same capability, the same flexibility in terms of designing the programs for the Indian people.

Senator ABOUREZK. We have no more questions at this point. We would like to submit questions to you later on if anything else does come up to insert into the record.

Ms. VADALA. Fine, thank you.

Senator ABOUREZK. And we appreciate your appearance and testimony in answer to the questions.

Ms. VADALA. Thank you.

Senator ABOUREZK. Mr. Charles Trimble, who is the witness following Mr. Deloria is not here yet. He will be here this morning.

In his absence we would like to have the expert witness panel consisting of Dr. Philleo Nash, professor of Anthropology, American University, accompanied by Dr. Nancy Laurie, a professor of Anthropology at the University of Wisconsin and Dr. Gary Orfield, research associate of the Brookings Institute, Washington, D.C.

Will you please come forward and present your testimony?

Dr. Orfield, Dr. Nash, and Dr. Laurie, we would like to welcome you here this morning and would you please proceed.

Dr. NASH. Although we are listed here as a panel, Mr. Chairman, we have not, in fact, consulted among ourselves and we will proceed in whichever order is your desire.

Senator ABOUREZK. I suppose if I don't tell you how to proceed there will be total anarchy. To acknowledge the existence of women's liberation, I will call on one of the men first.

Dr. Nash, would you like to proceed?

Dr. NASH. Yes, sir.

STATEMENT OF DR. PHILLEO NASH, PROFESSOR OF ANTHROPOLOGY, AMERICAN UNIVERSITY, WASHINGTON, D.C.

Dr. NASH. Mr. Chairman, I have a statement, a brief one, and I have some submissions which I have handed to the committee staff and with your permission I would like to submit the statement and proceed informally if the committee has no desire for me to read the statement.

Senator ABOUREZK. That is accurate. We will accept the statement for the record and we will appreciate very much your informal remarks.

[The prepared statement of Dr. Philleo Nash follows:]

PREPARED STATEMENT OF DR. PHILLEO NASH, PROFESSOR OF ANTHROPOLOGY, AMERICAN UNIVERSITY, WASHINGTON, D.C.

Mr. Chairman and members of the committee: My name is Philleo Nash, residing at 540 N Street, S.W., Washington, D.C. I am at present a Professor of Anthropology at The American University. From 1961 to 1966 I was the Commissioner of Indian Affairs, to which this Committee and the United States Senate gave its advice and consent some twelve years ago this month. I am appearing today in support of the Menominee Restoration Act.

Mr. Chairman, I have appeared many times before this Committee as the Departmental witness in matters of Indian Affairs; this is the first time I have appeared since I left office in March of 1966. The position of Indian Commissioner is a most difficult one made more difficult by much unsolicited advice; the decisions this Committee and the Congress are asked to make at all times involve difficult choices; I have no desire to add to any of the difficulties by urging courses of action for which others will have the responsibility. But I have been connected with Menominee Affairs for a great many years; I have taken some responsibility for them in the past; and I desire to share my experience as the Congress contemplates the possibility of an historic decision.

I was born and raised in Wisconsin not far from the Menominee Reservation. My people were lumbermen and cranberry growers, two industries closely associated with the Indians of Wisconsin. As a boy I had Indian friends at school and in camp. As a college student I turned naturally to the study of American Indians; and when I made the choice of a professional career I choose anthropology—especially that side of the discipline, applied anthropology—that is connected with practical affairs.

In this connection, it was my fortune to live for a year on the Klamath Indian Reservation in Oregon, and to write about it for my doctoral dissertation. Much later, I joined the Menominees in their effort to resist termination. Thus, for

better or for worse, I have had close personal contact with the two most controversial reservations associated with the policy of termination.

Thus, when I entered Wisconsin politics soon after the passage of the Menominee Termination Act, I espoused the Menominee cause to oppose termination; or seek alternative ways to advance the well-being of the Menominee people; and to create better relations between the Menominee people and the non-Indians of Wisconsin.

I ran for state-wide office in Wisconsin and was elected on a platform which included opposition to Menominee termination.

I can assure the Committee that the people of Wisconsin did not want Menominee termination. As Lieutenant Governor of the State of Wisconsin I presided over the deliberations of the Wisconsin Senate. I offer for the Committee's examination and consideration a copy of Joint Resolution No. 79,s, adopted by the Wisconsin Legislature in 1959, memorializing the Congress of the United States to repeal Menominee Termination. I am proud of my signature on that Joint Resolution attesting that it was representative of the will of the Wisconsin Legislature. Mr. Chairman, this Joint Resolution passed both houses of the Wisconsin Legislature without a dissenting vote! If the Congress of the United States had been willing to listen to the voice of the Wisconsin Legislature in 1959, the Menominee people, the State of Wisconsin and the United States Government would have been saved much difficulty. It is not too late to make the correction if we are not too proud to acknowledge error.

I freely admit mine. Once it was made clear that the Congress was determined to go ahead, and while I was still in the Wisconsin Government, we attempted to surround Menominee Termination with safeguards in the hope that the formula could be made to work. Members of this Committee know well the details of that formula, which, in essence, provided for a corporation under Wisconsin state law to administer the business affairs of the former Tribe; and created Wisconsin's 72nd county to take over the municipal functions. At that point I became optimistic and thought that with state safeguards the county-corporation could be made to work, and said so. But it did not, and my optimism turned out to be merely wishful thinking.

The Menominees, if they did not share that optimism, were nevertheless determined to try. I watched the first steps toward the corporation-county structure emerge as Vice-Chairman of he Menominee Common Stock and Voting Trust, a position for which I was chosen by the Menominees.

It was short-lived. By 1961 I was in the Interior Department, working as a member of the Task Force appointed by Secretary Udall to design a program for the Kennedy-Udall Administration. The day of termination for the Menominees was close at hand. There was an obvious conflict of interest and I resigned my position with the Menominee Voting Trust.

However, I observed closely as the new Administration wrestled with the problem of implementing two terminations it did not desire, had not designed and did not approve.

Between January 20th, 1960 and April 30, 1961, there were a little more than 90 days in which it was not too late to turn back as far as the Menominees were concerned. The Senate had before it two bills, 87–S.869 and 87–S.870, authorizing postponement of Menominee Termination and/or loans to ease the transition from Indian to non-Indian status.

Assistant Secretary Carver, later Under-Secretary of Interior, subsequently a Federal Power Commissioner, at present Professor of Environmental Law at the University of Denver, was the witness for the Interior Department. In a letter to the Chairman, Senator Anderson, dated April 14, 1961, which I offer for the record, Secretary Carver moved directly to the heart of the problem. He said, "The basic pemise of termination has come to be a question of whether the lumber industry, as presently constituted on the reservation, is big enough to support the Indians."

The prescience of this observation has been borne out by everything that has happened on the former Menominee Reservation in the years since. However, Secretary Carver's testimony did not stop with pessimistic predictions. He offered a plan which has certain elements in common with the pending bill.

> "Instead of transferring title of all of the tribal property to Menominee Enterprises Inc., on April 30th, as now required by law, the Secretary might be authorized, if the Congress so desires after heaing fom the State and the Indians, to make the transfer at any time prior to April 30, 1965, that he determines is justified. If this were done, the Secretary could be authorized

to enter into a contract with Menominee Enterprises, Inc., which gives the corporation full control of the tribal assets and full responsibility for conducting the business enterprises of the tribe, subject to the right of the Secretary to resume control if he determines that there is a need for doing so."

With respect to the municipal government functions, Secretary Carver had this to say:

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

In summarizing the merit of these proposals vis-a-vis the finality of termination then fast approaching, Mr. Carver had this to say:

"This procedure would allow the Federal Government to retain its basic authority for a transition period of not to exceed three years, and to lend a guiding hand if needed . . . If experience shows that the plan is likely to be unsuccessful, title to the reservation would still be in the Federal Government and no irrevocable decisions would have been made."

I submit to the Committee that this is essentially what experience has brought us, except that the period of three years has become twelve and that the stretch-out has been costly in erosion of well-being and morale.

Do not misunderstand me. I am not recommending merely a deferment of termination. The wisdom of Secretary Carver's testimony was that the trust must be preserved. Without the trust it is the Menominee people who must pay the price if the government's economic judgment is in error. It is not a matter of three years or twelve, but of moral imperative and economic necessity.

To keep its head above water the corporation has been compelled to part with some 2½% of its land base. It may be thought that 2½% is so little as not to be a problem. But the Menominees know, and I know, that this is only the beginning of the process that has ended in checkerboard holdings elsewhere in the Great Lakes Reservations and across the northern Plains. They have brought a halt to his process even at great cost to themsleves, and and they are right to do so.

Only four years after Menominee Termination, the Indian Bureau was asked by the Appropriations Committee of the House of Representatives to report on the economic status of the Menominees. Since the Act of Termination had cut us off from detailed knowledge and observation of the Menominee situation we in the BIA were obliged to fall back upon resources of the State of Wisconsin to meet the request. A report was prepared, nonetheless, and was submitted to the Committee, but it was never distributed. Congressman Laird, as he was then, who had asked for the report in the first place, introduced it into the Congressional Record, where it may be seen by those who know where to look.

I have a typewritten copy of the report, which was prepared in my office when I was Commissioner, and I ask the Chairman's permission to submit it for the record. I would direct the Committee's attention to certain passages in the Conclusion:

"The foregoing review of developments in Menominee County since termination of the Federal Trust in 1961 makes clear how ill-advised were the terms on which the Menominees were deprived of Federal services and supervision. The need for remedial action by the State or Federal government, or both, cannot be denied in light of the stark facts concerning the county, with its mounting budget, and the corporation, with its struggle to finance most of that budget and yet keep its head above water."

". . . The Department of the Interior sees no alternative to combined State and Federal support of the county and its people, who are in desperate circumstances. Continuation of the present trend will threaten the existence of the corporation and lead to decline of county services to the detriment of the Menominee people and their non-Indian neighbors in Wisconsin. To stand idly by and watch the further growth of such a pocket of poverty is unthinkable . . ."

Mr. Chairman, I do not quote from these documents of the past in a spirit of recrimination or "I-told-you-so". My intentions are directly the opposite. In 1954 the Congress, defining the Indian problem as the Indian Bureau, severed the connection because it held paternalism and dependency to be the inevitable outcome of the historic relations between BIA and the Tribes. Now, a generation later, the Menominees have organized themselves to say to the Congress in unequivocal terms that they want their rights and privileges as Indians restored. In doing so,

they are not coming in as dependents and they are making it clear that they do not intend to accept paternalism.

I am here to indorse their statement and to say as a former Commissioner that the hand of the BIA does not have to be paternalistic. The way to avoid it was pointed out in the testimony of Secretary Carver before this Committee more than a decade ago. Retain the trust; and let the BIA contract for services, both tribal and municipal, and then we can see whether State, Tribe and Federal Government can move toward a solution of the many problems that confront us.

It is clear that the trust must be restored or the Menominee people will gradually die. Can we restore it without a return to paternalism? I believe so. The instrument is contracting between the tribe and the BIA; and between the BIA and the county. The power to execute contracts of this type goes back as far as 1910 and it was extended in the 1930's. Extensive use of it was begun in my time as Commissioner and has been substantially advanced in later administrations. Some criticism has been levelled at the procedure, and some new authorizations are pending in the Congress. Restoration of the Menominees to tribal status will immediately make this instrument available for a non-paternalistic solution to the problems of both tribe and county.

Dr. NASH. Mr. Chairman, for the record my name is Philleo Nash, residing at 540 N Street SW., Washington, D.C. I am, at present, a professor of anthropology at the American University, here in Washington, D.C., and I am also dividing my time with the University Learning Center.

I think the committee and the Menominees here would be interested to know that we have with us in the room some members of the University Learning Center who have formed a Menominee task force for the purpose of acquainting themselves with Indian affairs and of being assistance in any way possible with the Menominees as they seek restoration.

Mr. Chairman, from 1961 to 1966, I was the Commissioner of Indian Affairs, a position to which this committee and the U.S. Senate gave its advice and consent some 12 years ago this month. I am appearing today in vigorous and strong support of the Menominees Restoration Act.

I have appeared many times before this committee as the departmental witness in matters of Indian affairs, but this is the first time I have appeared since I left office involuntarily in March of 1966.

The position of Indian Affairs Commissioner is not a position to which I ever would have left voluntarily as long as I thought I could have been of service to the Indian people.

The position of Commissioner of Indian Affairs is a most difficult one and has been made more difficult as a result of much unsolicited advice. I have no desire to add to any of the difficulties by urging courses of action for which others will have the responsibility. But I have been connected with Menominee affairs for a great many years; I have taken some responsibility for them in the past; and I have desire to share my experience as the Congress contemplates the possibility of a historic decision.

I don't think this committee wants to hear much about my life history, but I am a neighbor of the Menominees, I have lived in Wisconsin and have business connections there. My people for three generations have been connected with the lumbering and cranberry industries, and these are both industries which the people of Wisconsin have intimate and deep connections.

I was raised primarily among Winnebagos; I came to know the Menominees about 20 years ago; I knew of them and I admired their

forest, admired their people, and particularly admired the difference between the part of northern Wisconsin that my family had logged off and that part of Wisconsin which had been operated under sustained yield principals for half a century.

My people regarded themselves as progressive among them, and they were for their day. But Ashland County does not hold a candle to Menominee County from the standpoint of the forest asset and the way in which it has been handled.

So I turned early to anthropology, particularly applied anthropology when I was seeking a professional career. And in that connection I had the fortune—good or bad—to reside for more than a year on the Klamath Indian Reservation in southern Oregon, so I have had first contact with the two most controversial examples of the implementation of the policy of termination a quarter of a century ago.

So after the passage of the Menominee Termination Act I returned to Wisconsin from Washington, D.C., and entered politics, among other things, to oppose termination. I ran for office and was elected statewide in Wisconsin on a platform which included, among other things, opposition to termination. And I did the best I could in the time that I was there, both as a citizen and as a public official, to find alternatives to termination to advance the well-being of the Menominee people and to create better relations between the Menominee people and the non-Indians of Wisconsin and other Indians in Wisconsin.

As Lieutenant Governor of Wisconsin, I presided over the deliberations of the Wisconsin Senate. With the chairman's permission I would like to offer a copy of Joint Resolution No. 79, S., adopted by the Wisconsin Legislature in 1959, memorializing the Congress of the United States to repeal the law providing for termination of Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin.

I am proud my signature is on that joint resolution attesting that it was representative of the will of the Wisconsin Legislature.

Mr. Chairman, this joint resolution passed both houses of the Wisconsin Legislature without a dissenting vote. If the Congress of the United States had been willing to listen to the voice of the Wisconsin Legislature in 1959, the Menominee people, the State of Wisconsin, and the U.S. Government would have been saved much difficulty. It is not too late to make the correction if we are not too proud to acknowledge error.

I freely admit mine. Once it was made clear that the Congress was determined to go ahead, and while I was still in the Wisconsin government, we attempted to surround Menominee termination with safeguards enacted by the Wisconsin Legislature with the hope that the formula could be made to work. Members of this committee know well the details of that formula very well, which provided for the business affairs of the former tribe to be formed under Wisconsin State law——

Senator ABOUREZK. Thank you. Just a moment.

I just got word that the majority leader has asked that all Senators come to the floor at this time for a crucial debate on the European troop resolution that he is offering and a vote that is going to come up very shortly.

Rather than adjourn the hearings, Dr. Nash, I am going to ask the staff director of the Interior Committee to sit at this time and continue

the hearings until such time as I return, unless you feel that some committee member should be here to hear the testimony. I will leave it up to you.

Dr. NASH. Speaking for myself only, Mr. Chairman, we are anxious to make the record and we will be happy to accede to that determination.

Senator ABOUREZK. All right. I thank you for your indulgence and I will be back as soon as that part is over with.

Dr. NASH. Yes, sir.

Mr. VERKLER. Philleo, here we are again. Go right ahead.

Dr. NASH. I am confessing to the error of wishful thinking in 1961, because after the Wisconsin Legislature did what it could to surround the Menominee people and the whole situation with a number of safeguards I became optimistic that it would succeed in spite of all indications to the contrary. But it did not and it quickly became clear that I was wrong and that my optimism was merely wishful thinking.

Now, the Menominees themselves—some shared their optimism but some did not—all were determined to try. I watched the first steps toward the corporation-county structure emerge as vice-chairman of the Menominee Common Stock and Voting Trust, a position for which I was chosen by the Menominees.

I had the honor to be so chosen, but my tour of duty then was short-lived. By 1961—the year in which the Menominee termination became an actuality—I was in the Interior Department working as a member of the task force appointed by Secretary Udall to provide a program for the Kennedy-Udall administration. The day of actual termination was close at hand, and there was an obvious conflict of interest and I decided to resign my position there.

However, I observed closely as the new administration wrestled with the problem of implementing two terminations it did not desire, had not designed and eventually did not approve.

Between January 20, 1960, and April 30, 1961, there were a little more than 90 days in which it was not too late to turn back as far as the Menominees were concerned. The Senate had before it at that time two bills in the 87th Congress—S. 869 and S. 870—authorizing postponement of Menominee termination and/or loans to ease the transition from Indian to non-Indian status.

At that time, Assistant Secretary John A. Carver, Jr.—later Under Secretary of Interior and right now professor of environmental law at the University of Denver—was the witness for the Interior Department. In a letter to the chairman, Senator Anderson, dated April 14, 1961, which I offer for the record with the chairman's permission, Secretary Carver moved directly to the heart of the problem. He said:

> The basic premise of termination has come to be a question of whether the lumber industry, as presently constituted on the reservation, is big enough to support the Indians.

And this has indeed turned out to be the bsaic problem, and as we approached this question of restoration—which is essential, urgent and needs to be done immediately—we have to acknowledge the fact that there must be substantial input and economic aid in various forms of the systems, which are not necessarily contemplated directly by this legislation.

The prescience of Secretary Carver's observation had been borne out by everything that had happened on the former Menominee Reservation in the years since. But Secretary Carver did not stop with pessimistic predictions. He offered a plan which has certain elements in the pending bill.

I now read from the departmental letter to the committee:

> Instead of transferring title of all of the tribal property to Menominee Enterprises Inc., on April 30th, as now required by law, the Secretary might be authorized, if the Congress so desires after hearing from the State and the Indians, to make the transfer at any time prior to April 30, 1965, that he determines is justified. If this were done, the Secretary could be authorized to enter into a contract with Menominee Enterprises, Inc., which gives the corporation full control of the tribal assets and full responsibility for conducting the business enterprises of the tribe, subject to the right of the Secretary to resume control if he determines that there is a need for doing so.

I point out to the committee the close similarity between the technique which is contemplated now and the instruments that were proposed but not adopted by the Department of the Interior more than 10 years ago.

With respect to the municipal government functions, Secretary Carver had this to say:

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

Now, in summarizing the merit of these proposals, one which goes to the business function, the other to the municipal function, the Department, through Mr. Carver, had this to say:

> This procedure would allow the Federal Government to retain its basic authority for a transition period of not to exceed three years, and to lend a guiding hand if needed. If experience shows that the plan is likely to be unsuccessful, title to the reservation would still be in the Federal Government and no irrevocable decisions would have been made.

Mr. Chairman, I am not—and let me make this clear—I am not suggesting deferment, I am recommeending immediate restoration of the trust. I bring this forth to point out that the importance of the preservation of the trust was recognized as far back as 1961, that deferment was put forth as a possibility I think, primarily as a postponing device and I would raise the question of whether the 2-year condition which is being put forth now in the departmental report would not, in fact, be a condition that ought not be permitted to proceed.

The committee and the Congress rejected postponement when it was a matter of life and death with the Menominees. It is now a matter of life and death 12 years later, and I think there ought to be no postponement.

I submit to the committee that the situation foreseen by the Department in 1961, is essentially what experience has brought us but we now have 12 years of stretchout and decline and decay and not 3 years.

The wisdom of Secretary Carver's testimony was that the trust must be preserved. Without the trust it is the Menominee people who must pay the price if the Government's economic judgment is in error. So, it is not now a matter of 3 years or 12, but of immediate moral imperative and economic necessity.

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It has already been pointed out that the corporation has been required to part with some 2.5 percent of its land base. It is not a question of whether 14,000 acres is a certain percentage of the reservation or not. The Menominees know and have said and I know from experience that this is only the beginning of a process that is checkerboarding elsewhere in Wisconsin and other reservations in the Great Lakes area and throughout the Northern Plains and many other areas in the United States. They have brought a halt to this process, even at great cost to themselves, and they are right to do so.

Only 4 years after Menominee termination, the Indian Bureau was asked by the Appropriations Committee of the House of Representatives to report on the economic status of the Menominees.

Now, the act of termination had cut off the Bureau of Indian Affairs from detailed knowledge and observation of the Menominee situation. We were obliged to fall back upon resources of the State of Wisconsin to meet the request. A report was prepared, nonetheless, and was submitted to the committee, but was never distributed.

Congressman Laird—then the Representative to the Seventh District of Wisconsin, including the former Menominee Reservation—it was he who asked for the report in the first place. When the report was impounded, he introduced it into the Congressional Record and it may be seen there today by those who may need to look. It is not available there for general distribution and very few people even know the page reference. This report accurately foresaw the business and economic difficulties of the tribe that they were getting into.

And I have a typewritten copy of this report, which was prepared in my office in 1965 when I was still Commissioner. I ask the chairman's permission to submit this report for the record. I think it is unfortunate that it has not been available for proper distribution.

Mr. VERKLER. We will accept it now and bring it to the attention of the chairman, Dr. Nash.

[The report referred to follows:]

THE STATUS OF THE TERMINATION OF THE MENOMINEE INDIAN TRIBE

The House Committee on Appropriations, in its report of March 13, 1964 (88th Congress, 2d Session, House Report No. 7237), requested that the Bureau of Indian Affairs "submit a detailed report in connection with the 1966 estimates as to the status of the termination" of the Menominee Indian Tribe of Wisconsin. This report has been prepared in response to that request.

INTRODUCTION

The trust responsibility of the United States toward the Menominee Indian Tribe of Wisconsin was brought to a close April 30, 1961, by the Menominee Termination Act of June 17, 1954 (P.L. 83-399). Such termination was to have become effective not later than December 31, 1956, according to the original enactment. Prospective difficulties the Menominee would face after termination prompted two postponements of the date. In 1959 the Wisconsin Legislature memorialized Congress to repeal or amend the law so as to continue the trust relationship indefinitely, expressing the opinion that termination was seriously premature. This change of policy was not agreed to by the Congress.

Measures to help the tribe to meet its new and extended responsibilities were considered as the termination date approached. These included two bills to amend the Menominee Termination Act on which hearings were held in April 1961 by the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs. One of these would have authorized postponement of termination to a date found by the Secretary of the Interior to be reasonable. The other would have postponed the termination date to 1969 at latest and

have authorized the Secretary of the Interior to make loans to the tribe not to exceed $2,500,000 in aggregate amount.

Assistant Secretary Carver, appearing for the Department of the Interior, identified the basic question that made some modification of the Termination Act desirable. In so doing, he also accurately forecast the difficulties that have caused the Appropriations Committee to request the present report.

"The basic premise of termination," Secretary Carver pointed out, "has come to be a question of whether the lumber industry, as presently constituted on the reservation, is big enough to support the Indians."

"Taking this resource in and of itself," he continued, "it is a very attractive operation. But there is a basic difficulty in translating a single industry operation into all the ramifications and complexities of community and government activities. Furthermore, we don't really have any way to make a direct conversion of one sawmill operation, which is customarily carried on as a private proposition, into full support of an American community. We just don't have any background for that."

In light of this, Secretary Carver emphasized, "everyone seems now agreed that given the present state of the lumber business, and given the present developments or lack of developments of the mill, itself, the proceeds of the mill won't reach all of the needs which will follow on termination."

Five alternatives were open, Mr. Carver thought, in meeting the need recognized by "almost everyone interested in the welfare of the Menominees" for congressional modification of the act in one form or another. Among these alternatives, the Department recommended what Mr. Carver termed "phased extension of termination." This was set forth in the Department's report on the pending bill (emphasis added):

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

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

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

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

The Congress declined to adopt this recommendation, choosing instead the alternative of permitting termination to proceed on schedule, but providing financial assistance (P.L. 87–432) for a transitional period of five years after April 30, 1961, in a total amount of $660,000 for contributions to joint school costs. The law also authorized expenditures of $438,000 by the Public Health Service for construction of sanitation facilities, bringing the total amount of assistance to $1,098,000.

No provision was made for continuing any degree of Federal supervision during the period in which assistance was presumed necessary. No means was made

available whereby the Bureau of Indian Affairs would be kept currently informed of developments, much less enabled to assist the new county and corporation in any way during the admittedly difficult years of transition.

It is in the light of this policy decision by the Congress, the decision to make termination complete as of April 30, 1961, and to retain no remnant of the former Federal responsibility toward the Menominees or supervision of their affairs, that this review has been undertaken.

MENOMINEE AFFAIRS: CORPORATION AND COUNTY

The experience of the Menominees under termination may be examined first of all in terms of the two entities established by State law as successors to the Menominee Indian Tribe. One of these, a state corporation, was Menominee Enterprises, Inc., to which was conveyed all the tribal land that had comprised the reservation, including the Menominee forest and the sawmill upon which the economic future of the Menominees depended. The other was a new county, Wisconsin's 72d, carved from the two counties in which the reservation had been located and with borders identical to those of the reservation.

Menominee Enterprises, Inc.

Following termination, Menominees whose names were on the final tribal roll were no longer joint owners of Indian trust land, but became bondholders and stockholders in Menominee Enterprises, Inc.

The principal business of the company is the production of lumber and pulpwood and this dependence on the forest has been recognized in provisions both of Federal and of State law. These were drawn with view to safeguarding the prime asset represented by the Menominee forest, through promoting timber harvesting on a sustained-yield basis. Section 7 of the Termination Act was amended (P.L. 84–718 of July 14, 1956) to require "protection of the forest on a sustained yield basis" and Chapter 258 of the Wisconsin Statutes (enacted July 30, 1959) provides that a forest required by Federal law to be operated on such basis shall have a fair market value, for tax purposes, equivalent to 40 percent of what it would otherwise be.

Total income of Menominee Enterprises, virtually all derived from sales of lumber and forest products, increased from $2,941,000 in the year ending September 30, 1962, to $3,686,000 in 1964. Net operating income increased from $642,000 in 1962 to $692,000 in 1964. The following table discloses rather clearly that, as an operating business, the company has justified the confidence the Menominees had in it. They may well still regard it, in Secretary Carver's words, as "a very attractive operation."

It must be understood, of course, that the information set forth here has been obtained from the published reports of Menominee Enterprises, Inc., supplemented by explanatory detail supplied by company officials. Lacking the sort of continuing close relationship to the corporation that would have prevailed under the plan recommended by the Department, we can bring to the task no special knowledge or familiarity with the situation that has developed since 1961.

[In thousands of dollars]

	1961 (5 mo.)	1962	1963	1964
Net sales of lumber and forest products	833	2,802	3,365	3,596
All other income	158	139	153	90
Total income	991	2,941	3,518	3,686
Less: Cost and expenses	779	2,299	2,944	2,994
Net operating income	212	642	574	692
Less: Property taxes	165	306	233	332
Net profit	48	336	341	360
Bond interest payable	164	392	386	381
Excess of available earnings over bond interest payable [1]	−116	−56	−45	−22

[1] Deficit met out of surplus.

Note: Due to rounding, decimals may not add to totals.
Source: Menominee Enterprises, Inc., annual reports.

Appraisal of Operating Performance.—The corporation's bonds were created to represent the capital value of the annual stumpage payments formerly paid, on a per capita basis, to members of the tribe. Accordingly, they were made income bonds, the annual interest approximating in amount the former stumpage payments. Before payment of interest on the income bonds, net profit has improved each year since 1961.

Similarly, it must be borne in mind that 90 percent or more of the annual taxes levied by Menominee County is paid by the company. These comprise state, county, town, and school district taxes, which in Wisconsin are separate items in the total levied and collected by the county. Property taxes have never amounted to less than 40 percent of net operating income and in 1964 absorbed 48 percent. Net operating income amounted that year, before taxes, to 3.5 percent of the combined total of stockholders' equity and outstanding bonds, all of which had been issued to stockholders.

The first full year of operation was the 12-month period ending September 30, 1962. Since then, although adversely affected by market conditions in 1963 and a 6-week shutdown for major repairs in 1964, sales have expanded with the increase in cut of sawtimber and pulpwood. For many years the timber cut had been limited, under the sustained-yield principle, to 20 million board feet a year. Reappraisal of the forest led in 1961 to revision of the limit to 30 mbf. By 1964 the cut had been increased to 28.9 mbf. and 29 mbf. is expected to be the cut in 1965. New attention has been given to production of pulpwood, and pulp and by-products output has been more than trebled snce 1962. The management reports continuing introduction of more efficient methods and exploration of specialized markets, with prospect of further improvement in sales and net operating income at maximum cutting volume.

The increase of sales and net operating income has been modest but well sustained through the difficult initial years. The result is that, despite the heavy burden of local taxation, the need to draw upon surplus to meet bond interest has declined each year, from $56,000 in 1962 to $22,000 in 1964. These charges, totaling $239,000 in four years (including $116,000 in 1961), have reduced surplus to $864,000. Despite diminishing deficits since 1962, the prospect for ending this annual drain on surplus must be viewed skeptically in light of recent information that the company's 1965 tax bill, through September 30, is about $395,000, or $63,000 higher than for 1964.

Modernization and Stabilized Employment.—The new corporation promptly entered upon a program of modernization and capital improvement involving a gross sum of about $1.5 million. This was financed largely from the tribal mill's cash balance, to which the corporation had succeeded and which totaled $1,750,000 as of September 30, 1961. The results show in a sharp increase in the asset value (depreciated) of plant and equipment from $498,000 in 1961 to $1,667,000 in 1963 and $1,772,000 in 1964. This increase of nearly $1.3 million in three years has been accompanied by regularization of mill employment, on two shifts at all times. Total employment, including supervisors, is currently about 230 and seasonal variation has been eliminated from employment in the mill itself. Work in the woods—logging of sawtimber and cutting of pulpwood—performed under contract, provides additional employment for 65 to 130, according to the season.

Peak employment, about 365, is about 10 percent less than that of 410 reported before termination. Meanwhile the minimum hourly wage paid mill employees increased by 13 percent and the average by 16 percent (from $1.50 to $1.74) between 1961 and 1964. Annual payroll (including contract logging and pulping) has increased to $1,870,000—about 15 percent higher than in 1964 and more than this above pretermination levels.

Capital Requirements.—The relatively satisfactory current operation of the mill must not be permitted to obscure the fact, looking to the future, that the drain of taxes eliminates the possibility of financing further modernization out of income. Moreover, no further capital improvement can be financed out of cash, which has now been drawn down to minimum operating level. In addition to the lumber operation, the corporation is responsible for the management and development of all the land of the county except that occupied by homesites. This, too, calls for capital, which is not easily attracted by potential over a 40-year development period.

Management.—Since its establishment in 1961, Menominee Enterprises, Inc., has experienced its share of administrative difficulties, seriously accentuated by the fact that the stockholders, most of them residents and thus eyewitnesses to operations, have for the most part been as unfamiliar with corporation practices

as they were accustomed to those long characteristic of the tribal mill enterprise. These early years have been marked, moreover, by two changes in top management. The fact that so satisfactory an operating record has been achieved despite such initial difficulties suggests that as a business—the impact of property taxes on profit being recognized as wholly abnormal—the company has been basically well managed. The company's third president was secretary-treasurer prior to taking office April 1, 1964. He appears to have both the full support of the board of directors and much better standing that his predecessors among Menominees critical of the new and, as they term it, "outside" management of the "tribal mill."

Menominee County

Upon its creation May 1, 1961, Menominee County, population about 2,500, automatically went to the bottom of the list of Wisconsin counties, in the company of Florence (the only other county with fewer than 5,000 residents) and six others with population of less than 10,000 each. Its assessed valuation for tax purposes was $16.7 million in 1962, which made it at the time the second lowest county in assessed value. Only 14 others of the 72 had valuations below $50 million.

Special Statutory Provisions.—It was full awareness of these and other related basic disadvantages under which the new county would operate that led the Legislature to include in the law creating Menominee County several provisions which, if not without individual precedent, constitute a wholly unique combination. In general, they provide for the combination of county and town boards, for the consolidation of certain town and county officials, and for the inclusion of Menominee County in the court and school systems of adjacent Shawano County.

Through these extraordinary provisions, the State Legislature, recognizing the impossibility of expecting so small and poor a county to establish and support a full structure of county and town government, sought to relieve it of any avoidable burden of costs of government. The law provides, in addition, for review of the new county's experience by the Legislature at the end of 4 years and again at the end of 8 years, so that the adequacy of such provisions as these and, more broadly, the wisdom and feasibility of establishing a separate county may be re-examined as a matter of statutory prescription. The first such review is accordingly due this year, 1965.

Demands on Local Government.—The burden of local government has indeed proved fully as serious as the State Legislature had feared and as the Department of the Interior had indicated as probable. Net schools costs, financed by the school district tax, have mounted steadily and substantially, as Federal assistance has been reduced each succeeding year. Costs of the treatment of tuberculosis patients and those of public assistance under the Social Security Act and related welfare administration have also mounted rapidly. To meet these latter expenses, financed by the county tax, that tax was forced up to its statutory limit (17 mills per dollar of assessed value) in 1963 and 1964 (for the budgets of 1964 and 1965, respectively). A further increase in the school district tax will be necessary next year because Federal assistance will again be reduced, and in fact is scheduled to end with the 1966 payment. The following table summarizes tax and budget developments since 1962:

[In thousands of dollars]

	1962	1963	1964 estimate	1965 budget	Change, 1962–65
Total taxes collected by Menominee County	296.7	316.5	450.1	502.6	+205.9
Cost to Menominee County of—					
Schools	.8	44.1	114.6	161.0	+160.2
Sanatorium treatment	.3	12.4	68.8	76.1	+75.8
Public assistance (social security)	14.7	16.2	22.7	40.4	+25.7
Welfare administration	8.4	9.1	12.1	31.0	+22.6
Total	24.3	81.7	218.2	308.5	+284.2
Taxes required for all other purposes	272.4	234.8	231.9	194.1	−78.3

Note: Due to rounding, decimals may not add to totals.

Source: Wisconsin Department of Public Welfare and Menominee County.

The change in the combined tax levy of Menominee County (State, county, town, and school district taxes) between 1962 and 1965 is $206 million. Of this total, 78 percent is accounted for by the $160,000 increase in the school district tax. Of this $160,000, however, only $28,000 is due to the actual increase in the costs of the school district; the balance, of $132,000 (64 percent of the total tax increase), has resulted from the reduction of Federal assistance, from $220,000 in 1962 to $88,000 in 1965.

The second largest increase is that of $76,000 in the cost of sanatorium treatment, which has resulted from a high incidence of tuberculosis. The increase in the cost of public assistance is concentrated in Aid to Families with Dependent Children, which increased by $23,800 between 1962 and 1965.

The importance of the continuing reduction in Federal assistance may be illustrated by the fact that if there were no such payments in 1965, additional taxes of $88,000 would be required. This would add 15.5 percent to the total tax bill and would bring the total tax rate (all four taxes combined) to approximately 35 mills, more than double the statutory liimt on the county tax itself. Current comparisons are not available, but last year the average combined rate for the entire state was 27.32 mills, as compared with the rate of 29.77 mills levied by Menominee County for 1965.

State Assistance.—Under Wisconsin law, State aids reduce the cost to the counties of a number of programs that the counties administer. There are also taxes that the State collects, but shares with the counties according to statutory formula. The budget of Menominee County, shown in summary form in the table above, has been presented in net terms, after receipt of such State contributions. In addition to these statutory contributions to meeting the cost of programs administered by the county, two grants were received by Menominee County in 1964. The first of these, in the amount of $17,525, was made under a provision of the statutes (Sec. 49.39) authorizing the State also to pay the county's share of welfare costs in cases where the county is unable to do so. When, in 1963, Menominee County raised its county tax to the statutory limit, the way was opened to apply for this form of additional State assistance to cover welfare items totaling $34,838.

The other grant was made under a special if not unprecedented appropriation by the Legislature. Amounting to $80,000, this grant was justified in terms of the extraordinary level of tuberculosis treatment required for Menominee County residents. Its payment had the immediate effect, however, of increasing the balance in the general fund, in light of which the Department of Public Welfare found itself obliged to withhold payment of welfare costs beyond the $17,525 already paid.

The general fund is the central one used by Wisconsin counties in their financing of local government. The balance in the fund usually is represented largely by cash and fluctuates with the ebb and flow of receipts and expenditures. During 1964, Menominee County's general fund balance increased to a total of $120,000, or somewhat more (the audit is not yet completed); this was equivalent to 4 months' requirements or so (school costs being funded separately). In light of this fact, the Department of Public Welfare recently denied the county's request for a grant of $76,000 under Sec. 49.39 for the 1965 budget. To fund 1965 requirements, $99,000 has been needed in addition to the maximum taxes that can be levied under the statutory limit of 17 mills. This amount has been appropriated from the general fund; thus, the balance is expected to be reduced to an acceptably modest level by the end of 1965.

A third measure of State assistance vastly overshadows these two grants, but it is one extended to individual Menominees, not to the county. This is the unprecedented special fund of $1 million for direct welfare grants and loans by the State itself, which is discussed in the following section.

Urgent Need of Extraordinary Measures.—Two facts dominate the county's immediate financial outlook. One is the fact that $99,000 of 1965 requirements is being financed outside the county tax limit, through drawing the general fund balance down to an operating minimum. The other is the fact of a final reduction of $44,000 in Federal assistance. In combination, these spell additional requirements of about $140,000 as a minimum to be expected in 1966, on top of a tax increase of $52,000 in 1965. Nearly $100,000 of the 1966 increase would have to be financed through the general fund but outside the statutory limit of the county tax. Only part of this amount will represent welfare costs. Thus, even assuming favorable action by the Department of Public Welfare on the county's next application under Sec. 49.39, it is apparent that other

extraordinary measures will be needed to avert a result disastrous to both Menominee County and Menominee Enterprises.

Corporation and county experience

This section, dealing with the administration of Menominee affairs, has highlighted the facts about an industrial enterprise that is achieving steady if modest success quite in line with early expectations, although gravely handicapped with respect to future growth. It has described a county that has experienced markedly rising demands for the services formerly provided by the Federal Government, entailing difficulties of precisely the sort foreseen in 1961.

These are demands that have brought the county to budgets already exceeding its statutory taxing capacity. They have imposed a tax burden upon the business corporation that, without special relief, will become intolerable next year.

Of the total increase in taxation since 1962, moreover, 64 percent has resulted directly from the need to replace Federal assistance in meeting county school costs, which is being reduced $44,000 each year. One could hardly imagine a set of consequences that more clearly confirms the unwisdom of saddling full responsibility for local governmental services upon a small and poor community almost entirely dependent upon a single industry of modest scale and profitability.

THE MENOMINEE PEOPLE SINCE TERMINATION

We turn now from the business and governmental machinery that came into operation May 1, 1961, to serve the needs of the Menominees, and consider instead what their situation is nearly four years after termination.

The term, "pockets of poverty," has come into general use only since 1961. It is trenchantly and accurately descriptive of a sorry phenomenon of modern American life. Menominee County is a "pocket of poverty." It was such a pocket prior to 1961, it has continued to be a pocket of poverty these past 4 years, and unless very substantial assistance is provided it has no prospect of becoming anything better in the foreseeable future.

In July 1959 the Wisconsin Legislature memorialized Congress to postpone termination "until such time as the Menominee Indian Tribe has achieved a status comparable and equal to the average citizen of the environs in which they live." It was recognized that the Menominees were far below such equality with their neighbors in the State that underlay both the reluctance of the Legislature to accept termination and the special provisions that it incorporated in the law creating the new county.

Smallest and poorest county

Menominee County has a already been identified as having the smallest population and the second lowest property value of any county in the State. It is also at or near the bottom of the list in terms of average income, of housing, of education, and of sanitation and health. In terms of unemployment and dependence on public assistance its people are at the top of the list.

Low Income.—Median income of 1959 of Indians living in the Menominee area was reported by the 1960 Census as "less than $1,000." For none of Wisconsin's 71 counties, including both Oconto and Shawano, within whose boundaries the reservation lay, was the comparable figure as low as $2,000. Median family income for the State was reported as $5,926 for 1959. The figure for the subdivisions now comprising Menominee County was $2,638, less than half the State average.

In 1964, a health survey conducted by the State Medical Society included 382 employees of Menominee Enterprises and 38 of Menominee County (virtually complete coverage in each case). This total of 420 was about 60 percent of the county labor force and included those with highest incomes. Average income of full-time employees was $3,760 at the company and $3,700 in county employment. Part-time corporation employees average about $1,100. Average income for all 420 employees was $2,677, a figure that suggests no significant improvement over the 1959 median family income of $2,638 for the total county population. Median family income falling below $3,000—and even further below a level reflecting the needs of the large families that are characteristic of Menominee County—means that more than half the families suffer deprivation and impoverishment.

High Unemployment.—Through the period since 1961 unemployment has been very serious, running 3 and 4 times as high, in percentage terms, as in the State as a whole. In 1963 the county rate was 13.6 percent when the State average was 4.0. In 1964 the corresponding rates were 18.1 and 3.7 percent.

Large Families.—The State Medical Society's survey included a total of 2,536 individuals in the 496 families that were identified and interviewed. Large families were found to be the rule, reflecting the birth rate of 43.4, far above the State average of 25. Total children reported, all ages, were 2,491, an average of 5 per family. Of the 496 families, more than half (311) had 4 or more children and 50 had 10 or more children each. (Plainly, 2,491 children in a population of 2,526 means double counting, children in one family being parents in others.)

The population was found to have an unusually high proportion (57.4 percent) under the age of 20 and a low proportion aged 65 and over (4.6 percent). The corresponding State proportions in 1960 were 40 and 10 percent, respectively. Treating the youngest and oldest members of the population as dependent upon those aged 20 through 64, this indicates a dependency ratio of 1.6-to-1 rather than the 1-to-1 ratio characteristic of the State as a whole.

Substandard Education.—The 1960 Census reported the median years of school completed by the Menominee area Indian population, aged 14 and older, as 8.3 years. The corresponding median for the rural nonfarm population of Wisconsin was 9.9 years. This difference of 1.6 years is equivalent to 1 of 3 semesters for everyone, or of more than 7 semesters (bringing the average up through high school) for nearly half of the total population.

Among Menominee residents 25 years of age and older, only one-fourth had attended school beyond the eighth grade; among all nonfarm rural residents of Wisconsin, this proportion was a full one-half. The state of education of the Menominee County population accordingly constitutes a serious handicap to individual and community progress.

The facts covering dropouts do not encourage hope of future improvement. Of 33 pupils enrolled as high school freshmen in 1950, the health survey found that 17 dropped out before graduation, a dropout rate of 51.5 percent. The State Department of Administration reports a finding that, of 80 Menominee students who enrolled as freshmen in 1960, 37 dropped out before 1964 graduation—a rate of 46 percent. Dropout rates at this level must be regarded as presenting a serious educational problem.

Critically Substandard Housing.—Housing, the State Medical Society found to be extremely poor, "one of the critical problems in the county," characterized by half again as many people per household as the State average, average value of houses in one of the two villages only $4,000; less than one-third of all units in the county in sound condition; one-third in deteriorated condition; and one-third dilapidated.

Poor Health.—The central focus of the State Medical Society's survey was, of course, the health conditions in the county. The findings with respect to major health illnesses were summarized as follows:

> It was found that diabetes, tuberculosis and heart disease occur most frequently. An intensive tuberculosis case finding program has resulted in bringing many patients to treatment at an early stage of the disease. Treatment facilities and services are highly adequate. A frequent problem related to the high incidence of diabetes is the relatively high proportion of patients who are not under regular medical supervision. A more intensive type of supervision and instruction of patients in the home seem indicated.

With respect to sanitation:

> The sanitation in the county is inadequate, with only about one-half the homes having running water and indoor toilets. Many homes do not have wells on the premises.

Alcoholism:

> Excessive drinking constitutes one of the most destructive elements in family life. Workers who are very familiar with the families estimate that there are 113 problem drinkers among the 496 families in the county. In 11 of the families more than one member has a drinking problem. Twenty-one individuals have been committed to an institution because of drinking; 12 of these have been committed repeatedly. A distressing number of the heavy drinking occurs among mothers which makes the problem especially devastating. There is no organized progrem in the county to combat or alleviate this problem.

Infant health:

> There is a high birth rate, almost double for that of the State and a proportionately high infant death rate combined with low economic status and many families. Since pneumonia, upper respiratory infections and gastro-

intestinal conditions were among the frequent causes, it may be inferred that unfavorable environmental conditions were a contributing factor.

Because it is so sparsely populated, it is doubtful whether Menominee County could justify establishment there of a hospital meeting modern standards, quite apart from the matter of financial ability to support one. Prior to termination there had been a hospital at Keshena, supported by the tribe and operated by a religious order. It was not a facility of the Division of Indian Health, Public Health Service, and its closing was not part of the withdrawal of Federal service. The circumstances were that, with the advent of State supervision, the hospital was found to be far below public health standards. Its closing, coincidentally with termination of the Federal trust, has understandably caused this loss to be included, in complaints about the effects of termination, with that of the services formerly provided by the Bureau of Indian Affairs. The Medical Society, reporting on this aspect of the situation, had this to say:

> A rather drastic change in the availability of hospital and medical care occurred when the tribally operated hospital was closed and medical practice in the county was discontinued. At present, medical and hospital care is secured in neighboring communities: Shawano, Gresham, Antigo and Green Bay. A considerable number of patients are cared for at University hospitals and the veterans facilities.
>
> Questions about difficulty in obtaining medical care often gave rise to laments about the closing of the Keshena Hospital. In exploring this feeling it appeared that the hospital represented to many people a sort of security and status symbol and this, more than serious difficulty experienced in obtaining medical care, caused their regrets. These people had been able to go to the hospital for aspirin, cough medicine, bandages, etc., when they needed them. In wishing for their own "free" hospital these people often do not understand that the cost to the county and to them in taxes of operating a hospital for 2,500 people would be prohibitive.

Concerning the matter of financing medical care, the report observed:

> As might be expected, the most pressing problems encountered in regard to hospital and medical care have to do with finances. At the time of the survey, 71 out of 496 families reported that they were receiving welfare and 69 families received social security payments. Of the families surveyed, 201 were covered by some type of hospital and medical insurance. The two types of insurance most frequently reported were provided by either Menominee Enterprises, Inc., or the County Employees Insurance. The insurance programs do not include medical care outside of the hospital, medicines, and other costs frequently associated with illness.

Dependence on Welfare.—The people of Menominee County receive public assistance almost entirely under the Social Security Act, through the county welfare department. General assistance, provided by the Town of Menominee, has continued at less than $20,000 a year throughout the period. Public assistance, as already noted, has increased substantially in the county budget year by year. In July 1964 analysis disclosed that 14 percent of the population of Menominee County was receiving public assistance, in contrast to an average of 2.6 percent for the State as a whole. If account is taken of the extra welfare grants and the loans for welfare purposes made by the State under special legislation (discussed below), the proportion of the Menominee County population receiving public assistance last July is increased to 45 percent, a situation without parallel in the State. Additional welfare grants and loans have been made since July which have increased this percentage an undetermined further amount.

Bonds pledged to meet welfare needs

The foregoing description of economic and social conditions in Menominee County is by no means exhaustive. It does make clear, however, that the Menominee people are living under conditions of extreme poverty. The starkness of these conditions is further illustrated by the extent to which Menominees have been forced into pledging their income bonds in order to meet urgent cash requirements.

In December 1963, at the end of which month the income bonds of Menominee Enterprises, Inc., became negotiable, the Wisconsin Legislature established a special fund of $1,000,000, to be administered by the State Department of Public Welfare, for benefit of the Menominees. Grants and loans for welfare purposes

may be made from this fund on the basis of pledged Menominee income bonds. These are the payments referred to above in connection with the high percentage of the county population receiving public assistance of one form or another. As of the end of 1964, this fund was drawn down to less than $200,000, with early exhaustion in prospect.

The Menominee income bonds have par value of $3,000, and the outstanding amount is in excess of $9½ million. Menominee Enterprises, Inc., has first option to buy any that may be offered for sale. The cash position of the company has precluded any purchase since the bonds became negotiable January 1, 1964. The State Investment Board is empowered to exercise second option, but has decided not to purchase at more than 70 percent of par value, or $2,300. As security for welfare grants or loans, however, the bonds are accepted at par value.

This means, of course, that the neediest Menominees have the privilege of exhausting the full face value of their bonds in meeting extraordinary welfare requirements, while those who are less pressed may retain theirs as a modest source of income. A typical family may have a combined income of $720 or $840 a year from bonds issued to tribal members, but it is families of this size and larger that are most likely to need additional cash and thus to be forced into pledging their bonds.

Early in 1964 it was charged that in administering the newly established fund the State Department of Public Welfare was becoming a "collection agency for medical expenses and old debts." In the ensuing discussion, the deputy director of that department was quoted in the press as saying:

> A million dollars isn't even going to scratch the surface. If we wanted to build proper housing and do all the other things we should do for these people, we would need 10 to 20 million dollars.

The assemblymen from the district, observing that the program did not permit bonds to be pledged for loans to construct homes, added: "How can you ever get ahead of the health problems when you have nine kids and their parents living in two or three rooms?"

Termination and public opinion

The effect of these circumstances and the impact of developments since 1961 on the people of the county cannot be simply characterized. Some Menominees seem to be as demoralized as any poverty-stricken people anywhere. Others, far from demoralized, are highly and vocally indignant, leveling criticism and accusations at all public authorities, Federal, State, and local, and at the management of Menominee Enterprises. There is widespread misunderstanding of the nature of corporate ownership; the Menominee view of land ownership is as tribal today as it ever was before termination. Consequently, protests are heard against the need to give up income bonds in payment for homesites that are regarded as already the family's share of tribal land.

Those who are fortunate enough to have steady employment with the company or the county are naturally more optimistic about the future than many others. Prior to termination, before the business functions of the tribe were separated from its service functions, there was a tendency to maximize mill employment rather than profit. Consequently, there is evidence of bitterness among Menominees who, before termination, were on the payroll but since then have been found unqualified for employment. The officials of the company and other leaders close to its operations maintain their basic confidence in the long-term potential but are soberly realistic about short-term hazards.

A sizable number of Menominees persist in the view not only that termination was unwise, but that it was forced upon the tribe without full discussion or understanding, and that it constitutes a gross violation of treaty rights. The highly vocal exponents of these views are few in number but such opinions may be shared by a substantial number who do not attend public discussions or who remain silent. A related viewpoint is that termination may have been technically legal, but that the Federal Government cut off its services too abruptly and before all appropriate Federal investment in community facilities had been completed.

In April 1964 a petition for repeal of the Menominee Termination Act was addressed to the Congress carrying signatures of 788 persons identifying themselves as Menominee Indians. A duplicate set was sent to the President and receipt was acknowledged by the Bureau of Indian Affairs. The signatures numbered more than one-fifth the total on the final tribal membership roll.

Strong protests against termination and the way it came about were voiced at meetings held by direction of the Governor in Madison on July 27 and August 6, 1964, and again at hearings conducted by the State Department of Administration in Menominee County during the last week in September. At the Governor's invitation, Bureau representatives attended these meetings and hearings as observers.

Proposals for action

At the July 27 meeting, the Governor announced a Menominee Action Program under which each of 13 departments and agencies of the State was assigned responsibility in a general attack on "the severe economic, educational, and health problems of Menominee County." This program represented a broad move by the executive branch to deal with the situation, the seriousness of which had been acknowledged by the Legislature in its action in December 1963 establishing the million-dollar Menominee fund.

By mid-September the State agencies were able to report a very impressive list of actions taken or planned. Many of the more significant steps would require additional funds, and these were included in a request submitted by the State on behalf of Menominee County to the Office of Economic Opportunity, totaling $1,600,000.

Education.—The proposals of the Department of Public Instruction were numerous and varied, indicative of the very great need for improvement in education in Menominee County. These included measures to be undertaken jointly with the Department of Public Welfare in dealing with the dropout problem. Reportedly, these plans have been reworked and perfected since September, with active participation of Shawano County school officials, the University of Wisconsin, and the Wisconsin State University (Stevens Point).

Industrial Development.—A disappointing aspect of the Governor's program lay in the finding by the Department of Resource Development with respect to the prospect for industrial and commercial development in the county apart from the Menominee enterprise itself. The conclusion reached was that such development was most unlikely because of a number of factors:

1. The county lacks a minimum of services to attract industry and commercial enterprises.
2. It is very doubtful if the communities in the county can support even the minimum of commercial enterprises.
3. There are no "good" housing areas where industry or business management could live without residing outside of the county.
4. Capital from non-Government sources is not available.
5. Although there is much evidence to the contrary, the area does not have a good worker dependability reputation. Such a reputation, although unfounded, must be recognized since it tends to adversely affect industrialization.
6. There are not many, if any, available buildings for commercial or industrial development.
7. The established trading centers surrounding the county are close enough to attract the county residents and unless the communities in the county develop a diversity of services and a local buying attitude the services will have difficulty surviving.
8. Local leadership for commercial and industrial development is lacking in enough experience and depth.

Development of Recreation.—Additional industry in the county is probably a questionable prospect under any circumstances, but commercial and recreational development, including the lease-sale of sites for summer and year-round homes, has from the outset been envisaged as an important means of supplementing earnings from the mill, increasing the tax base, and lessening dependence on Menominee Enterprises as virtually sole taxpayer. Through September 1964 a total of 75 lease-purchase agreements were reported, with about 20 new homes in place at average value of $12,500. As a part of such a program, the company has responded with a counter offer to the proposal by the State Department of Conservation to establish a State park in Menominee County.

Under the company's proposed modification, the park would not embrace all the county except for home and business sites, but would instead be limited to about 2,200 of the county's 234,000 acres. The area described is believed by the company to have a potential developed value of nearly $15 million. Such development is regarded as a 40-year process, however. For use as a State park, the company has proposed a 40-year lease-purchase price of $6.5 million.

Recurrent proposals that part or all of Menominee County be made a State park have aroused much vocal opposition. It became apparent at the hearings in September 1964 that there is deep minority opposition to any intrusion by "outsiders" into the "reservation," as such Menominees continue to call the county. According to the company, the Conservation Department has given assurances that it will not use its power of condemnation to acquire Menominee land for park purposes.

The company's proposal would entail establishment of a trust fund into which annual payments under the lease-purchase agreement would be paid, such fund to be used to retire bonds and stock of Menominee Enterprises, Inc. (including possible repurchase of bonds now encumbered by the Department of Public Welfare) and to pay interest and dividends. The park itself, in the company's view, could "complement other development necessary in Menominee County, for the benefit of all concerned."

CONCLUSION

The foregoing review of developments in Menominee County since termination of the Federal trust in 1961 makes clear how ill-advised were the terms on which the Menominees were deprived of Federal services and supervision. The need for remedial action, by the State or Federal government, or both, cannot be denied in light of the stark facts concerning the county, with its mounting budget, and the corporation, with its struggle to finance most of that budget and yet keep its head above water.

The Menominee Termination Act is explicit that, upon termination,

> members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction. (Sec. 10)

In light of this language, the Bureau has had no programs in operation in Menominee County since May 1, 1961, and has no authorization for appropriations to be used in that county. This is not well understood among the Menominees, many of whom are ready to take any evidence of official interest in their situation as an indication that the Bureau is in stand-by status under a Federal trust responsibility that is only temproarily suspended. This became evident in the course of the meetings and hearings where the Bureau was represented by observers.

The Department of the Interior sees no alternative to combined State and Federal support of the county and its people, who are in desperate circumstances. Continuation of the present trend will threaten the existence of the corporation and lead to decline of county services, to the detriment of the Menominee people and their non-Indian neighbors in Wisconsin. To stand idly by and watch the further growth of such a pocket of poverty is unthinkable.

The State of Wisconsin has been generous in its aid to Menominee County. Federal aid was small and was established on a declining basis; it is now approaching the vanishing point. In our opinion, Federal assistance should be reestablished, in such categories and such amounts are are commensurate with Menominee County's needs. There are two methods by which this may be done.

Grants-in-aid may be provided through new authorizations and appropriations to the Department of the Interior for the use and benefits of Menominee County. If this method should be followed, it would require amendment of the Menominee Termination Act or it would constitute a precedent-setting departure from the principle of trusteeship, which has hitherto governed the conduct of Indian affairs.

Alternatively, the Congress may authorize and appropriate similar amounts to the Department of Health, Education, and Welfare, to be transferred to the State of Wisconsin for aids to Menominee County.

The responsibility for initiating action to determine what measures are required to meet the urgent Menominee situation is shared by officials of the State of Wisconsin and Menominee County and officers of Menominee Enterprises, Inc. In light of the facts the Bureau's review has disclosed, we are confident that full examination by appropriate legislative committees will amply corroborate these general conclusions and permit appropriate and adequate measures to be drafted

for enactment into law. The Department of the Interior will be ready at all times to respond to requests for recommendations with respect to such legislation as may be proposed.

Dr. NASH. Thank you, sir.

I will direct the committee's attention to the following two passages in the report of 1965.

The foregoing review of developments in Menominee County since termination of the Federal Trust in 1961 makes clear how ill-advised were the terms on which the Menominee were deprived of Federal services and supervision. The need for remedial action by the State or Federal Government, or both, cannot be denied in the light of the stark facts concerning the county, with its mounting budget, and the corporation, with its struggle to finance most of that budget and yet keep its head above water.

". . . The Department of the Interior sees no alternative to combined State and Federal support of the county and its people, who are in desperate circumstances. Continuation of the present trend will threaten the existence of the corporation and lead to decline of the county services to the detriment of the Menominee people and their non-Indian neighbors in Wisconsin. To stand idly by and watch the further growth of such a pocket of poverty is unthinkable . . .".

Mr. Chairman, I do not quote from these documents of the past in a spirit of recrimination or "I told-you-so". My intentions are directly the opposite.

In 1954, the Congress, defining the Indian problem as the Indian Bureau, severed the connection because it held paternalism and dependency to be the inevitable outcome of the historic relations between the BIA and the tribes. Now, a generation later, the Menominees have organized themselves to say to the Congress in unequivocal terms that they want their rights and privileges as Indians restored. In doing so, they are not coming in as dependents and they are making it clear that they do not intend to accept paternalism.

I am here to endorse their statement and to say as a former commissioner that the hand of the BIA does not have to be paternalistic. The way to avoid it was pointed out in the testimony of Secretary Carver before this committee more than a decade ago.

Retain the trust; and let the BIA contract for services, both tribal and municipal, and then we can see whether State, Tribe, and Federal Government can move toward a solution of the many problems that confront us.

I must say that I listened to the departmental testimony with some slight dismay. It is understandable that the Department of the Interior should wish to have the full powers and decision which goes in trust responsibility. But, Mr. Chairman, this is the nub of the problem of paternalism; it is in the execution of the trust responsibility where every trust officer fears that he is going to be found to have violated the spirit or the letter of law of trust if he does not exercise the same judgment over somebody's else's affairs that as a prudent man he would exercise over his own.

In fact, Mr. Chairman, my experience in the Bureau of Indian Affairs leads me to point out to the committee what the departmental report does not point out, that there are, in fact, a wide variety of arrangements within the Interior Department's trust responsibility for Indian affairs and there is great flexibility—which has been exercised by the department and the Bureau—in the discharge of its responsibility. In many instances the trust is considerably less than complete.

For example, the great Navajo Tribe, where the tribal government and law is, in fact, a nonadjourned constitutional convention; it is operated by consent arrangements between the Secretary of the Interior and the tribe itself and has been for more than 50 years.

So there are a wide variety of arrangements, and I think the time has come to exercise flexibility, not inflexibility, and to innovate and to experiment. What is important here is the preservation of the assets in the face of a declining situation. And that is what the trust responsibility will do.

The manner in which it is discharged requires, I think, a great forebearance on the part of the Department of the Interior. And I just feel in saying to the committee that they want written into the law very exact terms of the way in which this responsibility is to be discharged. I wish they didn't feel this was necessary.

Senator BARTLETT. Dr. Nash, thank you for your testimony. I am very sorry that I had to be at another meeting and was not able to be here during your presentation.

Are there any questions, Mr. Gerard or Mr. Verkler? If not, then we can finish the panel's presentation.

Dr. Lurie.

STATEMENT OF DR. NANCY LURIE, PROFESSOR OF ANTHROPOLOGY, THE UNIVERSITY OF WISCONSIN

Dr. LURIE. Thank you.

I am Nancy Lurie, the head curator of anthropology at the Milwaukee Public Museum and adjutant professor of anthropology at the University of Wisconsin, Milwaukee.

I will try to avoid the dull reading of my remarks, but I think there are a number of points that should be put into the record. Copies of my statement have been given to the committee.

Senator BARTLETT. Your statement will be put into the record in its entirety and in addition your additional remarks.

[Prepared statement of Dr. Nancy Lurie follows:]

PREPARED STATEMENT OF DR. NANCY LURIE, PROFESSOR OF ANTHROPOLOGY, UNIVERSITY OF WISCONSIN

I wish to express my thanks for the opportunity to present testimony at this hearing. I speak as a concerned citizen with credentials as an anthropologist and not as representing the institutions where I am employed. As a specialist in North American Indian studies, I have been familiar with the Menominee from an academic, anthropological perspective for many years. As an action anthropologist, I have taken particular interest in the Menominee since termination. Since late 1969, I have been in close and regular contact with the tribe. Included in the references on which this testimony is based is an article defining action anthropology in detail. Briefly, the action anthropologist is a resource person providing information and skills from anthropological experience as these may be requested and as the requesting group chooses to employ them. However, in this instance, it is the action anthropologist who has really gained as a scholar rather than the requesting group in our association.

What has struck me particularly as I have been privileged to observe, chronicle, and analyze the Menominee struggle for Restoration is the entrenched mythology the Menominee have encountered about themselves on the part of White officialdom and the non-Menominee public at large. This body of myth is a constant source of obfuscation of the substantive legal, political, and economic issues that

are basic to the Menominees' critical need for immediate Restoration. These myths arise in classroom discussions of Indian policy, are dredged up in question periods following public lectures I present on Indian topics from time to time and are repeated as gospel in the most casual and informal conversations when the Menominee happen to be mentioned. They drift like a leit motif through many of the news stories and editorials in the public media. They are a constant source of frustration to the Menominee in their attempts to get a fair and impartial hearing of their grievances and aspirations.

Therefore, my testimony will attempt to deal with these myths in an effort to Ilarify the record on the substantive issues. I shall dwell on some of these issues but only as they are relevant to understanding the mythology since testimony and documentation on substantive matters are already included in the record of this and previous hearings.

There are many myths about American Indian people in general and the Menominee in particular. My remarks will be confined to the four I consider most misleading and thus damaging to the Menominee interest in regard to their effort to obtain passage of truly effective restoration legislation. These are the myths of "The Vanishing Indian", "The Menominee Vote for Termination", "Federal Paternalism", and "Menominee Incompetence."

THE MYTH OF THE VANISHING INDIAN

The myth of the "Vanishing Indian" plagues Native American people generally in their endeavors to achieve long range, community oriented solutions to their socio-economic problems. It is difficult to get anyone to take you seriously if he expects you to vanish and your problems and grievances to vanish conveniently along with you. Although the Indian population has been increasing rapidly at least since the second decade of the present century, the myth of the vanishing Indian is peculiarly persistent. For example, in a course I teach on American Indian history and culture, I always give a "quiz" at the beginning of the first class meeting which is really a survey of the students' general knowledge of the subject. This semester, in a class of 55 students, as usual, well over half circled "decreasing" in a multiple choice question regarding the contemporary Indian population.

Faced with facts from the census, non-Indians still cling to myth on the specious argument that Indians are not "really" Indians any more. Therefore, still unfulfilled promises made in treaties long ago no longer apply because Indians no longer dress and live as they did a century ago. But who does? On these grounds, it could be argued Jews, for example, are not "really" Jews any more and therefore guarantees of freedom of religion need no longer apply. Or, because American society has changed from being predominantly rural to predominantly urban between 1880 and 1920, the American nation, founded under largely agrarian conditions, should no longer be recognized as a valid political entity. For that matter, Senators would not even be "really" Senators any more because they no longer write their speeches with quill pens and drive to work in horse drawn carriages.

The idea of the vanishing Indian became entrenched at a time in the nineteenth century when the Indian population was actually decreasing as a result of armed conflicts, deprivation, and new diseases stemming from White contact. Federal policy was based on the fond expectation that the Indian demographic trend would continue downward to the vanishing point. Certainly, solemn promises made to Indian tribes in treaties and other contracts to protect their reserved lands in perpetuity were based on the belief that the nation would not be held to those promises for very long, let alone "forever." There would simply be no more Indians. Nevertheless, even at the time that the doleful prophesy of the Indians' disappearnce seemed on the way to fulfillment, official policy sought to assure and hasten the process by attempting to stamp out Indian cultural traits. Thus, if any hardy souls survived they would no longer "really" be Indians wanting to hold us to our promises.

These efforts, of course, were undertaken in a spirit of benevolence and ethnocentric arrogance that Indian people would want to become absorbed into what White America considered a superior society and civilization. The fact that uncounted numbers of White Americans have long boasted about more or less remote "Indian ancestry" suggested and still suggests to many people that assimilation is relatively easy for Indians compared to other peoples of color. Yet, the *Indian* population in terms of tribally identified and oriented people continues to grow. Many of these Indian people, in their turn, have more or less remote White

ancestry, but in socio-cultural terms this no more makes them classifiable as "White" than Whites with Indian ancestry can be classified as "Indian." However, the notion persists as a kind of corrolary to the basic myth of the vanishing Indian that because Indian tribes have acquired some genes from Euro-American sources they are not "really" Indian any more, but for some reason Indian contributions to the Euro-American gene pool make Euro-Americans no less "really" what they are.

Further reinforcement of the myth of the vanishing Indian derives from the Euro-American cultural focus on pride in technology. Indian groups have adapted many material objects from the dominant culture to serve Indian survival needs in Indian ways. That the material and technological inventory of Indian groups today includes massive similarities to the inventory of all Americans is perceived as evidence that loss of social identity is necessarily also involved. Actually, since the beginning of White contact Indian groups have made a succession of massive changes in their material culture and even their economic activities. As a Winnebago friend once explained this phenomenon, "Our old folks tell us that things which are material are temporary but things which are of the spirit endure."

The myth of the vanishing Indian has worked particular hardship on the Menominee. At the time termination was proposed, most tribes around the country were poor, some abysmally so—and Indian poverty is till a fact of American life. It followed, and to a great extent still follows in the public and official mind, that to be Indian necessarily is to be poor. The Menominee in 1953, however, were relatively prosperous compared to the great majority of Indian groups and were therefore perceived as somehow not really or properly Indian. Ironically, their prosperity was evidence of their signal success as an Indian tribe. It was the result of their tenacious and judicious commitment to certain fundamental and traditional tribal values regarding land and its resources. Archeology tells us that the Menominees' aboriginal title to the area of Wisconsin they were forced to cede and the small part they managed to reserve as a reservation homeland goes back thousands of years before the Christian era. We do not even know when the Menominee were not in this area. Their affection for the region was such that they managed, after years of persistent negotiation, to avert their scheduled removal west of the Mississippi River. They held out against pressure from the lumbering interests to keep their forest intact and later demonstrated an intuitive grasp of the principle of sustained yield forestry. Perhaps most important, they managed to prevent allotment of their reservation, recognizing this policy of individualized land holding (that was touted by Whites as a measure of civilized "progress") for the disaster it proved to be on the allotted reservations. The Menominee simply went on being Menominee, Indianizing White in-laws now and then, borrowing extensively but selectively from the inventory of White culture, and holding their reservation tribally while developing its resources in ways congruent with their customary value system in the total Menominee interest. Flexibility, adaptability, and putting the main chance to survive to good use also characterize the Menominee approach to life. These values are not unique to the Menominee and are at the base of the persistence of Indian tribal entities generally. But the Menominee proved particularly adept at operationalizing their guiding values and choosing effectively among available alternatives in response to new threats, challenges, and opportunities. The Menominee had and have internal differences and these are natural and necessary to any human society to maintain flexibility in terms of a variety of options to meet threats and opportunities intelligently. Like other tribes, they have experienced exacerbation of difference because of outside influences of missionary and government.

THE MYTH OF THE MENOMINEE VOTE FOR TERMINATION

Menominee efforts to achieve restoration are met with monotonous frequency by piously misinformed public and official opposition that can be summed up by the old saw, "You made you bed, now lie in it." Corrolaries to the myth that the Menominee wanted termination are that the Menominee heedlessly and foolishly sold their Indian birth-right for a mess of per-capita payments, and that conversion of their reservation to a Wisconsin county was their own decision. Despite well-documented, published and publieized information as to the true facts of Menominee termination, the basic myth and its corrolaries persist. The reasons for this are not hard to find. In broad sociological and anthropological perspective, the most convenient and self-serving argument for those in positions of dominance and authority to avoid guilt or admission of responsibility for the problems of

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minority groups is to put the balme for their problems on the minorities themselves. People are poor because they are profligate or lacking in enterprise, blacks are unable to get responsible jobs because they are naturally irresponsible, women are not often found in high-level administrative posts because they are too emotional for such jobs, and so on. While thoughtful and enlightened people reject such conclusions, it is an entrenched, conditioned response in most of us to seek blame-shifting explanations when faced with unpleasant facts, the possibility of being found culpable, and pressures to change a situation that might require money, effort, or both.

The Menominee situation since termination has become so incredibly complicated and necessitates so much intellectual effort to comprehend, let alone change, that simplistic mythic cop-outs from responsibility are especially appealing. This has certainly proven to be the case regarding the "vote for termination" of 169 in favor and 5 opposed that was taken in the spring of 1953. It is really a meaningless statistic but it is adverted to time and again. In the first place, the Menominee were required to vote a simple yes or no to cover two, unrelated proposals: release of per-capita payments from the judgment they had won in the Court of Claims in 1951; and agreement to a vaguely designated "principle of termination." The Menominee had absolutely no way of making an informed decision about the actuality of termination and whether or not it was something they wanted. They have been forced to lie in a bed not of their own making. The arrangements that led to impossibly burdensome taxation and the Menominees' political and corporate powerlessness were worked out between 1954 and 1961 without their involvement as a tribe in weighing alternatives and reaching decisions. The vote itself, whatever the Menominee thought "the principle of termination" meant, was fraught with irregularities, confusion and duress. Senator Arthur V. Watkins's remarks to the Menominee are documented in the minutes of the meeting when the vote was taken. He made it quite clear that the government was determined to terminate the Menominee whether they wanted this or not. For some Menominee, their "yes" votes were a desperate bid to assure the Menominee some voice in the implementation of what was an apparently foregone conclusion. The number of Menominee who cast votes represented less than 10% of the eligible voters. Yet, in this matter of tremendous tribal importance, Senator Watkins evidently saw no reason to arrange for mail balloting to allow those who could not attend the meeting to express their opinions. Nor was the small turnout questioned as possible indication of many negative votes being registered by the traditional Indian practice of simply withdrawing entirely from even discussing a matter one disapproves of.

Realizing they had been stampeded by fear and confusion of issues and obliged to take a vote without full knowledge of all it might entail, the Menominee convened another meeting a short time after the first meeting. Nearly 200 people then voted unanimously that if payment of their per-capitas threatened their rights to their reservation, the government could keep their money. Thus, contrary to the corrolary to the basic myth, the Menominee were not inclined to sell their birth-right and were even willing to make financial sacrifices to keep it. Furthermore, the reason the Menominee were still waiting for their money in 1953 is that when they had made their initial request for release of their per-capitas, a termination rider had been attached to the bill. They had protested the rider with the result that their money was retained in the federal treasury. These facts have been buried under the myth that the Menominee were bought off with their own money to vote for termination. Moreover, petitions with hundreds of Menominee signatures were sent to the Congress in opposition to termination but were neither considered nor widely publicized as a possibly more representative expression of Menominee opinion than the Watkins vote.

Now, let us consider the second corrolary to the myth that the Menominee wanted termination, i.e., that they voted to convert their reservation into a Wisconsin county. The vote that created Menominee County was a vote to maintain the reservation area intact despite termination and it was a vote against the alternative of dismemberment for purposes of taxation among neighboring counties. The Menominee did not vote to convert their federally protected reservation to a county under the jurisdiction of the State of Wisconsin. The reservation had already been wrested out of federal jurisdiction against the Menominees' will. The Menominee had no choice but to vote for what appeared to be the better of two bad alternatives. They were only given a choice between certain destruction of the integrity of the tribal land base by carving it up among non-Menominee controlled counties, or trying to struggle against slow economic strangulation by going it alone as Menominee County.

Ameliorative welfare legislation is traditionally subject to public suspicion that "hard earned tax dollars" are being spent on "freeloaders." The fear that someone is getting "something for nothing" is further deplored on the virtuous argument that "federal hand-outs" sap the ambition of the recipients and threaten the moral fiber of the nation.

Since termination had been propagandized in part as "getting the government out of the Indian business", the Menominee drive for restoration suggests both expenditures of money for federal Indian services and encouraging "dependency." What is not generally realized is that the Menominee were made dependent on government paternalism by termination, and restoration is their hope for self-determination. As a federally recognized, reservation tribe, the Menominee were virtually self-sufficient, even to footing the bill for administrative services from the federal government. Their treasury was systematically depleted in carrying out the provisions of the termination legislation they had not wanted in the first place.

In 1953, the tribal treasury held just under $10 million. About $7½ million represented the judgment won in the Court of Claims in 1951 and the balance constituted interest bearing funds the tribe had built up through their own enterprise and which helped to support community services on the reservation. As noted, the Menominee had ear-marked a substantial proportion of the judgment for per-capita payments with the remainder intended for community improvements. The Termination Act of 1954 included a provision to release the Menominees' per-capitas, apparently on the strength of votes Watkins had coerced and without further consultation with the tribe whether they might want to reconsider a decision to use their money for per-capitas that had been reached before they faced the fact of termination. They were simply paid. Then it was discovered that prior to termination the government had miscalculated the profits from the Menominees' business operations and money was still owed on individuals' shares of the profits. This had to be paid out of accumulated tribal capital. Thus, the tribe faced termination with a tremendously reduced treasury. However, the fact that the tribe had won a large Court of Claims award perpetuated a notion that the Menominee were wealthy. Actually, they were only relatively prosperous in 1953 compared to most other Indian tribes. This hardly constituted real affluence. Nevertheless, the tribe was required to contribute substantially to the cost of planning and implementing termination procedures. When termination became final in 1961, the government had wiped the tribe out financially so that the Menominee who had been proudly and willingly paying their own way began their "independence from government paternalism" operating at an annual deficit running into several hundred thousand dollars. Perhaps the sorriest example of government boon-doggling with the Menominees' money related to their hospital. The government approved expenditure of judgment money to the amount of about $250,000 to improve the tribal hospital, knowing termination was in the offing for the Menominee. No steps were taken to assure that the hospital would be made to conform to State of Wisconsin requirements. When termination became final there was no money left to meet these requirements and the hospital had to be closed.

Since termination, massive emergency funding, stop-gap measures of leasing land to the State of Wisconsin for park use, and short-range federal poverty program money have been required to sustain the Menominee community at a living standard that for many has been below what they had enjoyed as reservation Indians. Finally, the need to raise cash to meet crushing tax burdens resulted in a decision by the Menominee Enterprises, Inc., management to sell Menominee land. In state and national terms, the Menominee cost the tax-payers more after termination than before and the Menominee paid a terrible price themselves for a policy not of their own choosing. In view of these facts, restoration of federal Indian services and protection of Menominee land represent no more than federal restoration of the means to community well-being for the Menominee, a state of well-being the government itself had wantonly destroyed in the process of terminating the Menominee. It might even prove the most economical course to follow in regard to the Menominees' needs.

Finally, put bluntly but accurately, the Menominee have been bilked out of money owed them by the nation for more than a century. Seldom mentioned and little publicized is the fact that the Menominees' otherwise much publicized Court of Claims settlement was finally approved in 1951 (after more than a decade and a half of litigation) on the requirement of Menominee agreement not to pursue a claim in the U.S. Indian Claims Commission that had been established

in 1946. The deadline for filing claims was 1951. This was a curious limitation on Menominee rights insofar as the grounds for suit before the Claims Commission would have involved totally different issues than the Court of Claims settlement. With all the financial pressures placed on the Menominee by termination, they could certainly have used a Claims Commission award.

I am particularly sensitive to this injustice to the Menominee because I served as an expert witness before the Commission for the Winnebago whose treaty cessions bordered the Menominee cessions on the West and South. I was also indirectly involved in and well acquainted with the Chippewa claims concerning cessions bordering the Menominee cessions on the North. The Winnebago and Chippewa lands are of a piece with the Menominee lands, the Menominee treaty payments were comparable to the Winnebago and Chippewa treaty payments, and all three tribes' treaties stem from the same period of the nineteenth century. Both the Winnebago and Chippewa have won judgments of several million dollars on grounds of unconscionable consideration given for their lands at the time they were ceded. There is not the slightest doubt in my mind that the Menominee would also have qualified for a Claims Commission award on the same grounds employed in the Winnebago and Chippewa cases. It is the government and American people that got "something for nothing," in fact a great deal. Namely, millions of acres of Menominee land for only a fraction of its worth.

THE MYTH OF MENOMINEE INCOMPETENCE

This myth could also be titled the myth that everyone but the Menominee is qualified to make decisions in regard to the Menominee. Time and again, non-Menominees have meddled and managed in Menominee affairs with disastrous consequences for the Menominee. This, despite the fact that long ago the Menominee demonstrated their wisdom in opposing allotment and prospered, even in the face of handicaps and obstacles set up by non-Menominees, while the allotted tribes were plunged into ever deeper poverty and despair. Later, the Menominee took the opportunity to prove that they, better than anybody else, knew more about their environment and their best interests in managing it, by winning a judgment against the government for mismanagement of their tribal lumber resources.

The Menominee were opposed to termination, but non-Menominee experts insisted on terminating them anyway. Today, it is generally agreed that the forced termination policy was a dreadful mistake. Non-Menominee expertise imposed on the Menominees' corporate affairs to implement the termination plan disregarded Menominee expressions of dissatisfaction and proceeded to recommend and engage in schemes of land sales, "economic development", and divesting the Menominee of their utilities and medical facility, thereby compounding the Menominees' problems instead of solving them and reducing their primary capital asset of land. The State of Wisconsin set up a "Menominee Indian Study Committee" composed primarily of non-Menominee experts in various fields and including a couple token Menominee who were not expected to garner opinion among the Menominee but simply speak as they considered best. The State of Wisconsin forced contractual arrangements on the Menominee that put non-Menominee officialdom in the neighboring county in control of matters relating to public education and law enforcement in regard to the Menominee. The Menominee have been ill-served in both regards.

Now, the Menominee seek Restoration to regain meaningful control over their own future. They, and not non-Menominee experts, will have to live and cope with the provisions enacted into Restoration. The Menominee gave of their best thinking and weighing of alternatives in the creation of a Restoration Bill that would afford maximum protection of their resources, flexibility to develop their own governing and business operations, and the opportunity to work out equitable arrangements in regard to former reservation land that has been alienated from tribal ownership. They spent tremendous amounts of time, effort, and their personal funds. They sought legal and other expertise and considered all the pro's and con's of various alternatives. They wrote successive drafts of what might be included in Restoration legislation and circulated them throughout the tribe, and by a process of discussion and redrafting reached consensual agreement on what they needed. They remained sensitive to what was most desirable and what was most expectable in approaching the ideal. The Bill introduced May 4, 1972 (H 14556–14803, S 3514) by their then Congressmen, David Obey, and other sponsors in the House and Senate was based directly on what the Menominee had

agreed upon as necessary to their Restoration. That bill lapsed as the 1972 session ended before it was acted on.

By the time the Bill was introduced as H 7427, S 1687, May 2, 1973, it included provisions the Menominee were obliged to accept to get it introduced at all. They used the opportunity afforded by the House Sub-Committee hearings in Menominee County and Washington, D.C. to argue for the original form of the bill as introduced in 1972. But the House Sub-Committee marked the bill up further. Whatever the Committee's reasons, they do not understand the Menominee situation from the point of view of the Menominee who will have to work with the Restoration legislation that is finally enacted. My personal impression is that the initial change in the bill and the subsequent mark-ups are largely a reflection of awareness of how badly used the Menominee have been and, a fear that left to their own devices, they will treat non-Menominee people vindictively if they possibly can. It is my personal knowledge of the Menominee people that given an equal chance in any negotiating situation they will keep the larger interest of inter-group harmony and cooperation foremost in mind. The provisions written into the original bill will not jeopardize the rights of land owners in the Menominee area. Furthermore, the need for immediate restoration of federal Indian services is the means to provide security to arrive at rational arrangements for self-determination and solving the many problems wrought by termination. The original bill constitutes an organic whole, an integrated system of provisions to deal with a series of inter-related issues. Grafts and amputations are "unnecessary surgery" that can only have an adverse effect on the patient's health.

I would respectfully urge that the Restoration Bill now before this Sub-Committee be restored to its original, 1972, provisions. Outsiders' prescriptions to terminate the Menominee brought disaster upon the tribe. It is time the Menominee had the opportunity to decide for themselves.

From a scientific perspective, the experience of action anthropology indicates that informed, community decision making of the kind that characterized creation of the 1972 version of the Restoration Bill is the best guarantee for successful community action. Furthermore, given the opportunity to do so, the Menominee are in a unique position to point the way to new and innovative directions in federal Indian relations and policy. Their ideas should be given the most serious attention and support not only in their interest but for the even greater potential for the interests of the nation at large in developing working models on which to base not only Indian policy but other programs of community development as well.

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Dr. LURIE. I can skip over the introduction, but what has struck me especially in observing and analyzing and chronicaling the Menominee drive for restoration has been the entrenched and incredible mythology the Menominee have encountered about themselves on the part of white officialdom and the non-Menominee public at large. And I think it is worth considering this body of myth because it is a constant source of obfuscation of the substantive legal, political, and economic issues that are basic to the Menominees' critical need for immediate restoration.

I find these myths coming up in classroom discussions of Indian policy, in public lectures that I might happen to give on Indian topics, and are repeated as gospel in the most casual and informal conversations when the Menominee happen to be mentioned. They are a constant source of frustration to the Menominee in their attempts to get a fair and impartial hearing of their grievances and aspirations. These myths drift like a leit motif through many of the news stories and editorials in the public media.

There are many myths about American Indians in general and the Menominee in particular. My remarks will be confined to the four that I consider most misleading and thus damaging to the Menominee interest in regard to their effort to obtain passage of truly effective restoration legislation. These myths I have named "The Myth of the Vanishing Indian," "The Menominee Vote for Termination," "Federal Paternalism," and "Menominee Incompetence." In the "Myth of Federal Paternalism," I will be reenforcing some of the things Dr. Nash has said.

Now, the "Myth of the Vanishing Indian" of course plagues Native American people generally, particularly when you are trying to get fair consideration of long-range community-oriented solutions to their socioeconomic problems. It is very difficult to be taken seriously if the people you are talking to expect you to vanish immediately and your problems and grievances to vanish conveniently along with you.

In the testimony that I am submitting in written form, I am going to the background of how this myth came into being and would like to talk about it here, particularly in regards to the Menominee.

The "Myth of the Vanishing Indian" has wreaked particularly hardship on the Menominee. The myth persists despite the fact that since at least the second decade of this century the Indian population has been increasing. Despite these actuarial facts, there is a view on the part of the public at large that Indians aren't really Indians any more because they have taken on a whole host of material items from the larger culture.

Now, at the time termination was proposed, most tribes around the country were poor—some abysmally so—and Indian poverty is still a fact of American life.

It followed, and to a great extent still follows in the public and official mind, that to be "Indian" necessarily is to be poor. The Menominee in 1953, however, were relatively prosperous compared to the great majority of Indian groups and were therefore perceived as somehow not really or properly "Indian."

Ironically, their prosperity was evidence of their signal success as an Indian tribe. It was the result of their tenacious and judicious commitment to certain fundamental and traditional tribal values regarding land and its resources.

According to the archaelogists, the Menominee have been in the area that they ceded and still retain a small part of Wisconsin since long before the Christian Era, thousands of years. We don't even know of the time when there were no Menominee in Wisconsin. The Menominees' affection for this region was such that they managed, after years of persistent negotiation, to avert their scheduled removal west of the Mississippi River.

As Dr. Nash indicated, they held out against the pressure of the lumbering interests and they later demonstrated an almost intuitive grasp of the principles sustained in lumbering. Perhaps most important. they managed to prevent allotment of their preservation, recognizing this policy of individualized land holding—that was touted by whites as a measure of the civilized way of "progress"—for the disaster it proved to be on the allotted reservations.

The Menominees over the years since the reservation was established in 1854 simply went on being Menominee, Indianizing white in-laws now and then, borrowing extensively but selectively from the inventory of white culture, and holding their reservation tribally while developing its resources in ways congruent with their customary value system in the total Menominee interest.

Flexibility, adaptability, and putting the main chance to survive to good use also characterize the Menominee approach to life. These values are not unique to the Menominee and are at the base of the persistence of Indian tribal entities generally. But the Menominee proved particularly adept at operationalizing their guiding values and choosing effectively among available alternatives in response to new threats, challenges, and opportunities. The Menominee had and have internal differences and these are natural and necessary to any human society to maintain flexibility in terms of a variety of options to meet threats and opportunities intelligently. Like other tribes, they have experienced exacerbation of difference because of outside influence of missionary and government origin.

However, they have demonstrated, and in the present instance demonstrate enduring unity of sentiment in regard to values that lie at the enduring core of Menominee culture—reverance for their land and the importance gf being Menominee.

Their material success as Indian people, however, was totally misunderstood by white policymakers whose ethnocentric perceptions could only allow them to attribute success and material well-being to the operation of their own value systems and methods.

Termination was proposed to complete the job of vanishing that the Menominee were presumed to have almost fully accomplished. The provision of the act of 1954 to phase out the tribal roll reflects this unquestioning enthocidal faith in the myth of the vanishing Indian in regard to the Menominee.

Subsequently, implementation of the termination legislation imposed intolerably alien structures and philosophies on the Menominee people. Complaints from the Menominees were brushed aside by non-Menominee people who exerted enormous power over Menominee affairs as a result of termination.

The tribal grievances were viewed as minor cases of cultural lage among the "less acculturated" folk. The confident assumption continued to be that the Menominee in general were well on the way to vanishing. The organized effort that finally evolved in opposition to termination and as a drive for restoration gives the lie to the myth of the vanishing Indian as far as the Menominee are concerned.

Perhaps most distressing for the Menominee in trying to get a fair hearing in the public press and to even be heard in the Halls of Congress is the persistent iterated myth that the Menominee voted for termination.

Piously misinformed people opposed the Menominee efforts which can best be summed up by the old saw, "You made your bed, now lie in it."

Corolaries to the myth that the Menominee wanted termination are that the Menominee heedlessly and foolishly sold their Indian birthright for a mess of per-capita payments, and that conversion of their reservation to a Wisconsin county was their own decision.

There is well-documented, published and publicized information as to the true facts of Menominee termination, but the basic myth and its corrolaries persist.

Now, the reasons for this are not hard to find. In broad sociological and anthropological perspective, the most convenient and self-serving argument for those in positions of dominance and authority to avoid guilt or admission of responsibility for the problems of minority groups is to put the blame for their problems on the minorities themselves.

People are poor because they are profligate or lacking in enterprise; Blacks are unable to get responsible jobs because they are naturally irresponsible; women are not often found in high-level administrative posts because they are too emotional for such jobs, and so on. While thoughtful and enlightened people reject such conclusions, it is an entrenched, conditioned response in most of us to seek blame-shifting explanations when faced with unpleasant facts, the possibility of being found culpable, and pressures to change a situation that might require money, effort, or both.

The Menominee situation since termination has become so incredibly complicated and necessitates so much intellectual effort to comprehend, let alone change, that simplistic mythic copouts from responsibility are, of course, especially appealing.

This has certainly proven to be the case regarding the so-called vote for termination of 169 in favor and 5 opposed that was taken in the spring of 1953. This is really a meaningless statistic, but it is averted to again and again. There was no way that the Menominee could possibly make an informed judgment over what was meant in that vote.

In the first place, they were asked to make a simple "Yes" or "No" on a double-barrelled issue—release of per capita payments from a 1951 judgment, they had every right to expect, and agreement to a vaguely defined principle of termination. They couldn't make an informed decision because nobody knew what termination entailed.

It was not until between 1954 and 1961 that all the provisions were reached in regard to termination, and were reached really without the involvement of the Menominees as a tribe in weighing alternatives in reaching decisions. Whatever the Menominee thought the principle of termination meant, was fraught with irregularities, confusion, and duress.

Senator Arthur V. Watkins' remarks to the Menominee are documented in the minutes of the meeting when the vote was taken. He made it very clear that the Government was determined to terminate the Menominee whether they wanted this or not.

For some of us, the Menominees' "Yes" votes were a desperate bid to assure the Menominee some voice in the implementation of what was made clear to them was an apparently foregone conclusion. The

number of Menominee who voted was less than 10 percent of the eligible voters. Yet, no provisions were made for a mail ballot on such an important issue.

I think the very import is that the Menominees realized that they had been stampeded by fear and confusion of issues and obliged to take a vote without full knowledge of all it might entail.

They convened another meeting shortly after the first meeting. At that time nearly 200 people then voted unanimously that if payment of their per capitas threatened their rights to their reservation, the Government could keep their money.

Thus, contrary to the corrolary to the basic myth, the Menominee were not inclined to sell their birthright and were even willing to make financial sacrifices to keep it.

Now, the Menominee were still waiting for their money in 1953 because their first request to Congress to release it from the Federal Treasury had carried a termination rider that they had opposed successfully, and at that time their money was held up.

These facts have been buried under the myth that the Menominee were bought off with their own money to vote for termination. Furthermore, petitions with hundreds of Menominee signatures were sent to Congress in opposition to termination but have been neither considered nor widely publicized as a possibly more representative expression of Menominee opinion that the vote that Senator Watkins coerced from them.

As to the second corrolary to the myth that the Menominee voted to convert their reservation into a Wisconsin county, actually that vote that created Menominee County was a vote to maintain the reservation area intact despite termination and it was a vote against the alternative of dismemberment of the original reservation among neighboring counties for purposes of taxation.

The Menominee did not vote to convert their federally-protected reservation to a county under the jurisdiction of the State of Wisconsin. The reservation had already been wrested out of Federal jurisdiction against the Menominees' will.

The important thing is that the vote which created Menominee County was the only choice they had against being dismembered among neighboring counties. And it was more-or-less a choice between the firing squad or slow strangulation.

Now, in regard to what Dr. Nash has just spoken of, this question of Federal paternalism, I would like to address some remarks to the myth of Federal paternalism because ameliorative welfare legislation is traditionally subject to public suspicion that hard-earned tax dollars are being spent on freeloaders and the fear that some is getting something for nothing. This fear is further deplored on the virtuous argument that federal hand-outs—to use another cliche—sap the ambition of the recipients and threaten the moral fiber of the nation.

And I would like to have reinforced in the verbal record and have documented in my papers submitted here that it was termination that made the Menominee dependent on Federal paternalism. The provisions that carried out the termination legislation simply wiped-out the Menominees' treasury and they faced termination. This tribe that has proudly and willingly paid their own way for many years faced termination with an annual deficit running in the hundreds of

thousands of dollars. The misuse of the Menominees' money in this regard is simply shocking.

Even if the provisions of termination had any sort of a ghost of a chance of succeeding, they could not have succeeded with the systematic improverishment of the Menominee prior to the time termination became final.

Since termination, massive emergency funding, stopgap measures of leasing land to the State of Wisconsin for park use, and short-range Federal poverty money have been required to sustain the Menominee community at a living standard that for many has been below what they had enjoyed as reservation Indians.

Finally, the need to raise cash to meet crushing tax burdens resulted in a decision by the Menominee Enterprises, Inc., management to sell Menominee land

In State and national terms, the Menominee cost the taxpayers more after termination than before, and the Menominee paid a terrible price themselves for a policy not of their own choosing. In view of these, facts, immediate restoration of Federal Indian services and protection of Menominee land represents no more than Federal restoration of the means to community well-being for the Menominee, a state of well-being that the Government itself had wantonly destroyed in the process of terminating the tribe.

Now, I would like to add what I think is some new information to the record, certainly something that is not generally talked about. My final comment on the "Myth of Federal Paternalism" is put bluntly but accrurately that the Menominee have been bilked out of money owed them by the nation for more than a century.

It is seldom mentioned and little publicized that the Menominees' otherwise much-publicized Court of Claims settlement—which was finally approved in 1951—that they were required not to pursue a claim in the U.S. Indian Claims Commission that had been established in 1946. This was an agreement that they reached to finally get the 1951 settlement settled after 17 years of litigation.

Now, to me this has always been a very curious limitation on Menominee rights or pressure on Menominee rights which they have exceeded insofar as the grounds for suit before the Indian Claims Commission would have involved totally different issues than the Court of Claims settlement. With all the financial pressures placed on the Menominee by termination, they could certainly have used a Claims Commission award.

I am particularly sensitive to this injustice to the Menominee because I served as an expert witness before the Commission for the Winnebago whose treaty cessions bordered the Menominee cessions to the west and south. I was also indirectly involved in and well acquainted with the Chippewa claims concerning cessions bordering the Menominee cessions on the north.

The Winnebago and Chippewa lands are of a piece with the Menominee lands, the Menominee treaty payments were comparable to the Winnebago and Chippewa treaty payments, and all three tribes' treaties stem from the same period of the 19th century.

Both the Winnebago and Chippewa have won judgments of several million dollars—the Winnebago judgment came to over $4 million—

on grounds of unconscionable consideration given for their lands at the time they were ceded.

There is not the slightest doubt in my mind that the Menominee would have also qualified for a Claims Commission award on the same grounds employed in the Winnebago and Chippewa cases.

It is the Government and the American people that got "something for nothing," and, in fact, a great deal, namely, millions of acres of Menominee land for only a fraction of its worth, for which the country has had its use for more than a century—10 million acres worth.

The third myth is "The Myth of Menominee Incompetence." Now, you could always say about this myth that everyone but the Menominee is qualified to make decisions in regard to the Menominee. Time and again, non-Menominees have meddled and managed in Menominee affairs with disastrous consequences for the Menominee. The Menominee have proven their wisdom time and again; they demonstrated their wisdom in opposing allotment and prospered, even in the fact of handicaps and obstacles set up by non-Menominees, while the alloted tribes were plunged into ever deeper poverty and despair.

Later, the Menominee took the opportunity to prove that they, better than anybody else, knew more about their environment and their best interests in managing it, by winning a judgment against the Government for mismanagement of their tribal lumber resources.

The Menominee were opposed to termination, but non-Menominee experts insisted on terminating them anyway. Today, it is generally agreed that the forced termination policy was a terrible mistake.

Non-Menominee expertise imposed on the Menominees' corporate affairs to implement the termination plan disregarded Menominee expressions of dissatisfaction and proceeded to recommend and engage in schemes of land sales, "economic development," and divesting the Menominee of their utilities and medical facility, thereby compounding the Menominees' problems instead of solving them and reducing their primary capital asset, which is their land.

The State of Wisconsin set up a "Menominee Indian Study Commission," composed primarily of non-Menominee experts in various fields and including a couple of token Menominee who were not expected to garner opinion among the Menominee but simply speak as they considered best.

The State of Wisconsin forced contractural arrangements on the Menominee that put non-Menoninee officialdom in the neighboring county in control of matters relating to public education and law enforcement in regard to the Menominee. The Menominee have been ill-served in both regards.

I would like to end my remarks in regard to the Menominees' efforts to seek restoration to regain meaningful control over their future. It is they and not the non-Menominees who are going to have to live with whatever restoration legislation is passed. They have given their best thinking and weighing of alternatives in the creation of a restoration bill that would afford maximum protection of their resources, flexibility to develop their own governing and business operations, and maximum opportunity to work out equitable arrangements in regard to former reservation land that has been alienated from tribal ownership.

I have spent hours and days of serving at Menominee meetings talking with Menominee people, traveling to Menominee County, traveling to Chicago, attending meetings in Milwaukee. I have watched this process of unity, organization and consensus develop. It has been a long, difficult, painful process.

The Menominee people have spent of their own time and energy and their personal funds—just the gas money to get to meetings to talk things over—they have truly thought of all the possibilities in making recommendations to their original representative in trying to get really meaningful restoration legislation.

They have thought carefully what would be absolutely utopian and what they could reasonably expect in the way of restoration.

The bills that were introduced May 4, 1972—H.R. 14556, H.R. 14803 and S. 3414—by their then-Congressman David Obey, and other sponsors in the House and Senate was based directly on what the Menominee had agreed upon as necessary to their restoration. That bill, of course, lapsed as the 1972 session ended before it was acted on.

By the time it was reintroduced as present bills H.R. 7427 and S. 1687 on May 2, 1973, it included provisions the Menominee were obliged to accept to get it introduced at all.

They used the opportunity afforded by the House Subcommittee hearings and the opportunity afforded by the Senate Subcommittee hearings to argue for the original from of the bill as introduced in 1972. Thus far the House Subcommittee has marked the bill up further. Whatever the committee's reasons, they simply do not understand the Menominee situation from the Menominee point of view of having to live and work with whatever legislation is finally enacted.

Now, my personal impression is that the intitial change in the bill and the subsequent markups are largely a reflection of awareness of how badly used the Menominee have been and a fear that left to their own devices, they will treat non-Menominee people vidictively if they possible can.

It is my personal knowledge of the Menominee people that given an equal chance in any negotiating situation, they will keep the larger interest of intergroup harmony and cooperation foremost in mind. This is how they survived up until 1954 in learning to live with their neighbors when they occupied a position of equtiy with them.

Furthermore, the need for immediate restoration of Federal Indian services is the means to provide security to arrive at rational arrangements for self-determination and solving the many problems wrought by termination. The original bill constitutes an organic whole, and is an intergrated system of provisions to deal with a series of interrelated issues. Grafts and amputations are "unnecessary surgery," that can only have an adverse effect on the patient's health.

I would respectfully urge that the restoration bill now before this Subcommittee be restored to its original 1972 provisions and spirit. Outsiders' prescriptions to terminate the Menominee brought disaster upon the tribe. It is time the Menominee had the opportunity to decide for themselves.

I would end my comments that from the scientific perspective, the experience of action anthropology indicates that informed, community decisionmaking of the kind that went into the creation of the 1972 or original version of restoration is the best guarantee for successful community action.

I would certainly agree wholeheartedly with Dr. Nash's remarks in regard to flexibility in relationship to the Department of Interior—not only in regard to land arrangments, but in regard to the governing arrangements that will eventually evolve—the Menominee are in the unique position to point the way to new and innovative directions in Federal-Indian relations and policy.

I feel that their ideas should be given the most serious attention and support, not only in their own interest but for the even greater potential for the interests of the Nation at large in developing some working models on which to base not only Indian policy but other programs in community development as well.

I would add that the Menominee are in this unique position because they have had the experience of being a reservation tribe with a successful reservation enterprise. They have been more experienced than any other tribe in dealing with the larger society under terrible handicaps and great odds, and still managing to stay afloat to the point where they are able to come back and ask for restoration of certain safeguards and to begin to reestablish community well-being.

They offer us a remarkable natural experiment if we give them the opportunity to carry it out. I am not adding a lot of qualification or a lot of limitations, or a return to the myths about the Menominee.

I think we have to cut aside the mythology and recognize the Menominee for the adult, mature and experienced people that they are; people who have been wronged, who need legislation to make up for these wrongs in order to get back on their feet again.

Thank you very much for the opportunity to testify.

Senator BARTLETT. Dr. Lurie, thank you. Thank you for appearing and for your very fine and complete in-depth presentation to provide us with additional information which all members of the full committee will appreciate.

I think it is very obvious that the Menimonee efforts for reinstatement has been hastened and advanced by your interest and participation.

This is a guidepost matter. There are other tribes, as you well know—a few in my State—which are interested in this statement. And so, my interest is in the Menominees, but it also goes beyond that to other tribes in other States which are watching this very hearing.

And so, as for Wisconsin and elsewhere, you have my sincere dedication and interest as to the Menominees and as to other interests as well.

The third member of the party is Dr. Gary Orfield from the Brookings Institution, Washington, D.C.

I understand you do not have a written statement, is that correct?

Dr. ORFIELD. Yes, sir.

Senator BARTLETT. Proceed, if you will.

Dr. ORFIELD. I will speak briefly from notes, if you will, and then, if there are any questions, I will answer them.

Senator BARTLETT. Fine.

STATEMENT OF DR. GARY ORFIELD, RESEARCH ASSOCIATE, THE BROOKINGS INSTITUTION, WASHINGTON, D.C.

Dr. ORFILED. It is a great pleasure for me to appear before this subcommittee for legislation on Menominee restoration. You realize

my statement today represents my own judgment of this legislation, and not any formal position of the Brookings Institution.

This subcommittee probably has been more important, historically, in determining the destiny of the Menominee people than any other single governmental institution. As a political scientist, this is particularly interesting for me to be here in this latest stage and probably the most important stage of all in developing legislation to shape the whole future of the Menominee community.

I believe that the Menominee Restoration Act offers Congress an opportunity to prevent destruction of the Indian community, to repair some of the damage caused by earlier Congressional decisions which were imposed upon the Menominees and to signal concern to Indian leaders across the United States that the threat of termination is finally over and we can get to other conditions relating to Indian policy.

Three years after Indian termination took place, I spent the better part of 1 year doing research on the origin of the termination policy, how it had been applied to the Menominee community and what impact it had at that stage. This research went into my master's thesis and was later published by the National Congress of American Indians.

In doing that research, I think I went through probably every single official document that had any bearing on the main questions of historic responsibility for Menominee termination. I read the Congressional hearings, I went through some 18 filing cabinets full of memos and documents of importance from the Bureau of Indian Affairs, I read all the clippings and went to Wisconsin and talked to the governmental officials and tribal leaders that were involved. I think I have a pretty good understanding of what happened and why it happened.

On the basis of that research I would like to make a few general points in my brief remarks today, and then to—if the committee requests—provide further documentation.

First of all, I believe there is a clear case here that Congress is responsible for imposing an unwanted series of disastrous changes on the Indian people. As Dr. Lurie said, there was no informed consent to termination on the part of the Menominees. In fact, the tribal vote is also cited as legalizing or legitimacizing the termination or the statute, and by any reasonable reading, it was coerced from the Menominee people and was not understood at the time the vote was taken.

As soon as there was even a glimmer of understanding of what really was in the minds of the policymakers here in Washington, the Menominees reacted almost unanimously against it.

The problem arose originally because the Menominee got a settlement in the Court of Claims in 1951. They got $8.5 million. As a result of the Court of Claims judgment, the Federal Government had violated the sustained yield statute for the management of Menominee timber resources. That claim arose from literally decades of legal struggle and it produced substantial amounts of money which the Menominees could use to plan their own individual and collective futures.

Their initial reaction was to create a plan to spend a large portion of money for updating what were already in the early-50's seriously

obsolescent mill facilities and to develop the industrial employment base of the tribe and to use the rest of the money for distribution to tribal members.

The problem was that Congress refused to enact this tribal proposal in 1952, refused to allow the tribe to spend its own money for a very constructive plan of tribal development. It was the chairman of this subcommittee to the Senate that blocked that legislation.

It was, interestingly enough, Congressman Melvin Laird, who then represented the Menominees in the House and was the sponsor of that legislation.

The next year, 1953, was a very critical year in the history of the Menominee people. The tribe tried again to get a bill passed dispersing funds from the Court of Claims judgment. The bill was once again introduced by Representative Laird in the House and passed the House routinely.

When it got to the Senate, however, it was held up by this subcommittee. Representative Laird, in a speech he made, gave a plea for justice for the Menominee Indian people. That bill, in due course, passed the House.

But a most unexpected development occurred when the bill reached the Senate—all of a sudden it stopped. A non-controversial bill for distributing tribal resources went through a battle of litigation and went through sacrificing future claims litigation—as Dr. Lurie points out—and was blocked and held up as leverage over the Menominee people to try to force them to agree to termination.

The Laird Bill was held in committee, and while it was held in committee the Menominee tribal leaders invited Senator Watkins—who was then the subcommittee chairman—up to Wisconsin to meet with the general council and to discuss the situation.

This meeting took place on June 20, 1953, and was really critical in judging whether or not the Menominees made any reasonable assent to the termination.

Senator BARTLETT. Dr. Orfield, I hope this will be a convenient time to interrupt. I have a vote. It will take approximately 17 minutes to vote and return. I will recess until that time.

And I will just mention that the other day I visited briefly with Mel Laird, and mentioned that we had recently held a hearing on the Menominee legislation, and he was extremely interested in this bill. I was pleased to tell him some of the people that we have here.

He was very pleased to have knowledge that this bill does have that support.

I will return in about 17 minutes. Thank you.

[Committee recess.]

Senator BARTLETT. The hearing will continue.

The Mansfield amendment carried 49–46. I would have been back a little sooner but I wanted to see what the vote was.

Dr. Orfield, I hope you will excuse the interruption. If you would just take up where you left off.

Dr. ORFIELD. Thank you very much, Senator.

What happened on June 20, 1953, is worthy of close attention because it figures so largely in the way different people understand this same piece of legislation and it is basic to understanding the fact that the burden of blame for this disaster that ensued after the termina-

tion legislation lies more on Federal officials than on the Menominee Tribe.

An impasse had been reached on negotiations in Washington. So the tribal delegation asked Senator Watkins to come out and meet with the tribe. He came out for a 1-day visit. None of the other subcommittee members were able to make that trip, so in effect, he spoke for the subcommittee.

After a short stay on the reservation he spoke to the general council. This was in the morning. He talked about 45 minutes, answered a few questions and then had to leave. He told the tribe that Congress had already decided upon termination. He essentially told them that they didn't have any choice whatsoever whether or not they wanted to get the per capita payments.

Senator Watkins said during the hearings on this legislation:

> Congress desires that you should manage your own affairs and wants you to take over in 3 or 4 years. I would be willing to agree to a 3-year program with the condition that it means action at the end of it. There must be some day that the property will be turned over to you.

The Senator said that unless the tribe agreed they would not get what was now $10 million in Federal payments. And whether they agreed or not, he said Congress had already decided that they would be terminated because of the House Resolution 108.

The speech, in essence, left this small community of poor people in northern Wisconsin with a Hobson's choice—either vote against termination and receive no payments or vote in favor and accept an unknown future. Nobody could explain what the termination meant. Nobody, indeed, in the United States could explain what termination meant until we were much, much further along the path.

Either way, this powerful Senator told the Menominee people that they would be terminated anyway. So, in essence they had no choice. The resolution to accept the payments could not in any reasonable sense be interpreted as an assent to termination. No one explained what termination meant.

A month later, after Senator Watkins rejected an effort by the Menominee Tribe and its lawyers to draft a termination bill and give the Menominee community a chance to survive, it then began to become clear what some of the implications of termination were. The tribe then reversed itself and voted unanimously against the termination. They were even willing to give up the payments.

Congress, however, ignored the second vote. The first vote was often cited, both in legislative debate and legislative record and by the Bureau of Indian Affairs as an expression of the tribe's will.

With little attention in Congress the Menominee termination bill was enacted in 1954. In essence, then, I think the case is very clear that Congress and the Bureau of Indian Affairs are responsible for the origin of this legislation and they are also responsible for persistence in the face of accumulating evidence before 1961 that this is going to be a disaster.

The termination was started with the assumption that the Menominees had $10 million in their treasury and had some chance of making it economically. Under the provisions of the termination bill there was the requirement to provide for rapid per capita payment. That diminished part of the reserve.

Another part of the loss became evident when it was learned that the Bureau of Indian Affairs miscalculated the payment that had been due to the Menominees historically. So to make up for their administrative error, they took out another large chunk out of the diminishing reserve of the tribe.

Well, before termination came the tribe was running a substantial annual deficit. The fact was that as you approached termination you faced a situation where the tribal commune wasn't paying for itself, even when it was under the shelter of a tax exemption. The money simply wasn't available for renovations that everyone knew were necessary. Indeed, there wasn't even enough money for reasonable working capital for the mill.

There was no chance at all of updating the facility that was a half-century obsolete by the time termination took place, and which was allowed to exist in the lumber market in Wisconsin only by virtue of the fact that it was under the shelter of a tax exemption, and as soon as it became subject to normal State and local taxation indeed it had to bear almost the entire tax burden since it was almost the only substantial facility in the county.

This was just a crushing burden on a small and obsolescent mill facility. Nobody bothered to really examine this very carefully and when it began to become evident in the late fifties, at the time the Wisconsin legislature acted, by the time the research analyses were coming out, nobody was willing to pay enough attention to admit that a mistake had been made.

Congress persisted, and the termination was forced on an almost bankrupt product with full expectation that it would not work.

The second point I would like to make is that as a result of this pattern of Federal actions, what I would think to be adequately described as "irreparable damage", has been done to the Menominee people, must of which cannot be repaired anymore.

They have lost resources. The tribe was permanently alienated from a good portion of its land, including a very valuable and attractive piece of land around a series of lakes. They have lost the opportunity to develop assets in the past. People have been forced to leave their homes and go to the cities for employment. Health conditions have not been treated, some of which can no longer be treated.

The identity of the tribal membership of Menominees who have been born since the time of the termination has been seriously threatened. There has been a loss of important community and educational services that have been available to other Indian groups. Some people's education has been lost and there won't be a chance to restore that.

And now there is even a threat that the community itself will be lost, that the land basis and the basis of identity for these people will be shattered unless Congress acts and acts quite fast.

This is the pattern of loss and damage that really cannot be restored in good measure.

Legislation today, I think as a third point in my testimony, doesn't really restore all of this damage. It is a moderate piece of legislation that reflects a broad consensus of how to stop further damage and it is a minimal step, I think. It just tries to prevent, to stop this process of

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deterioration before the last step is taken, before the last irrevocable step is taken and the land is permanently alienated.

The problem that creates an urgent deadline here is the problem of the stock of the Menominee Enterprise Corp., which is held by the people who were tribal members then and their descendants, which may become negotiable in the next year and they may lose control of their own land.

That would be a situation which would be almost impossible to put back together again. But I do not think that even if this legislation is enacted that that should be viewed as a fulfillment of the full responsibility of the Federal Government, because there has been damage inflicted upon these people, much of which is irrevocable.

Although it is necessary to stop further damage to this community, I believe that perhaps in subsequent legislation Congress should consider some action to repair the damage that has already been done, some kind of transitional grants or some kind of capital funds to develop the base for economic development in the reservation area.

The fourth point that I would like to make is that I believe that the testimony of the Interior Department about the restoration of the traditional Federal trust relationship is mistaken. The failure of termination should not be taken as an indication that everything was fine before the termination or that the ideal new situation for this tribe is to put it back in the status of the 1934 tribal resolution. The failure of termination has been a point of hoepeless economic obsolescence, crushing tax burdens, a total lack of working capital and investment funds, lack of necessary social services. It has not been a failure of Menominee leadership.

The Menominee should not be put in a traditional trust relationship with the Bureau of Indian Affairs. The Menominee community, quite to the contrary, I believe, by any reasonable judgment, has shown an extraordinary ability to survive and to mount a national campaign to verse this pattern of community destruction.

I think you will find very few communities that have 3,000 people in the United States that have the organizational and political leadership to put together a drive to try to convince a massive Federal agency, the national administration and Congtess itself that they have made a series of mistakes and to go back and try to examine and to put together a broad enough base of political support to bring us here today.

I think you will also find relatively few communities that could take on this kind of complex economic burden that they have carried for the last 12 years and survive as well as the Menominees have.

Senator BARTLETT. Dr. Orfield, if you wouldn't mind another interruption, Senator Kennedy has a statement that he would like to make.

Senator Kennedy, if you would, come up here. We certainly welcome your statement and welcome you. I understand that you need to get back to the floor.

Senator KENNEDY. Thank you very much, Mr. Chairman, and I want to extend my deep appreciation to the committee and to you. Mr. Chairman, for letting me make these comments and to also thank the witnesses here today who are testifying. They are the ones we should be listening to and following their guidance and their leadership.

And I want to thank them very much for the chance to make some brief comments and ask that my comments be placed in the appropriate place in the record which does not interfere with the consistency of their statement.

Mr. Chairman, I have a statement and I would like to include it in its entirety in the record. I just want to mention to this committee that I have had the opportunity to appear here 3 years ago in testifying in favor of the Indian Trust Authority Council. And I am confident that the Menominee Restoration Act has more immediate prospects for passage.

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. I had the chance to chair an Indian Education Committee for just about a year-and-a-half to succeed then-Senator Robert Kennedy, who was chairman of the Indian Education Committee. And so, over a period of 3 years we made a number of recommendations, some of which have been adopted—tragically few, I might add. And, as chairman of that Indian Education Committee I had the chance to read Dr. Orfield's study of the termination policy and I became interested in finding out more about the Menominees.

And, as you are aware, Mr. Chairman, the Orfield study concluded that the Menominee Tribe is dead. This statement could become true today without the passage of the Menominee restoration legislation.

A little over 1 year ago I met with Ada Deer and other members of the Menominee Tribe in Wisconsin, who were vigorous and energetic people who were committed and dedicated to insuring a future for their people. We talked about possibilities for legislation that then would undue the tribe of termination. I appear here before this committee to indicate my full support for the tribe's efforts to have their restoration act passed.

Too often in the past the Congress has participated in the efforts of our Government to solve the Indian problem by limiting Indian reservations and the Federal trust relationship with the tribes. We stood by while treaties were broken and promises were ignored, and that their most important natural resources were eroded.

Infrequent as the occasions, we are able to reverse this historic pattern. We can look at some of the encouraging signs of the last few years in the Blue Lake and the Taos Pueblo Tribe, which is one indication. And I believe the Menominee Restoration should be another.

When the Taos bill was passed I remember the arguments made in opposition of that legislation—"Let bygones by bygones", opponents said; "The Indians can be compensated in cash"; "Every Indian is going to want land back, we can't turn back the clock". These were some of the arguments made.

An argument that was carried then which the Congress need not fear is precedent, and that precedent reflects justice and honor and recognition of past error.

Congress can look at each case on its own merits and decide what action is called for, and respond to the merits of each case.

The merits of the Menominee case is clear. It was said that termination was designed to grant Indians "all rights and prerogatives pertaining to American citizenship". But termination instead deprived the Menominee of what is basic to the citizens of America: integrity of their cultural heritage, economic stability and a future of self-confidence for their children.

In fact, the tribe was comparatively better off before the termination. Almost 100 years ago, a Menominee chief said, "We accepted our present reservation when it was considered of no value by our white friends. All we ask is that we are permitted to keep it as a home".

So I want to check before their termination of the fifties and before the return of the fight for restoration this year, and ask that congressional action be governed by my desire to see that history recall that Congress was loyal to the Menominee people. I urge that Congress be responsive to these Menominee members.

Mr. Chairman, in the past 4½ years I have spent a great deal of time working with the Indian people in Washington and working with a number of complex and difficult issues, including the education, health, water rights and other points. Seldom, however, has Congress been presented with such a clear course of action as that provided by the pending Menominee Restoration legislation.

Indeed, this legislation is symbolic like Blue Lake, Mount Adams and Pyramid Lakes—symbols of what has been taken away from the American Indians, symbols that ought to be returned to them. Tribal status is more than just a lake or a mountain, it is an essence of being to the Menominee people. And it is their past which should be their future and we should not delay in securing the Menominee people's future and prosperity. Menominee Restoration should become a pressing issue for every Senator and Congressman this year.

I have a more detailed statement and comments, Mr. Chairman, that I would like to ask be made a part of the record. It reviews in greater detail the particular questions and problems.

I just want to commend this committee for having these hearings and Senator Abourezk, who has taken a great deal of interest in the problems of Indian affairs. I am pleased with these hearings and I am hopeful as to the results of these hearings in that we will have the opportunity for floor action.

I think the American people demand of their Congress and their representatives that we begin to right the incredible wrongs that have been perpetrated on the first Americans.

I think I have mentioned in my statement that there has been some progress, but not nearly enough progress that has been made by the Congress and the Senate.

These are injustices, and the case I think before us is one of the clearest illustrations of the injustices of the past and prescribes what I think is a legitimate and reasonable and righteous policy to remedy these injustices.

So I want to indicate to this committee that I stand prepared to work with them in every way possible and to stand on the floor of the U.S. Senate with them and urge my colleagues to consider favorably the Menominee Restoration Act.

Senator BARTLETT. I thank the Senator from Massachusetts for his very fine statement and assure him that the entire statement, plus the enclosures that you have, will be included in the record.

We appreciate your taking the time from the floor. We are aware of what is going on and your interest there.

[The prepared statement of Senator Kennedy follows:]

PREPARED STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

"History records that the Menominees have been loyal to this government and have stood by their bargains when they have relinquished land to the United States. We think that your action should be governed by a desire to see that history will record that Congress was loyal to the Menominee people."

Mr. Chairman, these were the words of Mr. Tony Waupochick, a Menominee Indian who fought termination of the tribe in the 1950's and who has returned to Washington this year to fight for restoration. I am pleased to appear before this subcommittee and to associate myself with this eloquent statement. We are fortunate that there is still time for Congress to show its loyalty to the Menominee people by providing full restoration for this proud and deserving tribe.

Back in 1969 the Special Subcommittee on Indian Education, which I chaired, published Dr. Gary Orfield's Study of Termination Policy, and I became interested in finding out more about the Menominee's current struggle. The Orfield study concluded with the sentence "The Menominee tribe is dead, but for no good reason." Yet during a trip I made to Wisconsin a little over a year ago I had the opportunity to meet with Ada Deer and other representatives of the Menominee tribe—and they were some of the most vigorous and energetic Indian people I have met. They were committed and dedicated, and uppermost in their minds was the desire to see the federal government restore its legal, historic relationship with the Menominee people. I told the Menominees at that meeting, and I repeat today, that I am in full support of the tribe's efforts to have their Restoration Act passed.

As this Subcommittee is well aware, the Menominee Tribe is far from dead. But whether the breath of life will be snuffed from the Tribe in another five years will depend on what Congress does immediately.

In 1813 the Menominee Tribe possessed approximately 9,500,000 acres of land. By 1854 the Tribe had surrendered all but 234,000 acres through a succession of treaties with the United States. Exactly 100 years later Congress eliminated the remaining vestiges of the Menominee's Indianness: their federal services were abolished, their land was removed from protected trust status, and the tribal rolls were decreed forever closed.

In 1961, after a seven year postponement of the dreaded Termination Act, the Menominee found themselves officially terminated. The tribe received per capita payments while they watched their tribal rolls, Menominee hospital, clinic, and BIA schools all shut down. According to the Act, Menominees would not be entitled to any services provided by the United States for Indians, and federal statutes affecting Indians on account of their Indian status would no longer be applicable to the Menominee. Senator Arthur Watkins, author of the termination policy, had said that termination was designed to grant Indians "all rights and prerogatives pertaining to American citizenship." But termination instead deprived the Menominee of what is basic to the citizens of America: integrity of their cultural heritage, economic stability, and a future of self-confidence for thier children. Congress embraced termination to eliminate Indians as wards of the government, but self-sufficiency under federal guardianship has, for the Menominees, turned into almost total dependency without it. The Menominees themselves have expressed before this Subcommittee that they regard termination not as liberation, but as genocide and extermination—the end of a once promising and flourishing existence.

A saw mill, constructed in 1908, was before termination the major means of income and employment for the Menominee people. Their community was almost entirely self-sufficient. They were one of the most thriving and prosperous Indian tribes in this country. They supported a school, hospital, telephone and electric company, and many other community services. When termination came, all this was lost. The statement of the Menominee chief Neopit almost a hundred years ago proved prophetic of what the Menominee now ask of Congress: "We accepted our present reservation when it was considered of no value by our white friends. All we ask is that we are permitted to keep it as a home."

Looking at the statistics, I find it hard to believe that the Menominees are not presently under BIA supervision: Two-thirds of Menominee housing is considered substandard; sanitation is inadequate, with only one-third of the homes receiving

running water; unemployment runs over 50% for the Menominee people; and the average per capita income is $1,028 per year.

These figures certainly suggest that the Menominee people are still Indians—what they do not reflect is that conditions for them were comparatively better before termination . . . hardly what Senator Watkins had predicted.

In various ways over the past hundred years the government has scorned the Indian people—it has broken treaties, reneged on promises, ignored their culture—but only with termination were we able to deprive them of being Indians.

The time has come, Mr. Chairman, for us to acknowledge our past mistakes and set our sights on a new course. One Menominee committed to restoration said that, "Today many Menominee live fearful lives. Exploited by soul-less, grasping businessmen and banking institutions, held in poverty through colonial laws, embarrassed in the courts and intimidated by petty officialdom, the Menominee are rapidly becoming landless and impoverished in the name of white progress. The social and economic hardships endured by the tribe today can and must be stopped."

Mr. Chairman, I strongly urge the repeal of the Menominee Termination Act of 1954, and support unequivocally complete Menominee Restoration as outlined in Senate Bill 1687. For over two centuries the Indians have become America's most impoverished minority. We can no longer delay action that can secure for Menominee children—our citizens of the future—the hope of security, prosperity and freedom rather than allowing to continue a history of degradation and shame. The tribe has been detained in their efforts for de-termination for too long—it is imperative that the process of Menominee restoration became the pressing issue for every Senator and Congressman this year.

Senator BARTLETT. I would like to say that I am very much aware of your interest in the American Indian, which has existed for a long time. As the Senator from a State which in the 1970 census had more Indians than any other State, I am very much aware of the support you have for this particular bill and its great importance as to what you said is "justice".

But in addition there are a number of tribes—we have in Oklahoma three that have been terminated—which are looking to this whole procedure to see how they might proceed.

So it involves not only the Menominees, but it involves others as well.

Thank you very much, Senator, for your very fine statement.

Dr. Orfield, once again thank you for your patience during this short and very interesting interruption. If you would please just continue, thank you.

Dr. ORFIELD. As I was saying, I believe that it would be a mistake to move from the existing situation back to a situation that existed before termination. I think that the device that is incorporated in the draft legislation is most preferable, having the Interior Department involved as a consultant to the tribe to prove capable of making management decisions, handling a complex enterprise, dealing with the functions of local government and so forth.

This tribe's problems aren't confidence; the problems are economic in nature and these are the problems that are addressed by the legislation.

The Bureau of Indian Affairs in its traditional relationship simply has not done a very good job for the Menominees historically. I think that their assets would be a lot better off under the management of Menominee leadership with the consulting advice of the Interior Department.

The Government was found guilty of cutting the Menominee lands in explicit violation of Federal statutes. During the termination

period the planning that was done by the Bureau of Indian Affairs was very seriously defective, estimates consistently proved to be wrong.

The Bureau of Indian Affairs' administrative mistakes led to a loss of a good part of the remaining Menominee reserve not long before termination. When the Menominee Reservation was turned into a county, its facilities were found to be seriously deficient by Wisconsin standards.

Right now there is pending in the court of claims another piece of litigation claiming serious Federal mishandling of the termination process itself.

I think the historic record shows that the Menominees have shown confidence and devotion to management of their land, a very singular and persistent devotion to maintaining their land base intact in that they have dealt very well with an extremely difficult situation. In fact I think they have done extraordinarily well.

It seems to me that this is a good example to try to move beyond the traditional relationship and try to develop some more advanced models in handling Indian policy. Our traditional relationship is one of needlessly-rigid bureaucratic controls of Indian tribes.

Of course, it is legally complex to move from that situation where the authority is absolutely clearly rested with the Secretary of the Interior to a real sharing authority. This is a complexity that needs to be faced. This is a complexity that we need to confront in development of models. We need new thoughts; we have had precious little of it in Indian affairs. But they are complicated legal issues.

Experience can develop new legal models. We have what amounts to a very traditional and colonial relationship between the Federal Government and individual Indian tribes. We don't even have an advanced colonial model if you look at other societies.

We need to get to one of more complex relationships where there is a real sharing of authority and increasing leadership by the Indian people.

And this is a good place to try it because there are few tribes in the country that have shown the level of competence that the Menominees have shown.

The fifth point I would like to make is the need for this bill to be acted on urgently. It is urgent. It needs to be acted on in this session. The stock may become negotiable next year.

It would be tragic, I think, after the broad level of consensus which has been developed in the Menominee community on this bill. Just the level of agreement across the various batches of tribes that I have rarely seen in my studies, the broad level of support that it has. And the broad level of bipartisan support that it has in Washington would be lost if we let this bill die by the cracks of legislative process.

Time is really of importance here. And I urge rapid action, rapid action now.

One other thing is important here. This bill, as Senator Bartlett has said, has a great deal of significance to the general Indian policy across the country, not only in terms of what it might possibly do in laying the groundwork for further tribes to deal with the restoration

issue—I don't think this bill prejudges necessarily the claims of other tribes—but it certainly gets to the ultimate question.

It has a great deal of significance, I think, to the whole tone of discussion of Indian policy and the feelings of Indian leaders across the country.

When I wrote my master's thesis on the Menominee situation I thought that almost nobody would ever read it. The fact is that Indian leaders across the country have been so preoccupied and obsessed with the fear of the disaster that was wreaked on the Menominee people that it would be extended to them.

I think that they have been locked into a defensive position on a great many policy questions. Reasonably so, since they cannot afford to take any kind of chance that anything like this would happen or would be implied.

And since Congress has never really explicitly renounced that policy I think that nothing could be a more clear symbol of a new period in Indian affairs of not only to pass a resolution announcing this policy but to actually begin to restore some of the rights of the people who were the first and perhaps the principal victims of this policy.

I think that this would be a general signal to people involved in Indian policy and Indian leaders who are ready to move onto new issues and that Congress isn't going to attack the basic existence of the communities themselves.

Historically, this subcommittee has played a central role in the process of determining the future of the Menominee people. In the early 1950's the membership of this subcommittee was totally different, but they totally destroyed the Menominee tribe. In fact, it did kill a tribe as a "tribe" recognized by the Federal Government. It didn't "kill" the tribe—of course, I never meant in my study that it did—as a group of people that have a common interest and tradition, culture, and dedication.

Now the committee has a rare opportunity to bring a tribe back to life. It can play a key role in restoring the future of Menominee people. I hope that it will do so.

Senator BARTLETT. Thank you very much, Dr. Orfield. And thank you for your forebearance with the committee in relation to the interruptions.

I will soon in a day or so introduce a resolution in support of the idea of self-determination with the Federal Government fulfilling its trust responsibility.

I think it is obvious that self-determination is working with a number of tribes which do have a varying relationship with the Federal Government and various programs of the Government. I think it is the opinion of those members of this committee that that relationship can be improved and should be improved greatly, that the efforts of the Federal Government have not been what they should have been or should be today.

So, I think this is a very important deal for more than, as you just stated, more than just a question of reinstatement.

I have your remarks, Dr. Nash, and I appreciate them very much.

The three witnesses certainly are entitled to the word that precedes that, certainly, on my sheet as experts, and I thank you each for your fine—very fine—contribution to the record which this committee appreciates very much.

I thank you for your obviously long dedication—in the case of all three of you—to the reinstatement of the Menominees. Thank you.

The next witness is Mr. Chuck Trimble. We are very happy to have you, Mr. Trimble. Mr. Trimble is the executive director of the National Congress of American Indians.

STATEMENT OF CHARLES TRIMBLE, EXECUTIVE DIRECTOR OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. TRIMBLE. Mr. Chairman, I have a very short, brief statement and also a packet of resolutions from various tribal and inter-tribal groups supporting us, which I would like to offer for the record.

Senator BARTLETT. All right. Your entire statement and your remarks and resolutions will all be made a part of the record.

Mr. TRIMBLE. Thank you very much, Mr. Chairman.

My name is Charles Trimble, executive director of the National Congress of American Indians, the Nation's largest and oldest national Indian organization.

I express gratitude and pleasure on behalf of the National Congress of American Indians for the privilege of testifying on this important legislation calling for the restoration of trust status to the Menominee Tribe of Wisconsin.

In preparing this testimony, I have had access to the files of the Menominee restoration effort with whom we have had the pleasure of sharing office space and resources. I have read the history of a proud people who exemplified every quality of their tribal pride and resourcefulness; a people who were, under their tribal government, providing an example to all tribes on the use of resources for the common good of all their tribal members.

But the example the Menominee Tribe could have set for Indian people was harshly reversed in 1961 when the Congress of the United States officially terminated their trust status and attempted to turn a beautiful tribe into a crude corporation subject to a harsh and cold world that no government could prosper in.

The statements of the witnesses in hearings before this Committee on the Menominee Restoration, and in previous hearings before this committee here in Washington, give testimony to what the Menominee people have suffered since termination—in education matters, in health matters, in financial matters, and in land matters.

The Menominee people were suddenly hurled downward from a proud tribe to second-class citizenship, both in the white world and in the Indian world as well.

But the real damage of the termination policy, as exemplified by the termination of the Menominee tribe, has been to the Indian people across the country. Those of us who have observed the degeneration of the situation of the Menominee people, have taken note and have built our defenses against the policy of termination. In building that defense, we have built up walls and barriers that have hindered communication and progress as well.

Termination to us is everything that is evil. No major gathering of Indian people fails to bring up the topic of termination in its deliberations. No legislative or programmatic proposal is reviewed by Indians without close scrutiny for any word or phrase which would hint of eventual termination. And, needless to say, that the slightest

hint of termination—imagined or real—causes the death or failure of even the best intentioned, and potentially the best programs for our people.

That mass attitude against termination is at this time hindering efforts toward the President's plans for new federalism. That feeling has hindered the effective programing of the Bureau of Indian Affairs' realinement, along with the inability or the unwillingness of the Bureau to communicate with Indian people.

Indian people live in fear of termination, and are engrossed in a defensive battle instead of a progressive struggle. Someone said that it is difficult to make any progress when one is fighting for his life. That is true in our case, and until we can be assured of the continued life of our tribal governments, of a good life as Indian people on Indian land, then I fear that our struggle will continue for years.

And we are seeing the light at the end of the tunnel in our struggle. Chairman Abourezk has spoken of his desire to end the threat of termination as policy through constitutional revision, and we hail him for that. The Honorable Senator Jackson, chariman of the Interior and Insular Affairs Committee, has spoken of his desire to remove the threat of termination, and, to a standing ovation of Indian people, he spoke of his wholehearted support of the Menominee Restoration Act. The While House, through Mr. Melvin Laird, has given its support to Menominee restoration.

And in the Indian world, the National Congress of American Indians supports the Menominee restoration effort. All national Indian organizations have voiced their support for the Menominee. All tribes support the Menominee restoration.

As this legislation comes down to the final phases, there is an excitement in the Indian world—an excitement that can be a light in these troubled times in our country.

As termination has become the prevailing threat, the cloud of doom that has hung over Indian tribes for the past two decades. This restoration could mean the rebirth of a new effort for Indian people. This restoration can herald the beginning of the end of the deplorable conditions which engulf our tribes. It can end an impasse in which both the Indian people and the national conscience has suffered so greatly—particularly in the last year.

Tribes and the government can communicate freely without the impending threat of termination. We can begin again to look at the great beneficial provisions of legislation instead of searching for that word or that phrase which would terminate us.

Menominee could offer the models of reconstruction in the delivery of Federal services. Starting from the ground up, the Bureau of Indian Affairs, Health, Education, and Welfare, and all the various governmental services can be structured to provide models for the best of the Indian world, without the impediments of entrenched bureaucracies, and outdated regulations.

And, perhaps most importantly, the Menominee people can provide that model of tribal government so badly needed in the Indian world.

The rest of the Indian world is looking on with anticipation in this effort, Mr. Chairman. The passage of this legislation can mean the renewal of our faith in this country, and can begin an era of real progress for our people. The restoration of trust status of the Menominee

people can mean the restoration of our trust in this country. The defeat of this bill can mean dejection on the part of our people and the end of that tunnel of despair will have been slammed shut on us.

The planning committee of the National Congress of American Indians has chosen for its 30th annual convention, which is scheduled to be held in Tulsa, Okla., October 29 through November 2. as its theme "Restoration Now."

Mr. Chairman, in closing my testimony, I would like to quote from the statement issued by the NCAI planning committee:

RESTORATION NOW

Restoration Now has been chosen for the theme of the 30th Annual Convention of the *National Congress of American Indians.*

We, the *Convention Planning Committee,* have chosen this theme in anticipation of the restoration of the trust status to the Menominee Tribe of Indians of Wisconsin. If legislation restoring their trust status has not been enacted by the time of the convention, we hope that this convention will add the impetus to assure its passage in the immediate future.

The Menominee people have shown the Indian world that Indianness cannot be killed by acts of Congress or by any actions of the government. They have shown us what *determination* can do; and they will have reversed the most dangerous policy for Indians this country has ever embarked on—*termination.*

But, more than the apparent victory for the Menominee people, we have chosen this theme for a deeper significance which the Menominee people have shown. Let this convention begin anew the restoration of *Indianness:*

Now is the time for restoration of
Faith in Ourselves, without which there is no
Faith in others, without which there is no
Unity, without which there is no
Future for the Tribes.

Now is the time for restoration of
Ourlands, without which there is no
Tribes, without which there can be no
Identity and Culture.

Now is the time for restoration of
Our Honesty, vision, integrity, pride and dignity.

Senator BARTLETT. Mr. Trimble, we appreciate very much your statement. I personally am very pleased that you selected Oklahoma and Tulsa, which is my home town, for your meeting. And I will be seeing you there.

I am also pleased that you have selected "Restoration Now" as the theme of your annual convention and I appreciate your strong emphasis on self-determination without termination which, as you know, is enunciated very strongly be President Nixon in his address on the 20th to the need for solutions of many problems besetting the American Indians.

Some of those problems could be alleviated with the adoption of bills still before this subcommittee which have not been reported out. And I would hope "Restoration Now" would also help restore some movement to dislodge from this subcommittee some important legislation which still lies here that a number of us are widely interested in having come not only before the full committee but before the Senate so that these important bills could be considered as hopefully improved as they become part of the law.

Mr. TRIMBLE. Mr. Chairman, we look forward to cooperating fully with you on this matter.

Senator BARTLETT. Thank you, Mr. Trimble. We appreciate your statement on this matter very much.

Is there any other observation that you would like to make?

Mr. TRIMBLE. Not at this time, sir.

Senator BARTLETT. Thank you very much, sir.

[The resolutions referred to above follow:]

RESOLUTION NO. 21–73 OF THE GOVERNING BODY OF THE HAVASUPAI TRIBE OF THE HAVASUPAI RESERVATION (A FEDERALLY-CHARTERED INDIAN CORPORATION) SUPAI, ARIZONA

Whereas, the Menominee Indians have been terminated from federal supervision, and

Whereas, the Menominee Indians never gave their free and knowing consent to the termination legislation, and

Whereas, Menominee Enterprises Inc., the present Menominee business corporation, is in serious financial difficulty, and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-stricken County in the State of Wisconsin, and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services, and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a prosperous and almost completely self-sufficient tribe before termination,

Now, therefore, be it resolved, That the Havasupai people through their duly-elected tribal council give their active and enthusiastic support to the passage of the Menominee Restoration Act, which has been introduced in the Senate as S. 1687 and in the House of Representatives as H.R. 7421.

CERTIFICATION

I, the undersigned, as Chairman of the Havasupai Tribal Council, do hereby certify that the Tribal Council of the Havasupai Tribe is composed of seven (7) members, of whom 5, constituting a quorum, were present at a special meeting held this 11th day of August 1973; and that the foregoing resolution was duly adopted by the affirmative vote of 5 for to 0 against; pursuant to the Constitution and By-laws approved March 27, 1939 and amended July 22, 1967, June 18, 1968 and September 23, 1972.

OSCAR PAYA,
Chairman, Havasupai Tribal Council.

Attest:
REED WATAHOMIGIN,
Secretary, Havasupai Tribal Council.

RESOLUTION

Whereas, Miss Ada Deer, Chairman of the Menominee Common Stock and Voting Trust, appeared before the officially called meeting of the Indian Members of the National Council on Indian Opportunity in Yakima, Washington, on July 7, 1972, and

Whereas, she has presented the facts that the Menominee Indians were terminated in 1961 from federal supervision; and

Whereas, the majority of the Menominee Indians never gave their free and knowing consent to the termination legislation; and

Whereas, Menominee Enterprises, Inc., the present Menominee business corporation, is in serious financial difficulty; and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-striken County in the State of Wisconsin; and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services; and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a properous and almost completely self-sufficient tribe before termination;

Now, therefore, be it resolved, That this organization hereby gives its active support to the passage of the Menominee Restoration Act, which has been introduced in the Senate as S. 3514 and in the House of Representatives as H.R. 14456.

Be it further resolved, That the Executive Director of the NCIO is hereby instructed to pursue implementation of this resolution to the best of his ability.

I certify that the Indian Members of the National Council on Indian Opportunity met on the 7th day of July, 1972, at which time a quorum of 6 was present, and the foregoing resolution was adopted by a vote of 7 for and 0 against.

By : JOHN C. RAINER
B. FRANK BELVIN.

Dated : July 7, 1972.

ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.,
New York, N.Y.

A RESOLUTION PASSED AT THE ANNUAL MEMBERSHIP MEETING OF THE ASSOCIATION ON AMERICAN INDIAN AFFAIRS CONCERNING THE MENOMINEE TRIBE OF INDIANS OF WISCONSIN MAY 8, 1972

Whereas : The Menominee Tribe of Indians of the State of Wisconsin was terminated by Act of Congress in 1954, an Act which became effective in 1961 ; and

Whereas : The decade since Menominee termination has been one of hardship, poverty, and of declining health and educational status ; and

Whereas : It is abundantly clear that termination of the Menominee Indians was unjust and ought now to be reversed ; and

Whereas : Many of the Wisconsin representatives in Congress, from both the Senate and the House of Representatives, have been joined by other distinguished members of Congress from both parties in sponsoring a Bill to restore the Trust ; to recreate the Tribe ; and to restore the Menominees' legal status as Indians ; and

Whereas : Such restoration would make possible a resumption of the social and economic progress interrupted by termination ; and

Whereas : The instrument by which this may be done is known as the Menominee Restoration Act of 1972 ; now therefore,

Be it resolved : By the members of the Association on American Indians Affairs assembled at their Annual Meeting in New York City on the 8th of May, 1972, that we do :

1. Express our suport of the purpose of the Restoration Act ;
2. Urge upon the Congress of the United States prompt and full hearings ;
3. Urge our members as individuals to do what they can to support the program of restoration ; and
4. Authorize the Board of Directors of this Association to take such action as is consistent with our stated purposes as will, in its judgment, assist and advance the cause of Menominee Restoration.

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION,
Washington, D.C.

BOARD OF DIRECTORS—RESOLUTION

Upon request by Menominee Restoration Committee

Whereas, The National Tribal Chairmen's Association Board of Directors has been apprised of the disastrous effects to the Menominee Tribe by the Menominee Termination Act of June 17, 1954, and

Whereas, The National Tribal Chairmen's Association has always supported efforts to curb termination legislation affecting American Indian Tribes ; and

Whereas, The NTCA Board of Directors feels it to be in the best interest of all American Indian Tribes to support corrective legislation introduced into Congress restoring the Menominee Indian Tribe as a Federally recognized, sovereign Indian Tribe.

Now, therefore, be it resolved, That the National Tribal Chairmen' Association Board of Directors, in its executive session held at the Bottle Hollow Resort Motel, Uintah and Ouray Indian Reservation, Utah, on May 22–24, 1972, hereby approves and supports the "Menominee Restoration Act" introduced into both the Senate and House of the United States Congress as S. 3514 and H.R. 14456, respectively.

Be it further resolved, That the Board of Directors urges that Congress enact this legislation as soon as possible in order to correct a grave injustice brought upon the Menominee Indian Tribe and to restore economic stability and dignity to the Menominee Indian people.

CERTIFICATION

I, the undersigned, as President of the National Tribal Chairmen's Association, do hereby certify that the foregoing Resolution was passed unanimously with a quorum being present.

WILLIAM YOUPEE,
President, NTCA.

RESOLUTION L–17

Subject: Restoration Act.
Convention action.

Whereas: The initial termination act of 1961 was a product of hasty and ambiguous consideration by the United States Congress and;

Whereas: It offered neither sound economic potential and security nor the advancement and protection of the Menominee Tribes cultural heritage, and;

Whereas: Recent developments have placed the economic and cultural values of the Menominee people in grave jeopardy;

Now therefore be it resolved: By the delegates of the Third Biennial Convention of the Midwestern States Regional Council No. IV, International Woodworkers of America, AFL-CIO-CLC, assembled at the Holiday Inn in Wausau, Wisconsin on August 17, 18 and 19, 1972, strongly urge passage of the legislation submitted to Congress for the reversal of termination on timber lands and other natural resources of the Menominee Tribe, and;

Be it further resolved: That this convention call upon our International Organization and the State organizations within the boundaries of our Region. National AFL-CIO and all congressmen and senators representing the vast areas of this Regional Council to lend their whole hearted and active support to this pending legislation and thus provide the Menominee Tribe with a sound economic base and a guarantee to them the continuous benefits of their splendid heritage and culture and thus correct the disadvantages thrust upon them by the "Termination Act of 1961."

Be it finally resolved: That copies of this resolution be sent to the International Union, the Wisconsin and all other State Councils within the boundaries of our Regional Council, the National AFL-CIO and all congressmen and senators within our Regional Council.

Submitted by: Midwestern States Regional Council No. IV and Local IV–302

RESOLUTION

Whereas, the Menominee Indians have been terminated from federal supervision; and

Whereas, the Menominee Indians never gave their free and knowing consent to the termination legislation; and

Whereas, Menominee Enterprises Inc., the present Menominee business corporation, is in serious financial difficulty; and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-stricken County in the State of Wisconsin; and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services; and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a prosperous and almost completely self-sufficient tribe before termination; now

Therefore be it resolved, that this organization hereby gives its active and enthusiastic support to the passage of the Menominee Restoration Act, which has been introduced in the Senate as S. 1687 and in the House of Representatives as HR. 7421.

CERTIFICATION

We certify that the American Indian Information & Action Group, Inc. met on the 13 day of August, 1973 at which time a quorum of twenty (20) was present, and the foregoing resolution was adopted by a vote of twenty for and zero against.

By JOSEPHINE BIGLER,
Executive Director.

_____,
Chairman.

Dated: August 13, 1973.

RESOLUTION

Whereas, the Menominee Indians have been terminated from federal supervision; and

Whereas, the Menominee Indians never gave their free and knowing consent to the termination legislation; and

Whereas, Menominee Enterprise Inc., the present Menominee business corporation, is in serious financial difficulty; and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-stricken County in the State of Wisconsin; and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services; and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a prosperous and almost completely self-sufficient tribe before termination; now

Therefore be it resolved, That this organization hereby gives its active and enthusiastic support to the passage of the Menominee Restoration Act, which has been introduced in the Senate as S. 1687 and in the House of Representatives as HR. 7421.

CERTIFICATION

We certify that the Council of the Golden Hill Indians Inc. met on the 24 day of August, 1973 at which time a quorum of seven (7) was present, and the foregoing resolution was adopted by a vote of seven for and none against.

By AURELUIS H. PIPER,
Chief.

AURELUIS H. PIPER,
President.

Dated: August 24, 1973.

the chief of the golden hill indians and the descendants has full power of attorney to speak for all the matters concerning indian affairs.

RESOLUTION

Whereas, the Menominee Indians have been terminated from federal supervision; and

Whereas, the Menominee Indians never gave their free and knowing consent to the termination legislation; and

Whereas, Menominee Enterprises Inc., the present Menominee business corporation, is in serious financial difficulty; and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-stricken County in the State of Wisconsin; and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services; and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a prosperous and almost completely self-sufficient tribe before termination; now

Therefore be it resolved, That this organization hereby gives its active and enthusiastic support to the passage of the Menominee Restoration Act, which has been introduced in the Senate as S. 1687 and in the House of Representatives as H.R. 7421.

CERTIFICATION

We certify that the Owens Valley Paiute-Shoshone Band met on the 7th day of Aug., 1973 at which time a quorum of 5 was present, and the foregoing resolution was adopted by a vote of 5 for and 0 against.

By GERALD KANE
LOUISE KELLER.

Dated: August 8, 1973.

RESOLUTION

Whereas, the Menominee Indians have been terminated from federal supervision; and

Whereas, the Menominee Indians never gave their free and knowing consent to the termination legislation; and

Whereas, Menominee Enterprises Inc., the present Menominee business corporation, is in serious financial difficulty; and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-stricken County in the State of Wisconsin; and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services; and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a prosperous and almost completely self-sufficient tribe before termination; now

Therefore be it resolved, that this organization hereby gives its active and enthusiastic support to the passage of the Menominee Restoration Act, which has been introduced in the Senate as S. 1687 and in the House of Representatives as H.R. 7421.

CERTIFICATION

We certify that the Hannahville Community Council met on the 6th day of Aug., 1973 at which time a quorum of 7 was present, and the foregoing resolution was adopted by a vote of 10 for and 0 against.

By JAKE J. MCCULLUM, JR.,
Chairman.

SALLY HALFADAY.

Dated: August 6, 1973.

STATE OF MICHIGAN COMMISSION ON INDIAN AFFAIRS

RESOLUTION

Whereas: The Michigan Commission on Indian Affairs exercises its interests in all facets of Indian involvement within the State, and:

Whereas: Termination has been a threat to the status of our Indian residents, and;

Whereas: The terminated status of the Menominees in Wisconsin has been a failure with the resultant loss of land and economy, and;

Whereas: The Menominees have petitioned for restoration of trust status through the Menominee Restoration Act 2–3514 and HR–14556; (*)

Therefore be it resolved that: The Michigan Commission on Indian Affairs fully supports the intent of said Acts and urges their passage.

Be it further resolved that: Termination as a policy be fully replaced by self-determination.

Submitted: August 25, 1972

Approved 9 (Yes) 0 (No).

_____ _____
Chairman.

_____ _____
Secretary.

RESOLUTION

Whereas, the Menominee Indians have been terminated from federal supervision; and

Whereas, the Menominee Indians never gave their free and knowing consent to the termination legislation; and

Whereas, Menominee Enterprises Inc., the present Menominee business corporation, is in serious financial difficulty; and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-stricken County in the State of Wisconsin; and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services; and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a prosperous and almost completely, self-sufficient tribe before termination; now

Therefore be it resolved, That this organization hereby gives its active and enthusiastic support to the passage of the Menominee Restoration Act, which has been introduce in the Senate as S. 1687 and in the House of Representatives as H.R. 7421.

(*S. 1687 and H.R. 7421).

CERTIFICATION

We certify that the Islela Pueblo Council met on the 6th day of August, 1973 at which time a quorum of 9 was present, and the foregoing resolution was adopted by a vote of 6 for and 3 against.

_____ _____

Secretary.

Dated August 6, 1973.

RESOLUTION OF UNITED INDIAN TRIBES OF WESTERN OKLAHOMA AND KANSAS

Whereas, the Menominee Indians have been terminated from federal supervision; and

Whereas, the Menominee Indians never gave their free and knowing consent to the termination legislation; and

Whereas, Menominee Enterprises, Inc., the present Menominee business corporation, is in serious financial difficulty; and

Whereas, Menominee County, where most Menominee Indians now reside, has become by far the most poverty-stricken County in the State of Wisconsin; and

Whereas, the Menominee have been forced to sell their valuable and beautiful land as their only means to acquire funds for social services; and

Whereas, the above conditions are the result of the termination legislation, since the Menominee Indian Tribe was a prosperous and almost completely self-sufficient tribe before termination; now

Therefore be it resolved, That this organization hereby gives its active and enthusiastic support to the passage of the Menominee Restoration Act, which has been introduced in the Senate as S. 3514 and in the House of Representatives as H.R. 14456.

CERTIFICATION

_____

We certify that the _____ met on the 22 day of July, 1972, at which time a quorum of 16 was present, and the foregoing resolution was adopted by a vote of 16 for and 0 against.

By LEE MOTAH,
President.
KENNETH E. BLACK,
Secretary.

Dated: July 22, 1972.

Senator BARTLETT. At the request of the committee, we asked the legal counsel for the Menominee Tribe to be here today and to be in a position to respond to statements by representatives of the administration which have been made.

And so I ask Mr. Preloznik and Mr. Wilkinson to appear and make any remarks that they would like to.

Mr. PRELOZNIK. Thank you very much, Mr. Chairman.

Our comments are going to be very, very brief, and basically they are just going to be a summation of the comments of the Menominee Tribe with respect to the Secretary of the Interior's course.

STATEMENT OF JOSEPH F. PRELOZNIK AND CHARLES WILKINSON, LEGAL COUNSEL FOR THE MENOMINEE TRIBE OF WISCONSIN

Mr. PRELOZNIK. The first comment that I would like to make is the trust provision embraced basically what Chairperson Ada Deer so aptly put, that they want protection without domination by the Secretary of the Bureau of Indian Affairs.

We believe that this may be accomplished without accepting the kind of language that the Secretary has used in the past to accomplish

the trust provision. For example, we feel that the land can be prevented from being sold and the property may be taken off the tax rolls. And yet, we may permit the Menominee to manage their own affairs, supervise and manage their mill without domination by the Secretary of the Interior.

I would be of the opinion that the Solicitor's office and the Secretary's office and the Bureau of Indian Affairs' office would meet with us. I think we can work out language to embrace the trust concept that the Secretary of the Interior is concerned about, and, at the same time, only involve the Secretary where there is substantial danger that there will be a deleterious effect on the assets unless the Secretary acts, or language of that nature.

Senator BARTLETT. Mr. Preloznik, do I understand you correctly that the administration suggested language that is on page 3; is that correct?

Mr. PRELOZNIK. Yes; they are basically taking the trust as it is outlined in the Indian Reorganization Act. This is another comment that we would like to make in addition to that, that while the tribe did accept the IRA, it never reorganized under the act. And this was done many years ago. And the strong sentiment that we get from the Menominee people that they would like to make a choice whether they want to come under the act or not.

Most of the sentiment that we have gotten at this particular time indicates that they do not want to come under the act. And this is the reason we drafted language that generally it follows the act, but it is not under the IRA.

Senator BARTLETT. So you are saying—and I referred to the wrong page; the language is on page 5 and not page 3—as I understand it, you feel that you could work out with them some slight changes in that?

Mr. PRELOZNIK. Yes.

I think that they would embody some of the chairman's thoughts, that we don't want to dominate the Indian community, we want to give them an opportunity for self-determination.

Senator BARTLETT. After you have that meeting, I wonder if you could report to us the results of that meeting or meetings to the staff?

Mr. PRELOZNIK. We would be happy to, Mr. Chairman.

I would also like to comment on the contingency provision that has developed in the act as the bill was introduced in the Senate. There is a 2-year delay in conveying the land to the trust. The Menominee found this very unacceptable because of their fear that there may be an erosion of their assets during the 2-year period.

There was some negotiation and comment that a better provision would be that the assets must be conveyed within 2 years. However, there was never any discussion or agreement that it ought to be tied to the recognition provisions of the act.

As the spokesman for the Secretary, Mr. Kyl indicated there is no law that requires a land base for restoration of services. We would expect that the committee would delete this contingency provision from the act and not tie the restoration of services with the conveyance of the assets into trust.

Senator BARTLETT. This is consistent with your testimony of the 20th.

Mr. PRELOZNIK. Yes.

And I think that as I read the comments by the people who represented the Secretary of the Interior, that they would be amenable to that kind of change also.

Senator BARTLETT. Did Secretary Kyl say that he would be amenable to it, a change which would delete a requirement for a transfer?

Mr. PRELOZNIK. Yes.

It was my understanding that they were not adamant on that position.

Senator BARTLETT. Of course I haven't read that testimony and I was not here when they gave it. Were they specifically definite on that? If they were not, I would request that Mr. Kyl—I am advised that the record substantiates that and that is what I was trying to determine. That is, to make sure it was clear in that way.

Thank you. Proceed.

Mr. PRELOZNIK. I would also like to comment on the provision which would permit the Secretary of the Interior to make grants and contract with the Menominee Indian Tribe. However, we would also like to affirm that we are hopeful that the committee would broaden that power to permit the Secretary to make grants and negotiate grants and contracts with the restoration committee for that period.

Senator BARTLETT. As I understand this, this is supported by the administration in testimony, is that correct? Are you satisfied with that support?

Mr. PRELOZNIK. Well, the administration testimony raised some questions whether they may legally contract with the restoration committee. And the chairman at that time asked the administration to consult with the Solicitor's office to determine whether they could contract with the restoration committee.

It would be our opinion that if Congress desires that to be the law they could easily put that into the act that they do have the authority to negotiate with the restoration committee and make the grants to the restoration committee or contract with them.

Senator BARTLETT. If Congress put this specifically in the act, then did they do it or did they still question it?

Mr. PRELOZNIK. They indicated that they would then have to consult with their Solicitor's office and prepare memorandum on that point to the Chairman.

Mr. WILKINSON. Mr. Chairman, I might just comment on the importance of that provision. The obvious point I think is that if the BIA establishes its own personnel and structures in Menominee County and the tribe is later given contracting authority, it is going to be a long time before the original BIA personnel are replaced by Menominee poeple. I think that is just the way it works.

Now, if we could start fresh with Menominee people handling the contracting I think we are going to have a real Menominee BIA on the reservation.

Senator BARTLETT. There seems to be no objection to the legal question which you raised, and we certainly will be alert to receiving that policy.

Mr. PRELOZNIK. As to the practical problem that the Secretary raised as to who would participate in the election of the restoration committee I think it is the consensus of the people that we represent

that we recognize that it would take a long time to update the rolls. It may take 6 months or 9 months before we could get a restoration committee.

So, only for the purposes of an elected restoration committee, it would be satisfactory to us to utilize only those who are on the rolls as of 1954, the present rolls.

So we would concur with that recommendation of the Secretary of the Interior.

Senator BARTLETT. What percentage of that number would be to the number that you had anticipated on final roll?

Mr. PRELOZNIK. It is difficult to make a prediction, but there are approximately 5,000 or 6,000 descendants of the 3,275 Menominee who were on the rolls in 1954. How many of those qualify by having the one-quarter quantum of alien blood is difficult for me to determine. And there are approximately 2,900 people who are still alive who were on the rolls in 1954.

Senator BARTLETT. So say roughly 50 percent?

Mr. PRELOZNIK. Yes.

Mr. WILKINSON. If I might add briefly, Mr. Chairman, the 1954 roll would be used only for one purpose, and that is for the election of the restoration committee. Very few people who would be on the final roll would be excluded from that election because you would have to be 18 years old to vote.

So the only people born between 1954 and 1956—which would be undoubtedly 20 or 30 people—a small number actually.

Senator BARTLETT. Very good. Yes, sir.

Mr. PRELOZNIK. We would also like to go on the record that we would be willing to negotiate with the Secretary's office the matter of the time periods. When the Secretary testified the chairman asked him whether the Department would be amenable to making some changes in these time periods. They agreed to meet with us, we are willing to meet with them.

We only felt strongly that there ought to be time periods so that there cannot be any undue delay by inaction on the part of the Secretary's office.

Senator BARTLETT. Are you agreeable to the timetables in the House bill which was reported out today?

Mr. PRELOZNIK. Yes, we are.

I am not sure if there was a timetable placed on appeals to the Secretary of the Interior. And if there was no time period placed on the Secretary's ruling on appeals, we would also like the time limit for that particular provision.

Senator BARTLETT. That will be done.

Mr. WILKINSON. Mr. Chairman, I was at the House markup session and there was a time limit on appeals. And Congressman Wilbur Young of Alaska had a very obvious suggestion, which I don't know why it wasn't in the bill—but it will be included in the House bill and should be included in here—which is simply that the Menominee Restoration Committee and the Secretary may, by agreement, change the time periods, which should obviously solve any problems that would come out in a good amendment that supports it.

Senator BARTLETT. Yes.

Mr. PRELOZNIK. The Secretary also indicated that sections 7 and 8 of the act be deleted. These provisions were not added by the Menominee Indian people. These were amendments that were placed as a compromise to get the bill introduced at the request of Congressman Froehlich.

We have no objection if they are so deleted.

I have no additional comments. I think Mr. Wilkinson has a letter that he would like to introduce and make part of the record.

Mr. WILKINSON. My understanding is that a letter from Donald S. Buzard, B-u-z-a-r-d, of the First Wisconsin Trust Co. to Senator Abourezk, dated September 19, 1973, has not been inserted into the record. I think it is of some importance.

In August, Mr. Buzard had written Chairman Abourezk, indicating there might be a problem with default under the bond if the Restoration Act was passed. That letter was introduced at the September 17 hearings. Also introduced, was a letter from me to Mr. Buzard, stating that our opinion was that there was no default inherent in the Restoration Act.

We have now received this letter, which was sent to Senator Abourezk. Mr Buzard now agrees that there is nothing inherent in the Restoration Act which would create a default on the bonds, and that if appropriate provisions are made in the transfer documents the bonds will be protected.

And I would offer the letter to Chairman Abourezk.

Senator Bartlett. The letter will be put into the record.

[The letter to Senator Abourezk, dated September 19, 1973, follows:]

FIRST WISCONSIN TRUST COMPANY,
Milwaukee, Wis., September 19, 1973.

Hon. JAMES G. ABOUREZK,
U.S. Senator, Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, U.S. Senate, Dirksen Senate Office Building 5241, Washington, D.C.

DEAR SENATOR ABOUREZK: On August 16, 1973, I wrote to you expressing concern that the Monominee Restoration Act might result in a default under the provisions of the trust indenture for the Menominee Enterprises, Inc. 4% income bond issue, which would result in the full bond issue being immediately due and payable. I have since conferred with Mr. Charles F. Wilkinson, attorney for the Native American Rights Fund. It is his position that neither enactment of the Menominee Restoration Act nor the transfer of corporate assets to the United States pursuant to the Act will necessarily result in a default. I agree with the position that there is nothing inherent in the proposed transfer which would necessarily result in a default.

If under the transfer documents and upon the transfer in fact the assets of Menominee Enterprises remain substantially intact, and the corporation's ability to earn and pay the annual interest owing to bondholders is not negatively affected, and if the transfer is so structured that there is no difficulty in measuring earnings as defined in the indenture, no default would appear to occur. Mr. Wilkinson is considering requesting declaratory relief to establish the validity and legal effect of the transfers before they occur and it should be possible in this event, to determine in advance whether the transfers would result in default, if the form of the transaction raises any question on this point.

Very truly yours,

DONALD S. BUZARD,
First Vice President.

Senator BARTLETT. Are there any other comments, Mr. Wilkinson or Mr. Preloznik?

Mr. PRELOZNIK. Just one, Mr. Chairman.

Normally the committee has thanked everyone else. I would like to thank the chairman and Senator Abourezk for the courtesies that they have extended us and the ample time they have given us to fully explore all problems and bring our testimony out on behalf of the tribe.

And we want to give you our heartfelt thanks on that particular issue.

Senator BARTLETT. Well, you are certainly welcome, and I am speaking on behalf of Chairman Abourezk as well as the staff and the whole committee also. And I thank you. You certainly have been most cooperative with us.

I apologize that I don't do a very good job of pronouncing "Preloznik". I am going to try to do better.

Mr. PRELOZNIK. Senator, you are not the first person who has ever been involved with that name.

Senator BARTLETT. Is there any other statement that you have now?

Mr. PRELOZNIK. No.

Senator BARTLETT. We appreciate very much and very sincerely your cooperation. We will hold the record open for 2 weeks for any additional information that you may have or any other testimony you may have.

[Subsequent to the hearing the following was furnished for the record:]

NATIVE AMERICAN RIGHTS FUND,
Boulder, Colo., September 6, 1973.

Re: Menominee Restoration Act (H.R. 7421).
Congressman LLOYD MEEDS,
U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN MEEDS: This letter will refer to the amendment by the House subcommittee, in the nature of a substitute, to H.R. 7421.

Mr. Ducheneaux has been kind enough to provide us with a copy of H.R. 7421, as reported out of the House subcommittee. We understand that several amendments were presented for the first time at the mark-up session. In this letter we will advise you of the reaction of the Menominee people to those amendments and of suggested changes to the bill as reported out of the House subcommittee. In most instances, you have not yet had the opportunity to be advised of the position of the Menominee people because the amendments were proposed at such a late date. Hopefully, this letter will assist you in making several changes to the amended bill at the full committee mark-up session.

As you well know, the contents of this bill have been the subject of extensive discussion in Menominee County and in other areas in which Menominee reside. We are safe in saying that there has been a total of no less than 25 meetings in Menominee County, Chicago, and Milwaukee concerning this bill. You, as well as other strong supporters of the bill, have always recognized the importance of drafting legislation to meet the desires of the Menominee people, so long as other important objectives are not substantially compromised. After the bill was reported out of subcommittee, the revised bill was discussed at meetings in Keshena and Milwaukee and with Menominee representatives from Chicago. The following suggested amendments are the result of those meetings. As attorneys, we very strongly recommend that the suggested changes be made. We know of no instance in which the suggested changes would affect any substantive concerns of any other interested parties.

1. Section 3(a): Date of Recognition

To our knowledge, all parties agree that federal recognition and the restoration of federal benefits are intended to become effective as of the date of the passage of the Act. Congressman Froehlich so testified at the subcommittee hearings and

Mr. Ducheneaux advises us that all persons at the House mark-up session so intended.

In our judgment, amended Section 3(a) does not make the date of federal recognition and restoration of federal benefits sufficiently clear. The amended version provides that "federal recognition is hereby extended" but later provides that "extension of federal recognition to the Tribe shall be contingent" upon the establishment of a tribal land base. This could be read to mean that recognition does not occur until the land base is established. We suggest that this potential ambiguity be cured by the following addition to Section 3(a):

"Notwithstanding the provisions of the Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891–902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin, *effective on the date of enactment of this Act.*"

We also think it appropriate that the committee report specifically state that all federal benefits to which Indians are entitled shall be available to Menominee tribal members as of the date of enactment of the act.

2. Section 3(a): Applicability of the Indian Reorganization Act to the Menominee Tribe

H.R. 7421 was amended to provide that the provisions of the Indian Reorganization Act (48 Stat. 954; 25 U.S.C. 461 *et seq.*) will be extended to the Menominee Tribe. The Menominee people have consistently expressed opposition to the extension of the IRA to the Menominee. In the first draft of the bill, before it was presented to any members of the Wisconsin delegation, we had included a provision that the Tribe be subject to the IRA. At community meetings in late 1971 and early 1972, there was unanimous opposition to such a provision. Accordingly, the provision was dropped. When the subcommittee amendments were made, the amendments were again discussed at community meetings. Again, the opposition was unanimous and strong.

The IRA amendment was adopted at the request of the Secretary of the Interior. See, undated letter to Chairman Haley, from Secretary Morton; this letter was written shortly before the subcommittee hearings. The only reason given in the letter was that the original bill would "create a different [trust] relationship, one which limits the authority of the Secretary as trustee and offers the Menominees correspondingly more control over their assets." *Id.* at p. 4. The oral testimony of the Interior witness at the subcommittee hearings was to the same effect.

We have repeatedly advised all interested parties that the Menominee people do not expect a trust relationship any different from the relationship enjoyed by other tribes or by this Tribe before termination. See, *e.g., Legal Analysis of the Menominee Restoration Act,* page 62.

Thus the Secretary wishes to be assured that the Menominee trust status is similar to that of other tribes. The Menominee people agree. To accomplish this simple end, however, the Secretary seeks to make the entire IRA applicable to the Menominee. *We emphasize that the trust provisions of H.R. 7421, as originally introduced, are identical to the trust provisions in the Indian Reorganization Act.* Section 6(c) of the original act provides that the land "shall be taken in the name of the United States in trust for the Menominee Tribe of Wisconsin and shall be their reservation." Section 6(d) has a similar provision in regard to individual Menominee. The only provisions in the IRA relating to the trust status are that lands "shall be taken in the name of the United States of America in trust for the Tribe or individual Indians for which acquired." See, 25 U.S.C. §§ 463f and 465. Thus we believe that the aims of the Department of Interior concerning the nature of the trust status have been fully met by the original bill—without resorting to the IRA.

We emphasize that there is no magic language concerning the establishment of the trust relationship: "The language used to define the character of the estate guaranteed to an Indian tribe varies so considerably that any detailed classification is likely to be nearly useless." F. Cohen, *Handbook of Federal Indian Law,* p. 295 (U.N.M. Ed. 1970). Professor Cohen gives several examples of the different kinds of language which have been used to create the trust relationship. *Id.* at 295–96. For example, there is no doubt that the normal trust relationship always existed in regard to the Menominee before termination, although the word "trust" was not even used in the Wolf River Treaty of 1854. See, Kappler, *Indian Treaties 1778–1883,* p. 626–27 (1972).

In summary, we will restate our position: We will agree to any reasonable definition of the trust relationship, so long as the IRA is not imposed upon the Tribe. In this instance, the trust relationship has already been defined in precisely the same terms as provided for by the IRA. The invocation of the IRA is entirely unnecessary and is strongly opposed by the Menominee people. We think that the original bill is completely clear on its face; if necessary, the committee report can clarify the issue in full.

3. *Section 3(a): The "Contingency" Provision*

The bill, as reported out of subcommittee, provides that "extension of federal recognition to the Tribe shall be contingent upon the establishment of an appropriate tribal land base pursuant to the provisions of Section 6o f this Act." One problem concerning this provision is the ambiguity it creates in regard to the date of the return of federal services. We presume that this problem will be resolved. See, Section 1, above.

Our most basic concern with this provision, however, is that it simply does not make sense. We understand that this provision is based upon the concern that the Menominee themselves would hold up the transfer of land into trust. The truth is that the Menominee have every incentive to restore the land to trust status as soon as possible—only then will they be relieved of the crushing tax burden and the threat of future loss of their ancestral land. The real fear is not delay by the Tribe, but rather a delay by the Department of Interior in approving the land transactions under Section 6. A contingency provision is a serious threat to the Tribe, because the many years of fighting to achieve restoration could easily be destroyed by delay on the part of the Secretary of Interior.

The Menominee people have clearly perceived these problems. They see the contingency provision as creating nothing but a very real peg upon which to hang a second "termination." As long as there is a contingency provision, the Menominee people face a serious threat of losing the hard-earned benefits of restoration. Accordingly, we very strongly urge that the "contingency" provision be eliminated.

4. *Section 3(c): Qualification of Retention of Treaty, Statutory and Other Rights or Privileges*

At the subcommittee mark-up session, Section 3(c) was amended to add the words "which are not inconsistent with the provisions of this Act." This provision modified the guarantee that the Restoration Act will not diminish any rights or privileges enjoyed by the Tribe.

To us, this provision does nothing but complicate the act and provide a bais for future litigation. Section 3(c) of original H.R. 7421 did not include this provision and we believe that the House subcommittee should retain the language of the original bill. At the very least, the full committee should amend the subcommittee version as follows: ". . . which are not inconsistent with the *specific* provisions of this Act." In this manner, the full committee would blunt at least some of the difficulties which this amendment is almost certain to cause. Such an addition would be consistent with Section 3(d), which begins "except as *specifically* provided in this Act. . . ." (emphasis supplied).

5. *Section 3(d): Provision Regarding Fishing Rights*

Section 3(d) of original H.R. 7412 was an addition to the Restoration Act as introduced in 1972. The section in original H.R. 7421 provides that the act shall not "alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied." Congressman Froehlich suggested this provision and we fully agree that it is appropriate in order to protect the rights of third parties.

At the subcommittee mark-up session, the words "including existing fishing rights" were added to the original bill. We fail to see how the phrase provides any additional protection whatsoever to existing rights of any third parties: The section already very specifically protects "any contractual rights or obligations." Plainly, fishing rights granted by the Tribe to non-Menominee would fall within this definition.

Much damage could be caused by the "fishing rights" provision. The addition of this language could very well result in Congressional interference with pending litigation. *Van Camp v. MEI* is a pending action relating to fishing rights of non-Menominee on all Menominee land. For a more complete description of this case see *Legal Analysis*, pages 57–58. In *Van Camp*, the Menominee take the position that Menominee Enterprises, Inc. had no authority to contract away fishing rights supposedly conveyed to non-Menominee: only the Tribe can convey such rights.

The inclusion of this language in the bill lends itself to an argument by non-Menominee that this Congress recognizes the existence of such fishing rights.

This is truly a gut issue to the Menominee people—the "fishing rights" provision was strenuously opposed at the recent community meetings. Both of us have received several telephone calls from individual Menominee protesting this provision. We think that the Menominee people are correct in thinking that the provision is playing with fire and that it should be discarded entirely. Section 3(c) in original H.R. 7421 fully protects the rights of all non-Menominee but does not tip the scales in their favor by giving apparent Congressional support for additional rights which are now being litigated.

6. Section 4(c): Appeals to the Secretary of Interior from Decisions Concerning the Tribal Roll

The Secretary of Interior requested, and received at the mark-up session, an important deletion from original H.R. 7421. Originally, the bill provided that the Secretary must act on all appeals concerning the tribal roll within 60 days. This provision is discussed in more detail at *Legal Analysis*, page 61.

The importance of this 60 day provision should not be understated. The heart of the Restoration Act depends upon the establishment of the tribal roll. The election on the constitution, the election on the tribal council, and the transfer of tribal assets cannot occur until a tribal roll is established. As matters stand now, delay by the Secretary on a single appeal would delay all important provisions of the act.

The original bill contained a 60 day provision, but the specific time period can be extended. The important thing is that a deadline be established so that the Secretary be prohibited from undue delay. A 90 day provision, which would give the Secretary more than ample opportunity to act, would be acceptable to the Tribe and would not unduly delay the important mechanisms of the act. A period longer than 90 days—and particularly an indefinite time period—would threaten much of the act. Accordingly, we believe that the committee mark-up session should return to the original provisions of the bill in regard to the time period for handling of appeals by the Secretary of Interior.

7. Section 5(a): Reference to Elections under the Indian Reorganization Act

Section 5 of original H.R. 7421 established a complete election procedure. To our knowledge no one has ever suggested that any of its provisions are inadequate. At the subcommittee mark-up session, Section 5(a) was changed to provide for an election under the IRA. This action has two serious, negative ramifications. First, the new provision eliminates the requirement that the Secretary hold the election for a tribal constitution and by-laws 180 days after the passage of the act. Again, this important provision establishes ample time for the Secretary of Interior to act, but at the same time assures that he will act. Accordingly, we believe that the 180 day provision should be reinstated.

The second difficulty with this provision is the adherence to the Indian Reorganization Act. The tribal members have consistently opposed to IRA in general, as set forth above, and as well as the specific use of the IRA election procedure. We see no need for use of the IRA election regulations, since all election procedures are fully set forth in original H.R. 7421. If the IRA election regulations are to be used, which the Menominee people oppose, the following language should be added to Section 5(a):

> The Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. §§ 461 *et seq.*) shall apply only to the election provided for in this section. The Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. §§ 461 *et seq.*) shall not apply to any other elections under this Act, to other provisions of this Act, or to the Menominee Tribe of Indians in any other respect.

We emphasize again that all of the above objections represent deep-felt convictions of the Menominee people. In every instance, the positions set forth above represent the literally unanimous position of the Menominee people, as they have been conveyed to us at community meetings. We will very much look forward to discussing these matters with you in more detail in your office at 4:00 p.m. on Tuesday, September 11, 1973. We understand and hope that. Mr. Ducheneaux, Congressman Obey, and Ms. Rievetz will also be present. We will look forward to seeing you then.

Very truly yours,

CHARLES F. WILKINSON.
JOSEPH F. PRELOZNIK.
PRELOZNIK & MERRIAM.

Senator. BARTLETT. Just before I pull the blind down on this open hearing, I would like to ask Ada Deer if she has anything that she would like to add.

STATEMENT OF ADA DEER, CHAIRPERSON, MENOMINEE COMMON STOCK AND VOTING TRUST

Ms. DEER. Thank your, Senator Bartlett.

No, I have no substantive point that I would like to bring up, but in behalf of the Menominees I would like to express our sincere and heartfelt appreciation for the opportunity that we have had to present our case here.

We feel the courtesy, politeness and dedication that the committee Members have shown us as we have appeared has been an inspiration to us. I think it will be a clear indication to all other American Indians that as they come before this particular committee in session that they will also be accorded justice and fairness.

We commend you, your Staff members and all others who have had a part in making this hearing so successful. Thank you.

Senator BARTLETT. Ms. Deer, on behalf of Chairman Abourezk and also Chairman Jackson and all Members of the committee I wish to thank you for your real true dedication to a great cause and for the inspiration that you have given us and to others across the country to work for good and just causes.

I am hopeful and believe that we will move right along with this matter. I certainly hope that we will fulfill the desires of the National Congress of American Indians at the time of their conference in Tulsa, Okla. At least by then we will have progressed significantly with this point in both Houses. Thank you.

Ms. DEER. Thank you.

Senator BARTLETT. If there is no other witness here, the hearings are adjourned.

[Whereupon, at 12:30 p.m., the hearing was adjourned.]

APPENDIX

[Under authority previously granted, the following statements and communications were ordered printed:]

THE WHITE HOUSE

WASHINGTON

October 9, 1973

Dear Mr. Trimble:

Thank you for your letter of October 2 and for your invitation to me to attend the 30th Annual Convention of the National Congress of American Indians.

I very much regret that non-delegable business will keep me here in Washington, but in response to both this invitation and to the one you have sent him directly, Brad will represent the White House during most of the Convention days. If there is a participant role you desire for him, I suggest you get in touch directly with him.

With the high regard we have for the National Congress, it is a pleasure to enclose here a Message to the 30th Annual Convention from President Nixon. I hope you can arrange to have it printed in the Convention Bulletin.

Sincerely,

Leonard Garment

Mr. Charles E. Trimble
Executive Director
National Congress of American Indians
1346 Connecticut Avenue, N.W.
Suite 312
Washington, D.C. 20036

attachment

THE WHITE HOUSE

WASHINGTON

October 9, 1973

It is a pleasure for me to greet the members of the National Congress of American Indians on the occasion of your Thirtieth Annual Convention, and to take special note of your convention theme: "Restoration Now."

As I am sure you know, I support the restoration of reservation status for the Menominee tribe of Wisconsin. I hope that before 1973 ends the Congress will send me a bill which accomplishes this restoration under the trust responsibility of the Secretary of the Interior. For at least twelve years the Menominees have worked, organized and campaigned to reverse the termination act which became final in the spring of 1961. They are now within striking distance of success. As my Counsellor, Melvin Laird, said in his statement of last August 31, "The proven reliability and willingness of these people to accept the responsibilities of self-government proves that restoration of the Menominee Indian tribe is not only advisable but well deserved."

I have just signed the Department of the Interior Appropriation Act for fiscal year 1974. It contains funds for the activities of the Bureau of Indian Affairs totalling $562.1 million. This figure is a 224 percent increase over five years ago, and represents just one of this Administration's efforts to launch a new era of progress for the first Americans. I hardly need to say how much I wish to have on my desk, in addition to a Menominee Restoration bill, enrolled bills for Indian financing, for an Indian Trust Counsel Authority, for transfer of control, for Johnson-O'Malley reform, for Indian tribal government grants and for a new

Assistant Secretary of the Interior for Indian Affars. I especially want to see the Congress repudiate and wipe off the books the decade-old statement of termination policy.

I am confident that the few noisy spectacles in the past twelve months will not for a moment divert either your focus or mine from the real needs of Indian communities or from the real progress which is occurring in meeting these needs. The Navajo Community College has risen from the desert at Tsaile. Here in Washington, men and women of fresh commitment and new energy are at work for Indians in many Departments of Government: in Interior, Justice, HEW, HUD and Labor. They are all striving, as I am striving, for Indian self-determination without termination and for close consultation with responsible Indian representatives on matters which affect the Indian future.

I salute the constructive role which the National Congress of American Indians takes in this quest, and welcome your cooperation and advice as we look to a new year with new resources and opportunities.

Richard Nixon

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THE WHITE HOUSE
WASHINGTON

August 31, 1973

Dear Mrs. Harris:

I believe you will be interested in the enclosed statement that I am issuing today on our policies toward Indians, particularly the Menominee tribe of Wisconsin.

For some years I have maintained an active interest in the problems of the Menominee people. In fact, I was opposed to the original termination of the Menominees' tribal status and feel that a serious mistake was made by its enactment. It is with genuine pleasure that I now assist in rectifying this error.

I am equally pleased to play some part in shaping the President's new policies toward the American Indian.

With best wishes,

Sincerely,

Melvin R. Laird
Counsellor to the President
for Domestic Affairs

Mrs. LaDonna Harris
President
Americans for Indian Opportunity
1816 Jefferson Place, N. W.
Washington, D. C. 20036

A Statement by Melvin R. Laird,
Counsellor to the President for Domestic Affairs,
on Restoration of Reservation Status for the
Menominee Indian Tribe of Wisconsin

August 31, 1973

In keeping with President Nixon's rejection of the termination policy regarding the American Indian, this Administration has strongly supported the desire of the Menominee Indian tribe of Wisconsin for restoration of their reservation status. Through a proposed trust relationship, the Menominees would regain control of their own land under the trust responsibility of the Secretary of the Interior. There are provisions in the bill which would assure an orderly transition of government and transfer of lands under the supervision of members of the tribe -- those closest to the situation and most familiar with the problems that might arise, and therefore the ones best able to handle any possible difficulties.

In the case of the Menominees there is every reason to believe they can handle such responsibility. Formidable odds notwithstanding, they have managed to maintain a workable governing structure, a tribal constitution, and the firm cohesion of their basic social institutions. They have struggled to preserve a rich heritage since termination became final on April 30, 1961. Despite the hardships caused by termination, the Menominee tribe, through its primary business, Menominee Enterprises, Inc., attempted to make the best of a deplorable situation. Lacking adequate medical facilities, sewers, and vocational training, and beset by a depressed timber market, Menominee county, created out of the former reservation, proved to be the poorest county in the state of Wisconsin, and Menominee Enterprises was forced into near bankruptcy. Even selling former tribal lands to outsiders could do little to alleviate their desperate circumstances and in fact only heightened the despair of many Menominees, who viewed the sale of their lands as a final blow to the tribe and any hope of restoration.

July 8, 1970, marked a crucial point regarding policy toward the Indian. On that date President Nixon made specific legislative proposals which would allow Indians to determine their own fate -- repudiating forced termination as the official policy toward the Indian tribes of America and designed to carry out a policy of strengthening the Indian's sense of autonomy and community. These proposals are of the highest priority and I urge their enactment by the Congress. In addition, the Republican party platform of August 22, 1972, expressed concern for the Menominee tribe's plight and called as well for "enactment of new legislation designed to further Indian self-determination without termination, and to close the economic gap and raise the Indian standard of life to that of the rest of America."

To assure that the requested restoration will be carried out under the auspices of the Menominees, the bill which has been introduced provides for a committee to be elected which will implement the restoration act in accordance with the wishes of the Menominee people. The Menominees would, upon passage of the bill, gain access to all Federal services for which all recognized Indian tribes are eligible -- without being thwarted by bureaucratic machinery in Washington. Title to land would be held in trust by the government in a relationship much like that applied to other recognized tribes across the country. In addition, the Administration has recommended an amendment to the restoration bill which would enable the Menominees to obtain grants to carry out themselves any Federal programs for their benefit. The Administration is working for the enactment of such a bill on behalf of all recognized tribes and believes that restoration of the Menominees presents a special opportunity for a preview of how such grants would work.

As the Member of Congress who represented the area in which the Menominee Reservation is located, I had opposed termination. As a matter of fact, through my efforts in the 83rd Congress we were able to defeat the Menominee legislative Conference Report requiring termination on two occasions on the Floor of the House of Representatives. These were very unusual victories in the House of Representatives. It was only after the Menominee Indians voted to reject my position opposing termination in favor of a $1,500 per capita payment tied to termination that the legislation passed. I have always believed the Menominees made a mistake in voting for termination. I am glad that rectifying legislation is now being considered by the Congress.

Since those days in Congress I have been concerned with ending the hardships caused by termination. Now that a bill is before the Congress it is paramount that it be swiftly passed so that restoration to trust status can be made a reality for the Menominees. The proven reliability and willingness of these people to accept the responsibilities of self-government proves that restoration of the Menominee Indian tribe is not only advisable, but well deserved.

Director
John E. Echohawk

Attorneys
Joseph J. Brecher
Thomas W. Fredericks
David H. Getches
Roy S. Haber
Daniel H. Israel
Yvonne T. Knight
Scott E. Little
Douglas R. Nash
Robert S. Pelcyger
Thomas L. Smithson
Charles F. Wilkinson

Research Associates
Walter R. Echo-Hawk
A. John Wabaunsee

Assistant to the Director
Joan L. Carpenter

Native American Rights Fund
1506 Broadway • Boulder, Colorado 80302 • (303) 447-8760

Of Counsel
Thomas N. Tureen

Washington Office
1712 N Street, N.W.
Washington, D.C. 20036
(202) 785-4166

Staff Attorney
L. Graeme Bell III

14 September 1973

Forest Girard
Russell Senate Office Building
Room 137
Washington, D. C. 20510

Re: Menominee Restoration Act

Dear Forest:

I enclose Mr. Buzard's letter dated August 16, 1973, and my reply to him, dated September 7, 1973, concerning the question of the income bonds. Hopefully, the matter will be resolved by the second day of Senate hearings, as suggested in my letter.

Very truly yours,

Charles F. Wilkinson

CFW/glb

Enclosures

Director
John E Echohawk

Attorneys
Joseph J Brecher
Thomas W Fredericks
David H Getches
Roy S Haber
Daniel H Israel
Yvonne T Knight
Scott E Little
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Assistant to the Director
Joan L. Carpenter

Native American Rights Fund
1506 Broadway • Boulder, Colorado 80302 • (303) 447-8760

Of Counsel
Thomas N. Tureen

Washington Office
1712 N Street, N.W.
Washington, D.C. 20036
(202) 785-4166

Staff Attorney
L. Graeme Bell III

7 September 1973

Donald S. Buzard
First Vice President
First Wisconsin Trust Company
Box 2054
Milwaukee, Wisconsin 53201

Re: Menominee Restoration Act

Dear Mr. Buzard:

Thank you very much for copying us on your letter of August 16, 1973 to Senator Abourezk. As I mentioned over the telephone today, I hope that you and I will be able jointly to advise Senator Abourezk, on the second day of Senate subcommittee hearings on September 26, 1973, that the transfer of assets itself does not constitute a default under the indenture. My analysis of the rights of the bondholders under the indenture is as follows.

The following may serve to clarify the effect of restoration on MEI. The crucial provisions concerning the future of MEI are contained in Sections 6(b) and 6(c) of original H.R. 7421.* As you point out in your letter, the act itself provides that the assets of MEI will be taken "in the name of the United States in trust for the Tribe." In our opinion, such language is appropriate because the authority of the United States is probably limited to taking land in trust "in the name of the United States in trust for the Indian tribe" in question. See, e.g., 25 U.S.C. §§463f and 465.

---

*I say "original H.R. 7421," because some of the provisions were changed at the House subcommittee mark-up session. No language of Section 6(b) or 6(c) was altered at the mark-up session, although the sections were renumbered 6(a) and 6(b), respectively. To my knowledge no one has suggested any changes in the substance of those sections.

Under no circumstances will the transfer documents, or any other documents, negatively affect the financial viability of MEI. See, Legal Analysis of the Menominee Restoration Act, pages 49-51. The transfer documents will in all likelihood include a provision that the Tribe will transfer its interest in the assets to MEI, as the tribal corporation; under such as arrangement, MEI would hold and operate the existing land on behalf of the Tribe. Many tribal corporations operate in this manner. Whatever the specifics of the final documents, the present MEI assets will continue to be controlled by MEI and MEI will continue to exist. Any approach which would negatively affect the stability of MEI would very likely violate the provision in the act that "nothing in this Act shall alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied." H.R. 7421 Section 3(c).

We emphasize the significance of this approach. Literally the only financial effect of restoration on MEI will be that MEI will be relieved of its heavy tax burden, which is in excess of $600,000 per year. Its holdings will be affected in form, not substance, by the fact that equitable title will be held by the United States, as trustee. Bondholders will plainly be benefitted, because annual obligations will be decreased with no corresponding decrease in gross annual income; thus net annual income, from which bond interest is paid, is almost certain to increase. In addition, the computation of earnings, as raised at page 3 of your letter, will not be affected: there will be no difficulty in measuring earnings of the corporation because earnings will be measured in precisely the same manner as they are now.

Under these circumstances, we do not believe that the transfer of assets to the United States, as trustee, can possibly constitute in a "default" under the indenture. "Defaults" under the indenture consist of four events, as defined by the subsections of Section 6.01. Three of the events are inapplicable on their face. First, default in the payment of interest (Section 6.01(a)) will not result from the transfer of assets; as stated above, the likelihood of paying the annual interest will increase as a result of the transfer. Second, default in the payment of principal (Section 6.01(b)) is not an issue until the year 2000. Third, bankruptcy (Section 6.01(d)) is not inherent in the transfer -- directly the opposite is true, since the corporation should be more financially stable after the transfer.

The fourth type of default (Section 6.01(c)) is broadly defined, basically including breach of any covenants, conditions, obligations or agreements in the indenture or in the bonds.** I see no default of any covenants, etc. in the indenture or bonds within the meaning of Section 6.01(c). Conceivably, Section 5.07, which deals with "conveyance of all or substantially all of the property of the Company as an entirety," might apply. Section 5.07, however, is applicable only if corporate property owned "immediately prior thereto, would thereupon become subject to any lien." I know of no such lien. If the covenant in this section, however, is applicable, default can be avoided by securing the bonds by a prior, direct lien, as set forth in Section 5.07. Thus I see no exception to the basic notion that the transfer of assets does not itself constitute a "default" under the indenture.

Obviously, no one wants to jeopardize the Menominee Restoration Act. Leaving aside the many other considerations, the future stability of MEI itself is dependent upon the act. As you know, there is a very real possibility of a default due to bankruptcy unless the restoration legislation is passed. Accordingly, I would very much like to resolve the questions raised in your letter by the second day of Senate subcommittee hearings, on September 26, 1973. I would hope that you and I could agree upon a short statement, to be submitted into the record at the hearings on the 27th, to the following effect:

> This statement refers to the matters raised in the letter of Donald S. Buzard, First Vice President of the First Wisconsin Trust Company to Chairman Abourezk, dated August 16, 1973.
>
> It appears that the transfer of the MEI corporate assets to the United States, in trust, will not itself be

---

**It is this type of default to which you correctly referred on the telephone. The default provision in Section 6.01(c) does not become effective until there is written notice by the trustee or by the holders of 25% of the principal amount of the bonds.

> an event of default under the indenture referred to in the letter if (1) the assets of MEI remain substantially intact (other than the fact that the assets will be held in trust by the United States) as a result of the transfer and (2) the transfer does not negatively affect the corporation's ability to pay annual interest owing to bondholders. At this time, it appears probable that the transfer of assets can be structured so as to meet each of the above conditions. It also appears probable that the transfer of assets can be structured so that there will be no difficulty in measuring future annual "earnings" of the corporation."

I am not particularly concerned about the specific wording of the assurance which I believe should be given to Senator Abourezk. The important thing is that he be advised that there is nothing inherent in the proposed transfer which would necessarily result in a default.

Thank you again for taking the time to discuss these matters on the telephone. In particular, I appreciate your suggestion concerning the possible use of declaratory relief to establish, in advance, the validity of some of the basic transactions which will occur after the passage of the act.

I will look forward to hearing from you in regard to the above matters.

Very truly yours,

Charles F. Wilkinson

CFW/glb

To file.

FIRST WISCONSIN TRUST COMPANY

Box 2054, Milwaukee, Wisconsin 53201

August 16, 1973

The Honorable James G. Abourezk
United States Senator
Chairman
Subcommittee on Indian Affairs
Committee on Interior and
Insular Affairs
United States Senate
Dirksen Senate Office Building, 5241
Washington, D. C.

Dear Senator Abourezk:

Menominee Restoration Act

We have recently been advised that your Committee will hold hearings on September 17 on HR 7421 or S 1687 or substitutes thereto, relating to the restoration of the Menominee Indian Tribe of Wisconsin and property to Federal supervision and control. The substitute amendment we have received provides at Section 3(d) that nothing in the act shall "alter any property rights or obligations, any contractural rights or obligations ...", and Section 6(b) provides that the Secretary shall accept the assets transferred to him by the Board of Menominee Enterprises "subject to all valid existing rights, including, but not limited to, liens ..., outstanding corporate indebtedness of all types...".

First Wisconsin Trust Company is trustee of the $10,000,000 Menominee Enterprises, Inc. 4% income

FIRST WISCONSIN TRUST COMPANY

Box 2054, Milwaukee, Wisconsin 53201

bond issue due December 1, 2000. In the Indenture the company undertakes to pay interest at the rate of 4% annually on these bonds, "interest being payable solely out of the net income of the Company". These bonds were distributed pro-rata to the enrolled members of the Menominee Tribe upon termination of Federal supervision May 1, 1961. We are informed many of the bonds are now owned by non-Menominees.

The plan of the Menominee Restoration Act as we understand it, is that Menominee Enterprises, Inc. will transfer all of the corporate assets to the Secretary of Interior, who will thereafter hold them in trust for the members of the Tribe.

In their legal analysis of the Menominee Restoration Act, Charles F. Wilkinson, of the Native American Rights Fund, and Joseph F. Preloznik, attorney for Menominee Enterprises, Inc., state at page 26 that these income bonds appear to be individually vested rights and not Tribal property and that the bond holder is and will continue to be entitled to the specified annual return and to payment of the face amount on the specified maturity date of December 1, 2000. In their opinion, the Restoration Bill does not effect these bonds.

Our concern, which we wish to call to your attention for consideration at the time of hearings on the bills, is that the transfer of all of the corporate assets to the Secretary of Interior by Menominee Enterprises, Inc. without assurance that the annual interest thereon will be paid, will be deemed an event of default under the trust indenture, upon which event the trustee of its own initiative or at the request of the holders of 25% of the bonds must declare the entire issue immediately due and payable so that the entire $10,000,000 issue matures now

FIRST WISCONSIN TRUST COMPANY

Box 2054, Milwaukee, Wisconsin 53201

instead of December 1, 2000. Since the transfer of the assets to the Secretary will be subject to "liens" and "outstanding corporate indebtedness", these assets would be required to be sold at this time to pay off outstanding bonds.

If it is the intention that the obligation of paying annual interest shifts to the Secretary so that there will be no default under the Indenture from failure to pay interest, then we would point out the difficulties of measuring the "earnings" of the corporation when the earning assets would be owned by the Secretary. The relevant section of the Indenture, Section 2.03, defines the net income as follows:

> "Net income shall mean the gross income of the Company less all expenses of the Company, including (without limiting the generality of the foregoing) salaries, rentals, insurance, interest, taxes and provision for renewals, replacements, depletion, depreciation, or retirement of property, current repairs and replacements. Provision for depletion of timber on forest lands operated under sustained yield management as defined in Section 70.335(1)(a) Wisconsin Statutes, shall be made and deducted only to the extent of realized catastrophic losses as therein defined. Net income for any fiscal year as determined by the certified public accountants who regularly audit the Company's books, in accordance with generally accepted accounting practices and sound accounting principals and as shown in the annual report of audit of such books, shall be conclusive and binding on the Company, the Trustee and the bondholders, and the Board of Directors shall, on the basis of net income as shown in such annual audit, by appropriate action declare the amount of interest payable on the bonds for such year."

The Honorable James G. Abourezk

August 4, 1976

FIRST WISCONSIN TRUST COMPANY

Box 2054, Milwaukee, Wisconsin 53201

We have not done in-depth legal research on the question of what constitutes a default under the Indenture, because it seems obvious that the Company cannot avoid its obligation to pay annual earned interest by disabling itself from any earnings by transferring its assets to others, and that to do so would violate its covenants under the Indenture.

An alternative might be to convert the existing "pay only if earned" interest requirement on the bonds to a fixed obligation, payable by the Secretary, a result which would clearly enlarge the rights of the bondholders and accordingly should be acceptable to them and ourselves as trustee. We are interested, of course, in having the legislation resolve this problem so it will not be necessary for us as trustee to fulfill our fiduciary obligation by legal action.

Very truly yours

Donald S. Buzard

DSB:EG

First Vice President

CC: Mr. Joseph F. Wilkinson
Native American Rights Fund
1506 Broadway
Boulder, CO 80302

Joseph F. Preloznik, Esq.
520 University Avenue
Madison, WI 53703

Director
John E. Echohawk

Attorneys
Joseph J. Brecher
Thomas W. Fredericks
David H. Getches
Roy S. Haber
Daniel H. Israel
Yvonne T. Knight
Scott E. Little
Douglas R. Nash
Robert S. Pelcyger
Thomas L. Smithson
Charles F. Wilkinson

Research Associates
Walter R. Echo-Hawk
A. John Wabaunsee

Assistant to the Director
Joan L. Carpenter

Native American Rights Fund

1506 Broadway • Boulder, Colorado 80302 • (303) 447-8760

Of Counsel
Thomas N. Tureen

Washington Office
1712 N Street, N.W.
Washington, D.C. 20036
(202) 785-4166

Staff Attorney
L. Graeme Bell III

September 21, 1973

Forrest Gerard
Russel Senate Office Building
Room 137
Washington, D. C. 20510

RE: Menominee Restoration Act

Dear Forrest:

I enclose letters, both dated September 19, 1973, to Senator Abourezk from Donald S. Buzard and to me from Mr. Buzard. I think that these letters should eliminate any questions concerning the legality of the transfer of assets in regard to the bonds.

Very truly yours,

Charles F. Wilkinson

CFW:eea

enclosures

FIRST WISCONSIN TRUST COMPANY
Box 2054, Milwaukee, Wisconsin 53201 · 735 North Water Street · 414-276-6100

DONALD S. BUZARD • *First Vice President and General Counsel*

RECEIVED
SEP 21 1973
NATIVE AMERICAN RIGHTS FUND

September 19, 1973

Mr. Charles F. Wilkinson
Native American Rights Fund
1506 Broadway
Boulder, CO 80302

Dear Mr. Wilkinson:

Attached is a copy of my letter to Senator Abourezk.

Eric Hagerup, Vice President in charge of our Corporate Trust Department suggests that we, as trustee, are protected from a bondholder charge of inaction if we have an opinion from Counsel of the issuer (see Section 10.01(e)) that the proposed transfers will not result in default and it might be wise to secure such an opinion and to inform the bondholders of it at the time of the transfer.

Very truly yours

Don Buzard

DSB:EG

First Vice President

FIRST WISCONSIN TRUST COMPANY

Box 2054, Milwaukee, Wisconsin 53201

September 19, 1973

The Honorable James G. Abourezk
United States Senator
Chairman, Subcommittee on
Indian Affairs
Committee on Interior and
Insular Affairs
U. S. Senate
Dirksen Senate Office Building 5241
Washington, D. C.

Dear Senator Abourezk:

On August 16, 1973, I wrote to you expressing concern that the Menominee Restoration Act might result in a default under the provisions of the trust indenture for the Menominee Enterprises, Inc. 4% income bond issue, which would result in the full bond issue being immediately due and payable. I have since conferred with Mr. Charles F. Wilkinson, attorney for the Native American Rights Fund. It is his position that neither enactment of the Menominee Restoration Act nor the transfer of corporate assets to the United States pursuant to the Act will necessarily result in a default. I agree with the position that there is nothing inherent in the proposed transfer which would necessarily result in a default.

If under the transfer documents and upon the transfer in fact the assets of Menominee Enterprises remain

FIRST WISCONSIN TRUST COMPANY
Box 2054, Milwaukee, Wisconsin 53201

substantially intact, and the corporation's ability to earn and pay the annual interest owing to bondholders is not negatively affected, and if the transfer is so structured that there is no difficulty in measuring earnings as defined in the indenture, no default would appear to occur. Mr. Wilkinson is considering requesting declaratory relief to establish the validity and legal effect of the transfers before they occur and it should be possible in this event, to determine in advance whether the transfers would result in default, if the form of the transaction raises any question on this point.

Very truly yours

Donald S. Buzard

DSB:EG First Vice President

CC: Mr. Joseph F. Preloznik, Esq.
520 University Avenue
Madison, WI 53703

Mr. Charles F. Wilkinson
Native American Rights Fund
1506 Broadway
Boulder, CO 80302

Tuscarora Indian Nation

JUNE 25, 1972

Congressman Wayne Aspinall.
Chairman,
Interior and Insular Affairs Committee
Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Aspinall;

The Tuscarora Chiefs In Council go on record as supporting the bill " The Menominee Restoration Act ", (S.3514 & H.R. 14556). The passing of the forementioned act will correct a great injustice under which the Menominee Nation has suffered.

Thus your all out effort, support and positive action and that of your colleagues in regards to the Menominee Restoration Act is requested.

Sincerly,

Chief Leo R. Henry

Chief Leo R. Henry, clerk
Tuscarora Indian Nation
2006 Mt. Hope Rd.
Lewiston, N.Y. 14092
Tus. Ind. Res.

October 8, 1973

Senator Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
3106 New Senate Office Building
Washington, D.C. 20510

Dear Senator Jackson:

I wish to support the Menominee Tribe of Indians in their efforts to have enacted the Menominee Restoration Act, S. 1687 introduced in the Senate on May 2, 1973.

I observed first hand the efforts of the Menominee people to make a success and implement the provisions of the Menominee Termination Act of June 7, 1954 (25 U.S.C. 891-902). When these efforts made it necessary for the tribe to create Menominee Interprises, Inc., it began to dispose of the lands of the Menominee people in an effort to raise operating funds. Then it became obvious that the Menominee people were in a bad way economically. In order to conserve the natural resources of the Menominee people and to restore federal recognition of the Menominee Tribe which is so vital to their identity as Indians, I believe the only recourse is for the Congress of the United States to enact the Menominee Restoration Act.

I hope that you will support the Menominee Restoration Act not only for its real consequences to the Menominee people but also as an indication to all Indian people that the Senate of the United States stands as a symbol of justice and humanity in dealing with the Indian peoples of this country.

Sincerely yours,

Robert L. Bennett
Director of Special Projects

RLB/rcs

S. 1687

Office of
Deputy Assistant Secretary for Legislation (Welfare)
Department of Health, Education, and Welfare

October 1, 1973

NOTE FOR HONORABLE JAMES ABOUREZK OCT 3 1973

Attached are the State letters regarding the eligibility of Indians for services and assistance under the Social Security Act that you requested at the hearing on September 26.

Joan W. Hutchinson
Deputy Assistant Secretary
for Welfare Legislation

Enclosures

cc: Forest J. Gerard

24-845 O - 74 - 22

Indian

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL AND REHABILITATION SERVICE
WASHINGTON, D.C. 20201

SISTANCE PAYMENTS
ADMINISTRATION

In reply refer to:
15:WS

April 18, 1968

State Letter No. 1031

TO STATE AGENCIES ADMINISTERING APPROVED PUBLIC ASSISTANCE PLANS

Subject: Eligibility of Indians, Including Those Living on Reservations, for Medical Care and Services Under Provisions of Social Security Act

Questions have been raised which indicate States may not be clear as to the eligibility of Indians for medical care and services provided under the Social Security Act.

The following interpretations are aimed at resolving any uncertainty in this regard:

1. Indians shall have the same rights to receipt of medical services under a State plan approved under any of the public assistance titles of the Social Security Act, including title XIX, as do all other individuals in the State who meet the State's eligibility requirements.

2. In the case of a person who qualifies as an Indian beneficiary, the Division of Indian Health, Public Health Service, Department of Health, Education, and Welfare, may assume residual responsibility for medical care and services not included in the appropriate State plan, and for items that are encompassed by the plan, if such Indian chooses to utilize the Indian health facilities, without affecting the eligibility of the Indian under the State's medical assistance or other public assistance program.

3. Under the provisions of its approved medical assistance plan or other public assistance plans, the State agency responsible for such plans has primary responsibility for meeting the cost of the services provided therein for all individuals, regardless of race, who apply and are found eligible.

Sincerely,

Stephen P. Simonds

Stephen P. Simonds
Commissioner

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL AND REHABILITATION SERVICE
WASHINGTON, D.C. 20201

ASSISTANCE PAYMENTS
ADMINISTRATION

SRS-APA-PS
March 3, 1969

State Letter No. 1062

TO STATE AGENCIES ADMINISTERING APPROVED PUBLIC ASSISTANCE PLANS

Subject: Eligibility of Indians, Including Those Living on Reservations for Assistance and Services Under Provisions of the Social Security Act

Questions have been raised which indicate States may not be clear as to the eligibility of Indians for financial assistance and services provided under the Social Security Act.

The following interpretations are aimed at resolving any uncertainty in this regard:

1. State plan provision putting into effect titles I, IV, X, XIV, XVI, and XIX must be available State-wide to all eligible individuals. This includes State plan provisions added as a result of the 1967 legislation with reference to AFDC-Emergency assistance, unemployed fathers, and foster care.

2. Financial assistance through the Bureau of Indian Affairs, U.S. Department of the Interior (as well as medical assistance through Indian Health Service, Public Health Service, U.S. Department of Health, Education, and Welfare, (see State Letter No. 1031)), is not available to individuals eligible for assistance from any other source.

   Assistance, therefore from the Bureau of Indian Affairs, Department of the Interior, cannot be considered a basic resource in determining an individual's eligibility for a federally assisted program under the Social Security Act, since that resource is not actually available to persons eligible for the public assistance programs.

3. The Social Security Act provides that Federal sharing is available, under certain conditions when a child has been removed from his own home as the result of a judicial determination. The court or other judicial authority must have jurisdiction in such matters. Indian tribal courts and courts of Indian offenses are courts of competent jurisdiction in this respect, and are so recognized by the laws and regulations of the United States.

Therefore, on Indian reservations, the authority of the tribal court to make such judicial determinations must be recognized by the State welfare agency as a proper authority for this provision of the Act.

4. This issuance does not replace or in any way modify State Letter No. 1031 which relates to medical assistance.

Sincerely,

Stephen P. Simonds
Commissioner

November 29, 1965

POLICY INFORMATION RELEASE NO. 41 (APA)

In reply refer to:
15:D

TO ALL BUREAU STAFF FOR INFORMATION ONLY

SUBJECT: Medical Care for Reservation Indians (List under Indians and Medical Aid for the Aged; file under FS 12-4)

Representatives of the Division of Indian Health, the Bureau of Family Services, and the Office of the General Counsel have met and agreed to the following points to be followed with respect to eligibility under the MAA plan:

- Indians shall have the same rights to receipt of MAA under the State plan as do all other individuals in the State who meet eligibility requirements.

- In the case of a person who qualifies as an Indian beneficiary, the Division of Indian Health may assume residual responsibility for medical care and services not included in the State's MAA plan, and for items that are encompassed by the plan if such Indian chooses to utilize the Indian health services program, without affecting the eligibility of the Indian under the State program.

- Under the provisions of its approved MAA plan and the Handbook Supplement, the State Welfare Department has primary responsibility for meeting the cost of the services included in the plan for all individuals, regardless of race, who apply and are found eligible.

Source: Memo dated 8/16/65, Bannister to Mapes - Medical Care for Reservation Indians.)

Reference: Handbook of Public Assistance Administration - Supplement C - CR-2000).

GEORGE W. KENOTE
SUN DOG HILL
KESHENA, WISCONSIN 54135

September 1, 1973

Hon. James G. Abourezk
Chairman, Sub-Committee on Indian Affairs
Committee on Interior and Insular Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Abourezk:

H.R. 7421 and S1687 - Menominee Restoration

This is to discuss as briefly as possible a review of the report "The Menominee Restoration Act - Legal Analysis" submitted to the House Sub-Committee on Indian Affairs on June 28, 1973, by Messrs. Charles Wilkinson and Joseph Preloznik and Ms. Yvonne Knight, and more recently submitted to the two full Committees on Interior and Insular Affairs. There was no opportunity to discuss it at the House Sub-Committee hearing on June 28 because it had not been available prior thereto.

The report has now been reviewed again in light of the House Sub-Committee revised form entitled "An Amendment, In the Nature of a Substitute H.R. 7421." While some of us find much to disagree with in the report, except for the following, no further discussion is necessary.

REENROLLMENT OF MENOMINEE INDIANS - RIGHTS IN ASSETS

The report does not discuss the effect of the one-quarter degree Menominee blood requirement contained in Section 4(c). This matter was brought to the attention of the House Sub-Committee on Indian Affairs by letter of June 18, 1973. It was discussed briefly with Messrs. Franklin Ducheneaux and Charles Wilkinson during a break in the hearing on June 28. Mr. Wilkinson acknowledged it as a problem. It was discussed with Mr. Robert Bruce of the BIA. We think that this phase of the bill must be examined extensively for its ultimate effect on Menominee Enterprises' certificate holders.

Hon. James G. Abourezk September 1, 1973

An examination of the final roll of the Menominee Tribe as of June 17, 1954, published in the Federal Register on certificate of the Secretary of the Interior on December 12, 1957, reflects substantially the following Menominee blood quantum by several important degrees:

1.	Fullbloods	73	2.23+%
2.	Threequarters+	736	22.50+%
3.	Less than 3/4s	977	29.88 %
4.	Less than 1/2	1,349	41.25 %
5.	Less than 1/4	112	3.42+%
6.	Less than 1/8	23	0.70+%
	Total	3,270	

The roll contains 3,270 persons and has not been kept current since 1954. The degree of intermarriage of Menominees with other tribes and non-Indians is very substantial. The numbers and percentages noted above will have changed greatly in the past twenty years. It is notable that most of those in the fullblood and three-quarters group are either deceased or no longer reproductive.

A very high percentage of those in the less than three-quarters group are 5/8s, 9/16s, and 1/2 degrees and a very high percentage of those in the less than one-half group are 3/8s, 5/16s, and 1/4 degrees. Doubtless a definitive study projected through those descendants born since 1954 will show that the quantum of Menominee blood has become very thin.

EFFECT OF THE 1/4 DEGREE RULE ON PROPERTY RIGHTS

As we understand the ultimate effect of Section 6 (a) and (b) of the revised bill, and the proviso on transfer of MEI assets in Section 3 (a), there will be a transfer of the assets of Menominee Enterprises, Inc., to the Secretary of the Interior and eventually to an entity incorporated under the provisions of the Indian Reorganization Act of 1934.

The Wilkinson-Preloznik report indicates that Menominee Enterprises, Inc., will continue to exist; but, once its entire assets are transferred away, it would be like a chicken-coop where someone had stolen all the chickens. The certificate holders of Menominee Enterprises, Inc., whoever they may be or wherever located, would be effectively divested of the substance of their individual interests, presumably subject of course to their rights under Wisconsin corporation law.

Doubtless, without good advice, they would not know what those rights are.

In a discussion with BIA representatives, especially Mr. Robert Bruce, it was indicated that in the event of this transfer of MEI assets, Indians who might want to could not enforce redemption pursuant to state law, but a non-Indian probably could. A corporation without assets and earnings might not have to pay interest on its bonds.

Since the conversion of equities in the Menominee properties at termination date and the distribution of stock interests therein, we were advised that these interests are personal and vested. The Wilkinson-Preloznik report argues that Indians do not have vested rights in our situation. If the latter is true and the transfer of assets is made, it seems apparent that Menominee Indians would soon be effectively relieved of their right to pass anything of substance in these assets on to their children or heirs-at-law. Someone would have stolen their chickens. After the transfer, only those of the quarter degree could participate.

Lawyers of some repute have advised that MEI stock rights are vested and cannot be dealt away without due recourse under law. It seems that a definitive non-partisan legal opinion should be addressed to the Menominee people before they are asked to agree to a transfer of Menominee Enterprises, Inc., assets under any guise.

Under the Wilkinson-Preloznik theory are we to be returned to a vassal status contrary to the Civil Rights Act of 1964 and its Indian amendments?

It is pointed out again, this question should be made the subject of a definitive non-partisan legal opinion on the stock rights of individual Menominees. Just as importantly, the effect of the quarter degree blood quantum rule on participation in these rights deserves a professional non-partisan analysis. The quarter degree rule was first established in the Menominee enrollment act of 1934 and, obviously, cannot be given the same integrity now, in view of the high degree of intermarriage and consequent dilution of Menominee blood.

These two questions are respectfully recommended to the Congress for definitive analysis.

Hon. James G. Abourezk September 1, 1973

TAX RATE - MENOMINEE COUNTY POST RESTORATION

The Wilkinson-Preloznik report in pages 30 through 42 discusses the tax rate and related matters after restoration. It asserts a substantial 66 percent reduction in expenses due to massive influx of federal expenditures. The assumptions are inaccurate and undependable. They do not take into account all aspects of local expense.

Based on an estimated $15,000,000 in taxable property remaining after the assets of Menominee Enterprises are transferred and made tax exempt, and using 1973-74 budget figures for town government and 1972-73 figures now pertaining in the county, the rate would increase over 70 percent from $22 per thousand full value to $38 per thousand full value. This inspite of increased state aid for public schools and applicable federal funding.

The town and county of Menominee would raise by direct levy at least:

1.	Town government	$ 86,953
2.	County general government	180,395
3.	Law enforcement	123,318
4.	Public schools	174,680
	Total	$565,346

This estimate is not reliable as a maximum because it assumes that state shared taxes will remain constant to relieve town expenses budgeted at $309,214 for 1973-74. Doubtless the county's general and law enforcement expenses will increase. The $174,680 estimate for public schools was made by the Department of Public Instruction based on 790 students from Menominee County deriving from tax exempt federal lands. This student estimate cannot be relied upon because many students will not so reside and will not be eligible for federal impact funding.

We are aware of the funding estimates by the Bureau of Indian Affairs and the Department of Health, Education and Welfare in the event of restoration. The town and county levy estimates remain over and above the federal funds indicated.

To assure a viable community there must be a stable federal commitment. Those of us long experienced in federal programs know that administrative estimates are not always realistic or constantly realized.

Hon. James G. Abourezk September 1, 1973

OTHER STATEMENTS CORRECTED OR CLARIFIED

To keep the record straight it is historically important to make the following corrections or clarifications regarding the Wilkinson-Preloznik report.

On page 6 the report reads that the lakes development program "was significantly depleting" the forest. The hard fact is that this land would not produce merchantable lumber in the next 100 years. By development it was increased from $50 per acre on the tax roll to about $12,000 and assumed 44 percent of the total tax burden in 1972. Without this income and tax relief Menominee Enterprises could not show a cash return or profit in 1973 inspite of the astronomical price of lumber in the past 18 months.

Page 6 of the report also points out that in 1972 Menominee Enterprises had cash of only $58,795 (down from $1,116,549 in 1970), and a loss of $49,232 for the 1972 report year. This condition was the direct result of the interminable and frivolous lawsuits, and other disruptions, beginning in 1970, initiated by Mr. Preloznik. There have been about a dozen of such cases. I have lost count but have been in and out of court for almost four years trying to keep the record straight. These cases cost the Menominees over $100,000 in addition to executive time, and $1,800,000 in cash returns.

The cases were characterized as frivolous initially and have so proven. They have not prevailed and four have been lost on appeal to the U.S. Seventh Circuit (1) and the Wisconsin Supreme Court (3). Federal OEO legal services, LEAA, and the Menominee Tribe have paid a tremendous bill.

Governor Lucey of Wisconsin testified to the House Sub-Committee on Indian Affairs on June 28,1973, that restoration is needed but it is not the total solution. Expanded economic development is necessary. Even then, the physical existing assets of Menominee County are not sufficient to support the total tribal group. With only about one half the membership remaining in the county, we still have the reported difficulties. The forest and sawmill earnings have never been sufficient and never can be, standing as they are.

Hon. James G. Abourezk September 1, 1973

CONCLUSIONS AND RECOMMENDATIONS

1. The Menomineee Restoration Act should pass and the members made eligible for the benefits made available to other Indians, the membership roll to be updated and to show all Indian blood held by each member. Many of our people have more other Indian blood than Menominee and ought to have credit for it. Only poor people are injured by the denial of the Indian benefits.

2. The forest should be geographically defined and made as tax exempt as possible and a federal trust. The interests therein to remain as defined on the Menominee Enterprises stock ledger in order to avoid the arguments and certain individual, class or derivative lawsuits over rights in property. The stumpage earnings of the forest to go to lawful distributees. (I have heard some members say they would give up individual interests in the sawmill to those who might want to organize and run the mill as an independent entity. This is because historically the sawmill has absorbed a high percentage of potential forest profits in production costs.) The forest should be made a federal trust to insure its preservation as an economic unit so that no measure of tribal internal politics could dissipate it.

3. The economic development zones established in 1967 ought to be continued. They are limited to 8,760 acres and distributed around Neopit, Keshena and the southeastern part of the county where merchantable timber lands are practically non-existent. The final Ernst and Ernst report to the Economic Development Administration in this regard has been suppressed. Situated as we are, it is doubtful that we can perpetually lock ourselves in without opportunity for further development. I know this is an emotional area, but I believe the facts of life must be faced.

I doubt that a discernible Congress wants to cast us into a world of vassalism and public welfare. There are too many successful Menominees across country for us to be dubbed a welfare rights community. I know many Menominees of greater intestinal challenge.

Respectfully,

George W. Kenote

GEORGE W. KENOTE
SUN DOG HILL
KESHENA, WISCONSIN 54135

October 1, 1973

OCT 3 1973

Hon. James G. Abourezk
Chairman, Sub-Committee On Indian Affairs
Committee on Interior and Insular Affairs
United States Senate
Washington, D. C. 20515

S.1687 Menominee Restoration

Dear Senator Abourezk:

To complete the record concerning recreational development and land sales discussed during the hearings on S.1687 on September 17, 1973, there is submitted herewith exhibits relating to the STATUS REPORT - MENOMINEE INDIANS 1967 which I submitted for the record. These exhibits should make clear the origin of this development. They include:

1. Notices of a special meeting of Menominee shareholders of MEI to consider the STATUS REPORT and the ERNST & ERNST recommendations.

2. A copy of a resolution on the same subject jointly and unanimously adopted by the trustees and directors of Menominee Enterprises on August 10, 1967 - and on September 23, 1967, by the special meeting.

3. Certificates of inspectors and summary of ballots and proxies cast.

4. A list of the directors and trustees in 1967 showing that the majority were Menominees.

5. The minutes of the special meeting (incidentally showing that Theodore S. Boyd was in favor of the development - see Page 3 thereof).

6. Three printed documents showing some of the publicity concerning the development.

The people were informed of what was being done, they had ample notice and an opportunity to vote. In proceeding with the development the trustees did not take into consideration the vote of the First Wisconsin Trust. We wanted only the expression of the adults.

Respectfully yours,

George W. Kenote

NOTICE
of
SPECIAL MEETING OF CERTIFICATE HOLDERS,
MENOMINEE ENTERPRISES, INC.

Pursuant to resolution of the Board of Directors and the Menominee Common Stock and Voting Trust, this is to give NOTICE of a SPECIAL MEETING of the CERTIFICATE HOLDERS (SHAREHOLDERS) of the MENOMINEE COMMON STOCK AND VOTING TRUST to be held on:

the 23rd day of September, 1967 (Saturday)

10:00 o'clock A.M.

St. Anthony's Gym, Neopit, Wisconsin

The purpose of the meeting is to consider the STATUS REPORT - MENOMINEE INDIANS 1967, and approve a RESOLUTION by the Board of Directors and Voting Trustees of Menominee Enterprises, Inc. unanimously adopted August 10, 1967, enclosed herewith, recommended by Ernst & Ernst, creating Economic Development Zoning and authorizing Menominee Enterprises, Inc. to issue Warranty Deeds therein, and for such other business as may properly come before the meeting.

This vote is advisory to the Menominee Common Stock and Voting Trust. The final determination of the proposed economic development zones and warranty deed policy contained in the proposed resolution is the responsibility of the Voting Trust. The implementation and carrying out of the economic development program, including the industrial and recreational use of the land, rests with the Board of Directors.

A PROXY BALLOT is enclosed for your use if you do not plan to attend the meeting. If you wish to vote by proxy, please be sure that the signed proxy reaches the designated agent in time for the meeting. You may also designate a person of your choice to cast your proxy ballot.

MENOMINEE COMMON STOCK AND VOTING TRUST

By Hilary J. Waukau
Hilary J. Waukau, Chairman

Dated August 18, 1967

Enc. Proxy Ballot attached to Report.

P.S. Lunch will be served at noon.

MENOMINEE ENTERPRISES, INC.
(A Wisconsin Corporation)

SPECIAL MEETING OF THE CERTIFICATE HOLDERS
OF MENOMINEE COMMON STOCK & VOTING TRUST.

September 23, 1967

B A L L O T

I. BE IT RESOLVED, that Menominee Enterprises, Inc. is authorized to proceed with the recommendations of the Ernst & Ernst Report as opportunity and feasibility permit; and

II. RESOLVED FURTHER, that the Corporation is authorized to define economic development zones on its land in Menominee County, Wisconsin, not to exceed 8,760 acres in areas to be defined and described from time to time by the Menominee Common Stock & Voting Trust, and/or the shareholders of the Corporation, whichever then holds the common stock; and

III. RESOLVED FURTHER, that pursuantto Article XII of the Articles of Incorporation of Menominee Enterprises, Inc. within such economic development zones warranty deeds may issue as a form of land transfer, provided a sufficient form of quality control is a condition of such transfer, and provided always that sufficient areas of land on lakeshore be reserved for Menominee use.

I, the undersigned, hereby vote _____ shares common stock

FOR the proposed land use program..... YES _____

AGAINST the proposed land use program ..... NO _____

Signed _____
(Signature of Certificate Holder)

OR

By proxy vote _____
Proxy holder should sign here)

NOTICE TO SHAREHOLDERS

of

MENOMINEE ENTERPRISES, INC.

This is notice to the shareholders of Menominee Enterprises, Inc. and interested residents of Menominee County, Wisconsin, that open meetings will be held as follows:

NEOPIT, WISCONSIN	-	September 14, 1967 (Thursday) 7:30 p.m. St. Anthony's Gym
KESHENA, WISCONSIN	-	September 18, 1967 (Monday) 7:30 p.m. Legion Hall

The purpose of these open meetings is to discuss the STATUS REPORT - MENOMINEE INDIANS 1967 recently sent all shareholders, and the recommendations of the Ernst & Ernst Report for the economic development of Menominee County, Wisconsin. These two meetings are informal question-and-answer sessions prior to the Special Meeting of Shareholders scheduled for September 23rd, 1967.

(Signed) HILARY J. WAUKAU

Chairman
Menominee Common Stock & Voting Trust
of Menominee Enterprises, Inc.
Neopit, Wisconsin

Dated Septemb er 8, 1967

* *
*
* SECOND NOTICE *
*
* *

SPECIAL MEETING OF CERTIFICATE HOLDERS
OF
MENOMINEE ENTERPRISES, INC.

This is your Second Notice of the SPECIAL MEETING OF CERTIFICATE HOLDERS of the Menominee Common Stock & Voting Trust which has been called for -

SATURDAY - SEPTEMBER 23, 1967
At 10:00 a.m. - St. Anthony's Gym
NEOPIT, WISCONSIN

First notice dated August 18, 1967, stated the purpose of the meeting:

"TO CONSIDER THE 'STATUS REPORT - MENOMINEE INDIANS 1967', AND APPROVE A RESOLUTION BY THE BOARD OF DIRECTORS AND VOTING TRUSTEES OF MENOMINEE ENTERPRISES, INC. UNANIMOUSLY ADOPTED AUGUST 10, 1967, (copy enclosed with first notice) RECOMMENDED BY ERNST & ERNST, CREATING ECONOMIC DEVELOPMENT ZONING AND AUTHORIZING MENOMINEE ENTERPRISES, INC. TO ISSUE WARRANTY DEEDS THEREIN, AND FOR SUCH OTHER BUSINESS AS MAY PROPERLY COME BEFORE THE MEETING".

A proxy ballot was enclosed with the first notice of meeting for those who might not be able to attend the Special Meeting on September 23rd. If you need a proxy ballot (in case yours was lost or destroyed) please write or call Menominee Enterprises, Inc., Neopit, Wisconsin - telephone 2251, and a replacement will be sent you by return mail.

MENOMINEE COMMON STOCK & VOTING TRUST

Hilary J. Waukau

Hilary J. Waukau, Chairman

Dated September 13, 1967
Neopit, Wisconsin

SPECIAL NOTE:
Open discussion meetings have been scheduled for the benefit of those shareholders who would like additional information prior to the SPECIAL MEETING on September 23rd, as follows:

NEOPIT -
September 14, 1967 - 7:30 p.m.
St. Anthony's Gym

CHICAGO, ILLINOIS -
September 20, 1967 - 7:00 p.m.
St. Augustines Indian Center
4710 No. Sheridan Road

KESHENA -
September 18, 1967 - 7:30 p.m.
Legion Hall

MILWAUKEE -
September 21, 1967 - 7:30 p.m.
Wisconsin Hotel
720 No. 3rd St.

MENOMINEE ENTERPRISES, INC.
Neopit Wisconsin

SPECIAL MEETING OF THE CERTIFICATE HOLDERS
OF MENOMINEE COMMON STOCK & VOTING TRUST.

September 23, 1967

AGENDA

Presiding Chairman - Hilary J. Waukau (Chairman, Menominee Common Stock & Voting Trust)

1. Call to order.
2. Presentation of proofs of due calling of meeting.
3. Presentation of list of Certificate Holders.
4. Appointment of Inspectors.
5. Inspectors' Report on Proxies and Announcement of Quorum.
6. ORDER OF BUSINESS:
   (a) Consideration of ERNST & ERNST REPORT and the "STATUS REPORT - MENOMINEE INDIANS 1967".
   (b) Presentation of RESOLUTION unanimously adopted by the Joint Meeting on August 10, 1967, of the Board of Directors and the Menominee Common Stock & Voting Trust.
   (c) Collection of Ballots from Voters.
   (d) Report of Inspectors re Vote on Resolution.
7. Adjournment.

24-845 O - 74 - 23

Menominee Enterprises Inc., Neopit, Wisconsin

TELEPHONE NEOPIT 2251

FINE HARDWOODS • PINE • HEMLOCK

STATE OF WISCONSIN)
) ss
COUNTY OF MENOMINEE)

HILARY J. WAUKAU, being duly sworn, on oath deposes and says that he is the Chairman of the Menominee Common Stock and Voting Trust for Menominee Enterprises, Inc., a corporation organized and existing under the laws of the State of Wisconsin, having its principal office in the State of Wisconsin; and that on August 18, 1967, he caused notice of the SPECIAL MEETING of the Certificate Holders of the Menominee Common Stock and Voting Trust, a copy of which is hereto attached, and is hereby made a part of this affidavit, to be deposited in the United States Post Office at Neopit, Wisconsin, postage prepaid, fully addressed to each Certificate Holder of record at his last known address as the same is known to the Corporation. (Of 2364 Certificate Holders entitled to notice, the addresses of about 250 were unknown in spite of efforts to find them).

I further certify that a reminder of said notice of meeting was mailed on September 13, 1967 to said Certificate Holders.

Hilary J. Waukau

HILARY J. WAUKAU, Chairman
Menominee Common Stock & Voting Trust
Menominee Enterprises, Inc.

Subscribed and sworn to before me this
23rd day of September 1967 at Neopit,
Wisconsin.

Letitia B. Caldwell

Letitia B. Caldwell, Notary Public
Menominee County, Wisconsin
My commission expires 11-10-68

RESOLUTION

August 10, 1967

MENOMINEE COMMON STOCK & VOTING TRUST AND BOARD OF DIRECTORS
MENOMINEE ENTERPRISES, INC.

WHEREAS, there is no other means sufficiently capable of accomplishing the economic improvement of the Menominee community except by adoption and implementation of the Ernst & Ernst Report; and

WHEREAS, to provide necessary tax resources for Menominee County and/or the Town of Menominee and for the relief of taxation on Menominee Enterprises, Inc. (and the residents of Menominee County, Wisconsin), and to assure continued Menominee ownership thereof:

I. BE IT RESOLVED, that Menominee Enterprises, Inc. is authorized to proceed with the recommendations of the Ernst & Ernst Report as opportunity and feasibility permit; and

II. RESOLVED FURTHER, that the Corporation is authorized to define economic development zones on its land in Menominee County, Wisconsin, not to exceed 8,760 acres in areas to be defined and described from time to time by the Menominee Common Stock & Voting Trust, and/or the shareholders of the Corporation, whichever then holds the common stock; and

III. RESOLVED FURTHER, that pursuant to Article XII of the Articles of Incorporation of Menominee Enterprises, Inc. within such economic development zones warranty deeds may issue as a form of land transfer, provided a sufficient form of quality control is a condition of such transfer, and provided always that sufficient areas of land on lakeshore be reserved for Menominee use.

* *

The undersigned duly qualified and acting Secretary of the Menominee Enterprises, Inc. does hereby certify that this Resolution was regularly adopted at a legally convened Joint Meeting of the Menominee Common Stock & Voting Trust and the Board of Directors, both of Menominee Enterprises, Inc., and such meeting being designated as a Special Meeting duly held on the 10th day of August, 1967 at the offices of Menominee Enterprises, Inc. at Neopit, Wisconsin, and further that such Resolution has been fully recorded in the journal of proceedings and records in my office. In witness whereof I have hereunto set my hand and the Corporate Seal this 10th day of August 1967.

Letitia B. Caldwell (Recorder)
Assistant Secretary
Menominee Enterprises, Inc.

CORPORATE
SEAL

Menominee Enterprises Inc., Neopit, Wisconsin

TELEPHONE NEOPIT 2251



STATE OF WISCONSIN)
) ss
COUNTY OF MENOMINEE)

WE, _____ and _____

_____ and _____

the duly appointed INSPECTORS OF ELECTION of the Menominee Common Stock and Voting Trust do solemnly swear that we will fairly and impartially perform our duties as INSPECTORS OF ELECTION to be held this 23rd day of September as a SPECIAL MEETING OF THE CERTIFICATE HOLDERS of the Menominee Common Stock & Voting Trust and will faithfully and diligentlyncanvass the votes cast at such election, and honestly and truthfully report the results of such ballots cast.

Signed Earl R. Wescott Sr.

Signed Edward G. Vogin

Signed _____

Signed _____

Subscribed and sworn to before me this 23rd day of September 1967 at Neopit, Wisconsin.

Letitia B. Caldwell

Letitia B. Caldwell, Notary Public
Menominee County, Wisconsin
My commission expires 11-10-68

Menominee Enterprises Inc., Neopit, Wisconsin

TELEPHONE NEOPIT 2251

FINE HARDWOODS • PINE • HEMLOCK

CERTIFICATE OF INSPECTORS

SPECIAL MEETING OF CERTIFICATE HOLDERS, OF
MENOMINEE ENTERPRISES, INC.
Neopit, Wisconsin

WE, the undersigned INSPECTORS OF ELECTION, duly appointed by (The Chairman
~~Certificate Holders~~
of the Menominee Common Stock & Voting Trust of Menominee Enterprises, Inc. at the SPECIAL MEETING held on September 23rd, 1967, do report that, having taken the oath to conduct the poll of voters and the recording of their votes impartially, we did receive the votes of the Certificate Holders by ballot.

We report that 109,125 shares on _____ votes cast, and that the results of the ballots cast for approval or disapproval of the Resolution as presented, are the following:

YES votes _____ 97,738 shares

NO Votes _____ 11,387 shares

Soigned Edward L. Vigue

Signed Earl R. Wescott Sr.

Signed _____

Signed _____

Dated September 23, 1967
at Neopit, Wisconsin

18,376 to appoint
11,387

97,738
-79,362 - First Wis
18,376

October 5, 1967

MEMORANDUM TO: Menominee Common Stock & Voting Trust (7 members)
Board of Directors (9 members)
D. S. Buzard, First Wisconsin Trust Co.
J. T. Kuesel, First Wisconsin Trust Co.
J. R. Modrall, Foley Sammond & Lardner

RE: Analysis of votes cast at Special Meeting of Shareholders, September 23, 1967 at Neopit, Wisconsin

Forwarded is a breakdown of the votes cast at the Special Meeting of Shareholders on September 23rd which President Clements has asked me to send you. There has been some interest expressed as to source of the votes cast, i.e. resident vs non-resident, proxies vs. ballots, etc.

The Minutes for the Special Meeting and also for the last Board meeting on September 14th will be delayed a little yet due to the workload in closing our books for the auditors as of September 30th. Sorry! (I believe everyone knows that the next Board meeting will be October 26th. Notices will go out in a few days.)

Letitia B. Caldwell
Assistant Secretary

Enc. 1
cc: President Clements

P. S. In case you haven't heard, Mr. Kenote will be in the Shawano Community Hospital for several weeks with a slight cardiac. Business he usually handles should be referred to President Clements (or routine stuff to me).

MENOMINEE ENTERPRISES, INC.
Neopit Wisconsin

ANALYSIS OF VOTES CAST:
SPECIAL MEETING OF THE CERTIFICATE HOLDERS)
OF MENOMINEE COMMON STOCK & VOTING TRUST) September 23, 1967

TOTAL VOTES CAST -

	TOTALS		YES		NO	
PROXIES - Residents	6,652	57	4,194	38	2,458	19
Non-residents	10,155	81	9,833	78	322	3
	16,807	138	14,027	116	2,780	22
BALLOTS - Residents	12,167	108	4,049	37	8,118	71
Non-residents	789	7	300	3	489	4
	12,956	115	4,349	40	8,607	75
TOTAL INDIVIDUAL VOTES..	29,763	253	18,376	156	11,387	97
First Wisconsin Trust Co..	79,362		79,362			
GRAND TOTAL VOTES CAST	109,125		97,738		11,387	

TOTAL VOTES CAST BY - 1) Menominee County Residents
2) Non-residents of Menominee County

	RESIDENTS				NON-RESIDENTS			
	YES		NO		YES		NO	
	Shares	No.	Shares	No.	Shares	No.	Shares	No.
PROXIES:								
Received prior to Meeting	3,944	36	600	6	9,633	76	-0-	
Received at Meeting	250	2	1,858	13	200	2	322	3
TOTAL PROXIES	4,419	38	2,458	19	9,833	78	322	3
BALLOTS by shareholders at the Meeting	4,049	37	8,118	71	300	3	489	4
TOTAL VOTE by Individual Shareholders	8,243	75	10,576	90	10,133	81	811	7

TOTALS: YES - 18,376
NO - 11,387

Adults-
FOR 75
81
156
Against 90
7
97

ldc
9/23/67

MENOMINEE ENTERPRISES, INC.
Neopit Wisconsin

A. D. CLEMENTS
President and Treasurer

Joseph E. Frechette - Vice President (Sales)
George W. Kenote - Vice President (Land Use & Labor Relations)

M. W. "Pat" Grignon - Secretary
Letitia B. Caldwell - Assistant Secretary

BOARD OF DIRECTORS:

		(Term expires)
J. N. "Bud" Fisher W	DuBois, Wyoming	1967
James G. Frechette M	Keshena, Wisconsin	1967
Jerome A. Grignon (Ch.) M	Neopit, Wisconsin	1967
Curtis Black W	Shawano, Wisconsin	1968
Gordon Dickie M	Neopit, Wisconsin	1968
Joseph E. Frechette M	Neopit, Wisconsin	1968
James J. Caldwell M	Neopit, Wisconsin	1969
Abbott Fox W	Iron Mountain, Michigan	1969
Gordon A. Bubolz W	Appleton, Wisconsin	1969

MENOMINEE COMMON STOCK & VOTING TRUST:

George A. Pecore (V-Ch.) M	Neopit, Wisconsin	1967
Judge William R. Moser W	Milwaukee, Wisconsin	1968
Senator William E. Trinke W	Lake Geneva, Wisconsin	1969
George W. Kenote M	Keshena, Wisconsin	1970
Hilary J. Waukau (Chairman) M	Neopit, Wisconsin	1971
Professor W. Don Knight W	Madison, Wisconsin	1972
Myron W. "Pat" Grignon (Sec.) M	Neopit, Wisconsin	1973

MENOMINEE ENTERPRISES, INC.
Neopit Wisconsin

SPECIAL MEETING OF THE CERTIFICATE HOLDERS
OF MENOMINEE COMMON STOCK & VOTING TRUST.

MINUTES OF MEETING
September 23, 1967

A SPECIAL MEETING of the Certificate Holders of Menominee Common Stock & Voting Trust was held at St. Anthony's Gym, Neopit, Wisconsin, on September 23, 1967, pursuant to notices circulated on August 18, 1967, and September 13, 1967, to approximately 2359 shareholders of record; such notices stating the purpose of the special meeting as follows:

> "The purpose of the meeting is to consider the STATUS REPORT - MENOMINEE INDIANS 1967, and approve a RESOLUTION by the Board of Directors and Voting Trustees of Menominee Enterprises, Inc. unanimously adopted August 10, 1967, enclosed herewith, recommended by Ernst & Ernst, creating Economic Development Zoning and authorizing Menominee Enterprises, Inc. to issue Warranty Deeds therein, and for such other business as may properly come before the meeting".

Said notice also advised the shareholders, as follows:

> "This vote is advisory to the Menominee Common Stock and Voting Trust. The final determination of the proposed economic development zones and warranty deed policy contained in the proposed resolution is the responsibility of the Voting Trust. The implementation and carrying out of the economic development program, including the industrial and recreational use of the land, rests with the Board of Directors".

Presiding Chairman of the Special Meeting was Hilary J. Waukau, Chairman of the Menominee Common Stock & Voting Trust. Mrs. Letitia Caldwell, Assistant Secretary for Menominee Enterprises, Inc. was delegated Recorder of the Meeting.

Chairman Waukau called the meeting to order at 10:55 a.m. and asked the Rev. Fr. Marcellus Cabo to begin the meeting with a prayer, which was done. Chairman Waukau then read into the record due proof of calling of the meeting, signed by him as Chairman of the Menominee Common Stock & Voting Trust.

VOTING LIST.

M. W. Grignon, Secretary of the Menominee Common Stock & Voting Trust, presented the list of Certificate Holders totalling 327,000 shares of which 79,362 shares are held by the First Wisconsin Trust Company, and announced that the list of names was open for inspection by any shareholder.

APPOINTMENT OF INSPECTORS.

Chairman Waukau named Mr. Edward Vigue, a shareholder, and Mrs. Jane T. Weso, a shareholder, as Inspectors of Election. Mrs. Weso declined and the Chairman then named Mr. Earl Wescott, a shareholder. Mr. Vigue and Mr. Wescott then signed their Oath of Office.

QUORUM.

Voting Trust Secretary Grignon announced that the Inspectors of Election reported the following shareholder attendance at this meeting:

137	Shareholders present representing	16,496 Shares
1	Proxy held by First Wisconsin Trust Company	79,362 "
	Other proxies filed	13,934 "
TOTAL SHARES REPRESENTED		109,792 Shares

Chairman Waukau declared a quorum present to conduct the business of this meeting. He first introduced the members of the Board of Directors, the Voting Trust and the five officers of the Corporation (Directors Fisher and Fox and Trustees Trinke and Knight being absent). He also noted that representatives of the First Wisconsin Trust Company, Mr. John Kuesel and Mr. Donald S. Buzard, and our legal counsel, Attorney James R. Modrall, were present, as well as the department heads of Menominee Enterprises, Inc. All of these persons were present to assist in the presentation of the business of the meeting and to answer any questions of the shareholders.

BUSINESS OF THE MEETING.

Chairman Waukau then announced the business of the Special Meeting of the Certificate Holders, as called by the Menominee Common Stock & Voting Trust, by reading the full Notice of Meeting; and then stated that the order of business of this meeting would be as follows:

(a) Consideration of the Ernst & Ernst Report and the Status Report - Menominee Indians 1967.

(b) Presentation of RESOLUTION unanimously adopted by the Joint Meeting on August 10, 1967, of the Board of Directors and the Menominee Common Stock & Voting Trust.

Director Gordon A. Bubolz, Chairman of the Land Use & Area Utilization Committee of the Board, presented the Ernst & Ernst Report and the Status Report, with a detailed accounting of the need for its acceptance by the shareholders. The major need described was for a broadening of the tax base for survival of Menominee Enterprises, Inc. and of Menominee County. He stressed his theme as "Let's Go Modern" and that the thinking and actions of the Menominee people must keep pace in this jet age if they are to improve their economy and continue to preserve their long-held assets.

Mrs. Louise Fowler, 100 shares of stock, asked to present a Motion to table the business of the meeting for an indefinite time. Chairman Waukau advised her that the Motion could not be presented until Item (b) of the meeting had been introduced.

Note 9/28/73. Same as Theodore S. Boyd Now V.P. MC Cook

Sylvester L. Boyd Jr., 100 shares, from his status as a shareholder, made a strong presentation in favor of adopting the Reports and the Resolution.

Mr. George W. Kenote, 100 shares, Vice President (Land Use) MEI and a Trustee, presented the tax figures and background data on the Reports and the Resolution. He advised the shareholders that this was the most important meeting held since Termination for the shareholders, and then presented the following Motion:

I move for the adoption of the Resolution enacted by the Board of Directors and the Menominee Common Stock & Voting Trust of Menominee Enterprises, Inc. on August 10, 1967, which reads as follows:

" RESOLUTION - August 10, 1967
MENOMINEE COMMON STOCK & VOTING TRUST AND BOARD OF DIRECTORS,
MENOMINEE ENTERPRISES, INC.

WHEREAS, there is no other means sufficiently capable of accomplishing the economic improvement of the Menominee community except by adoption and implementation of the Ernst & Ernst Report; and

WHEREAS, to provide necessary tax resources for Menominee County and/or the Town of Menominee and for the relief of taxation on Menominee Enterprises, Inc. (and the residents of Menominee County, Wisconsin), and to assure continued Menominee ownership thereof:

I. BE IT RESOLVED, that Menominee Enterprises, Inc. is authorized to proceed with the recommendations of the Ernst & Ernst Report as opportunity and feasibility permit; and

II. RESOLVED FURTHER, that the Corporation is authorized to define economic development zones on its land in Menominee County, Wisconsin, not to exceed 8,760 acres in areas to be defined and described from time to time by the Menominee Common Stock & Voting Trust, and/or the shareholders of the Corporation, whichever then holds the common stock; and

III. RESOLVED FURTHER, that pursuant to Article XII of the Articles of Incorporation of Menominee Enterprises, Inc. within such economic development zones warranty deeds may issue as a form of land transfer, provided a sufficient form of quality control is a condition of such transfer, and provided always that sufficient areas of land on lakeshore be reserved for Menominee use.

Mr. Marshall Kenote, 100 shares, seconded the Motion to adopt above Resolution.

Chairman Waukau then ruled that all following discussion would pertain to the above Resolution as introduced into the record.

Mr. George Kenote asked the Chair's permission to extend the courtesy of his own time as a shareholder to Mr. Oliver Rasmussen, Regional Director of the International Woodworkers of American AFL-CIO Region 4 (our Union). Mr. Rasmussen urged the shareholders to adopt the land use program being presented, speaking from his background

of more than six years association with the Menominee people in Union work and related activities. He strongly advocated that the will of the majority be supported wholeheartedly by all shareholders.'

Mr. Aloysius Frechette, 100 shares, President of the Union local, denounced the activities of Menominee Enterprises Inc. management, and referred to a Petition which he said had been circulated prior to the meeting among the shareholders in Menominee County who were opposed to the Land Use Program presented at this meeting. (Petition was not filed with the Chairman or Secretary). He demanded a meeting of the Union officials with Menominee Enterprises management at 9:00 a.m. the following Monday morning, September 25th, and that some of the Board of Directors also be present, to discuss various problems of employment in the sawmill.

Mr. Jerome A. Grignon, 100 shares, Chairman of the Board of Directors, said he was mainly concerned with the continued existence of Menominee County and had been initially reluctant to accept the proposed land program.

Mr. Gordon Dickie Sr., 100 shares, member Board of Directors, also expressed his hesitancy to accept the proposed land program in view of previous "trial and error" programs which he said were not entirely successful.

Mr. Donald S. Buzard, on behalf of the trust accounts with the First Wisconsin Trust Company, advised the shareholders that this vote from the Special Meeting was actually ADVISORY ONLY but was being done by the Trustees, who are the actual stockholders, in order to determine the wishes of the Menominee people. He urged acceptance of the program.

Mr. James G. Frechette, 150 shares, member of Board of Directors, expressed his confidence in the Menominee people to make a wise decision as history shows they had always done. He said he was mainly concerned with the preservation of Menominee assets held in Menominee Enterprises, Inc. but would vote in accordance with the wishes of the Menominee people.

(Chairman Waukau, in answer to questions, explained that the wording of the Ballot meant that a "YES" vote was for approval of the program, and a "NO" vote was against the program.)

Mr. Richard R. Dodge, 100 shares and 425 shares in proxies, said he was concerned with the request for "blanket approval" and that some of the shareholders approved SOME of the program but NOT NECESSARILY ALL of it. He asked for a show of hands "AGAINST the entire program but willing to go along with SOME of it". He asked to present an amendment to Mr. George Kenote's motion but Director Caldwell asked that any amendments be withheld until after everyone had been heard on the Resolution.

Mr. Aloysius Frechette then presented the previously mentioned Petition, which he said contained 350 signatures of shareholders, read into the Record as follows:

"WHEREAS, the referendum to be voted on September 23, 1967, does not provide for tabling the proposed program, and

WHEREAS, this involves the most choice lake property owned by the Menominees, and

(Mr. Aloysius Frechette's petition - continued)

"WHEREAS, much(?) analysis is made before voting to continue the policy of selling our resources to show progress and a profit,

THEREFORE, WE THE UNDERSIGNED PETITIONERS, request this proposal be tabled. "

(Secretary's note: the Petition was not filed with the Chairman or Recorder of the meeting and the above is taken from transcript of the Minutes.)

Aloysius Frechette, 100 shares, moved:

I move that the Resolution be tabled.

Motion seconded by Joseph John Waubanascum.

Chairman Waukau ruled that the "Motion to table" was not debatable and that it also expressed the opinions of the persons of the persons present only, as recorded proxies could not be used for this purpose.

Mr. Aloysius Frechette said that he had forgotten to specify that he wanted "One vote per person present in this hall, including one vote only for the Trust Company" - and that he hoped the Resolution would be defeated! Mr. George Kenote asked for a legal interpretation of such a vote. Attorney Modrall advised that the Articles of Incorporation of Menominee Enterprises Inc. stipulate that no land can be sold without the consent of the shareholders - the shareholders being the Voting Trust. He emphasized that the legal effect of this Resolution is advisory only to the Trustees in approving the actions of the Board of Directors on August 10, 1967. His legal interpretation of proxy voting power would be that proxies voting in favor of the Resolution could not be used in favor of the motion to table (or as defeating the Resolution) and since these proxies are voted by "shares" they could not be used in a "head count" vote.

Mr. Kenote asked about those ballots already turned in to the Inspectors for counting on the Resolution and Mr. Modrall stressed that a meeting of the shareholders (or properly "Certificate Holders") voted by "shares" present or present by proxy.

Mrs. Jane T. Weso, 100 shares, questioned the time limit on the "tabling motion" since none was mentioned, and asked when, if ever, the shareholders would again be given an opportunity to vote on the Resolution? Mr. Aloysius Frechette said he expected to present a further Resolution to cover this.

Chairman Waukau ruled, on the advice of counsel, that the vote could be by headcount multiplied by 100 shares per person, except where such person notified the Teller that he owned more than 100 shares, for purposes of voting on the motion to table only. Chairman then asked for persons to stand in response to his call for a YES vote and then for a NO vote. The Tellers reported the following vote by filing a signed report with the secretary:

YES votes (to ACCEPT Motion to Table)	60 persons @ 100 shares each	=	6,000 shares
NO votes (NOT to accept Motion)	(14 persons @ 100 shares each		1,400 "
	(First Wisconsin Trust Company		79,362 "

Chairman Waukau declared the Motion to Table the Resolution DEFEATED by a vote of 80,762 shares NO votes and 6,000 shares YES votes. He then called for the Motion to adopt the Resolution of August 10, 1967.

Mr. Kenote explained the position of the First Wisconsin Trust Company in its responsibility for the interests of the minors and incompetent accounts held in trust by them, and he further answered a number of questions concerning the land program which had been asked earlier in the meeting.

Director James Caldwell Sr., 100 shares, stated "I am coming right out in favor of this Resolution", and stated his close association with the land program, problems of the Corporation, and his close knowledge of forest conditions prompted him to believe the proposed land program is necessary for the continued preservation of the assets of the Menominee people.

Chairman Waukau, 100 shares, relinquished the Chair to vice-chairman George Pecore in order to speak as a shareholder in favor of the program. He also asked the shareholders present to consider the interests of those shareholders who do not live in Menominee County but whose shareholders interests are involved in whatever decision is made today.

Mr. George Kenote said that the shareholders attending the advisory meetings held in Chicago and Milwaukee indicated they felt that Item I of the Resolution was too broad, and he was therefore offering an amendment on their behalf, as follows:

"ITEM NO. IV.
RESOLVED FURTHER, that the program shall proceed as follows:

(1) That the West Lake project proceed as programmed by the Soil Conservation Service.

(2) Other projects, including the East Lake project, Industrial Development, and the Resort Complex, shall be deferred for specific authority in a similar manner. "

Mr. Kenote moved for adoption of the amendment, explaining the procedures which would be followed by the Voting Trust and the Board of Directors. Director James Caldwell seconded the Motion.

Richard Dodge, 100 shares, voiced objection to the Motion, whereupon Mr. Kenote withdraw his last Motion and Mr. Caldwell withdrew his second. Mr. Kenote said this would still be the policy of the Trustees.

RECORDED VOTE ON THE MOTION TO ADOPT RESOLUTION OF AUGUST 10, 1967.

The Tellers of Election reported to the Chairman and he read into the record the following statement:

" CERTIFICATE OF INSPECTORS -
SPECIAL MEETING OF CERTIFICATE HOLDERS OF
MENOMINEE ENTERPRISES, INC.
NEOPIT, WISCONSIN

(Certificate of Inspectors, continued)

"WE, the undersigned Inspectors of Election, duly appointed by the Chairman, of the Menominee Common Stock & Voting Trust of Menominee Enterprises, Inc. at a Special Meeting held on September 23rd, 1967, do report that, having taken the oath to conduct the poll of voters and the recording of their votes impartially, we did receive the votes of the Certificate Holders by ballot.

We report that 109,125 shares on ____ votes cast, and that the results of the ballots cast for approval or disapproval of the Resolution as presented, are the following:

YES VOTES - 97,738 shares
NO VOTES - 11,387 shares

Signed S/ Edward L. Vigue
Signed S/ Carl R. Wescott Sr. "

The Chairman then announced "With that vote before me, the Chair hereby declares that the Motion for adoption of the Resolution of August 10, 1967 is hereby approved".

The Chairman adjourned the meeting at 6:25 p.m.

Others who spoke at this meeting not heretofore mentioned in these Minutes:

Asked questions -
Frances W. Walker
Alex Askenette Sr.
John Reiter
John J. Waubanascum
Vincent Fish
Mary Blumreich
John R. Lawe
Alfred McPherson (NE)

Answered questions -
President Clements
Mr. Kuesel FWTC

In opposition to program -
Agnes Dick
Warren Kakwitch
Louise Fowler
William Grignon Sr.
Kenneth Fish
Donald Latender
Ernest Neconish (interpreter Jennie Weso)
Connie Deer a non-shareholder on proxy of Shirley F. Daly

Mrs. Gertrude Clay Sennett also received a legal interpreation in favor of her right to vote a proxy under a general power of attorney.

** ** ** **

I certify the foregoing condensed Minutes are a true and correct recording of the proceedings of the Special Meeting of Certificate Holders of Menominee Enterprises, Inc. held at Neopit, Wisconsin on September 23, 1967.

Letitia B. Caldwell, Recorder of the Meeting

GEORGE W. KENOTE
KESHENA, WIS. 54135

BULK RATE--U. S. POSTAGE
Paid 3&6/10ths cents
KESHENA, WISCONSIN
PERMIT NO. 1

MENOMINEE COUNTY
KESHENA, WISCONSIN 54135

MENOMINEE PRINTS

THE FIRST AND ONLY INDIAN COUNTY IN THE UNITED STATES

Volume 3 Number 11 Keshena, Wisconsin, 54135 Monday, August 12, 1968

UPWARD BOUND CLASSES OUT 4TH YEAR

Students attending the Upward Bound Programs at Ripon College and Whitewater State University returned home the week of July 28, following disturbances at both campuses.

The major problem occurred at Whitewater, where 5 students were involved in a name-calling incident in the town of Whitewater. Upon returning to their dormitory, other students became aroused at the incident and barricaded themselves in one dorm. The town's police reacted with teargas, and the incident was ended. Students from Menominee County were

Continued on Page 4

MENOMINEE TRAILS FORMS CO-OPERATIVE ON AUGUST 7

A special meeting of Menominee Trails Inc.. was held on August 7 to determine whether the company would become a stock corporation or become a co-operative with equal voting rights of members.

Menominee Trails could no longer do business and remain legally as a non-profit corporation as they had been. At the meeting, the 30 members present chose to form a co-operative, in which each member would have one vote, regardless of the number of

Continued on page 3

CO-OP SHOULD BE READY BY SPRING, BOARD SAYS

A meeting of the board of directors of the Menominee County Co-operative was held on August 5. The board had recently told its stockholders that it would not be able to begin construction for some time because the location of the co-op had been changed to accomodate the visitor deetination center.

Tht Co-op board met with representatives of the tourist center and agreed that the new lot would be deeded to the co-op as soon as possible, probably by October.

The board stated that the request by the architect firm of Zwack and Peeples for the co-op to change the motif of the out-

Continued to Page 4

INDIAN COLLEGE ESTABLISHED BY OEO

The Office of Economic Opportunity will establish the Navajo Community College on the Navajo Reservation at Many Farms Arizona. It will be the first college exclusively for Indians in the Country. The institution will combine regular courses with Indian History and culture classes, and is expected to have a new approach to Indian education.

The college is expected to open in January 1969 and have about 300-400 students. Stu-

Continued to Page 4

MINOR DELAYS HIT HOUSING PROJECT

The Menominee County Housing Authority has experienced some delays in arrival of refrigerators which are to be installed in the new homes. In a few cases, builders have run into rock where none was supposed to be. Dynamite proved ineffective in breaking up the granite slabs, and another lot was chosen.

The Authority plans to hold a meeting soon to review applications. After this meeting, people will be told if their application has been approved. This meetting will be held by September 1, and possibly sooner.

The community center plans

Continued to Page 4

LAKES OF THE MENOMINEES

There has been much written and much discussed concerning the Lakes of the Menominees. The Menominee people, residents of the County, and the general public are entitled to full and accurate information concerning this very important undertaking in Menominee County. This project is a large part of the future life blood of the community. The results will be clearly evident in 1971 and thereafter. It is important that we all understand this.

This project has taken over

Continued to Page 2

and will use lands that are for the most part of very little value to Menominee Enterprises, Menominee County, and the Menominee people, as the lands and waters have existed. By a professional approach to the development this land area is being changed from a detrimental area to an extremely valuable economic aid to Menominee Enterprises, its shareholders, Menominee County, and its residents. We did not have the knowhow, the financing, nor the staff assistance to do the job that had to be done. We might have done something like it in ten to fifteen years, but we would have been at least 7 years too late. The job has to be done in 3 to 4 years.

Federal aids to relieve Menominee County and school taxes cease June 30, 1971. Menominee Enterprises and the residents of the county would be hit with an excessive tax rate if this project were not undertaken. As it is we may have waited a little too long to get the best results when we will need them most, that is in 1971 and 1972. Menominee County must retain a tax rate of around $20 per $1000 of valuation in order to relieve the sawmill and forest and the Menominee people of more taxes than they can afford to pay. If the sawmill and forest are relieved of such taxes, they have an even chance of paying more wages to workmen and contractors necessary to keep the mills running. Without relief from a potential excessive tax situation all economic development would be seriously lessened or curtailed.

These facts of life have been many times explained in the and special meetings of the shareholders,, and in August 1967 in a Status Report, Menominee Indians 1967. State officials and the news media of Wisconsin and Illinois have many times pointed out that the lack of tax resources sufficient to support the county and the people is our biggest problem. We must overcome this problem in the next three years.

We must show the Wisconsin state legislature in 1969 that we can help in a large way to pay our own way. If we cannot do this then the legislature will have a serious problem to resolve to letting Menominee County continue as a county. We must, therefore, proceed to show progress in a positive way, so that all can see that "We Can Make It." It will be a sad day if we have to take the entrance signs down on Highways 47 and 55, and admit that "we didn't make it."

Much has been said and printed that Menominee County and Menominee Enterprises are "phonies" and have no legal basis in fact, that Menominee Enterprises (really the Menominee people) cannot give deeds to land or transact other business. This is part and parcel of the most false information that can be relayed to the people.

The truth is that, whether we like it or not, the United States Supreme Court has many times said that Congress has the power to terminate Indian treaties. Our last treaty in 1856 specifically authorizes the Congress to treat us as it saw fit. The fact is that it passed the termination laws and we had to do the best we could, and can, under the circumstances.

Menominee Enterprises, Inc. as a business corporation, representative of the Menominee people, prior to its effective date, was given what seemed like unending legal review by the Security and Exchange Commission, the Internal Revenue Service, the Department of Interior, all for Federal government. It was also reviewed by the Department of Securities of the State of Wisconsin, the Attorney General's office, the several other state agencies including the Menominee Indian Study Committee and the State Legislature. The plan was thoroughly [illegible] Menominee Enterprises was allowed to form and do business. I suppose no other business corporation in the history of of Wisconsin, or other states, has gone through such fine-tooth combing as has Menominee Enterprises. Now to say that it is "phony" is not to understand the problem at all.

The legal fact is that Menominee Enterprises can give a good deed to land, both to its own people and to other customers. If this were not true the Farmers Home Administration would not finance the many private homes it has provided for in Menominee County, none of us could get home improvement loans or construction loans from private banks, we could not be erecting the public housing buildings now underway. The fact is also true that Menominee Enterprises can probably give the most clear deed of any in the state or surrounding states. This property is newly deeded from the Federal government to Menominee Enterprises to the present owners. The history of this land transaction is recent (1961) and the land is free of debt. It is to help keep it free of debt that Lakes of the Menominees is underway.

About 2.2 percent of our total land area (5170 acres) is being devoted to this project. This 2.2 percent can be the means of saving the whole. When fully developed with summer homes completed, it will have a value of approximately $27,000,000 on the tax rolls, depending upon the assessments made. This added value will make it possible for the Menominee business corporation to survive, to pay a reasonable wage to its workmen and to keep itself in repair, and to develop new things. The association with N. E. Isaacson Associates, Inc. will make this all possible. They can do a job that we could never do alone.

Prior to entering into this contract with Isaacson, their past operations, results and methods were intensively studied and reviewed. Negotiations with them commenced about two years ago. The contract written with them is entirely favorable to us under all circumstances. our lawyers took proper safeguards to make

[illegible]o. Isaacson and associates [illegible]ed to the form of contract we wanted, with adequate pay of course for their part and services. It should be made clear again, that without them we could not do the job. Alone we would fail miserably in the time required for completion. We could not have done the good job they are doing.

Isaacson and Associates are paying Menominee Enterprises for all the work we did on the West Lake project.

This contract is a joint 50/5' effort. They provide the know how, the means to do the job, we provide the raw land. We will pay them an incentive if they complete the job on time, we will withhold such an incentive if they do not. We are lucky to have them, we should have had them started two years ago. Now we must give them all the moral support we can so that they can complete the job on time. They are getting the best prices possible for the land, we get our share of that plus WE GET CONTINUING TAX RELIEF, THAT THEY DO NOT GET. WAY INTO THE FUTURE.

WE SHOULD LET THEM KNOW THAT WE "LIKE THEM HERE" AND WISH THEM GODSPEED. This project is among my last works and I am much relieved because I can see success and some rest ahead. God bless you all.

G. W. Kenote

—o—

MENOMINEE TRAILS FORMS CO-OPERATIVE ON AUGUST 7

shares he owned.

To become a member, a person must attend the nature classes held in the spring, or spend 100 hours learning to perform a service — such as guiding nature tours — or produce a product — such as beaded moccasins. The person would then be given 100 shares of stock, values at $2.00 per share. The person could purchase this stock himself, or it could be give him through donations, in return for the hours of service he put in. The minimum number of shares that the person could own would be 100 shares.

In order to secure money to finance the operations of the co-operative, as well as to finance the cost of the stock for the members, the group has establishtd the Menominee Indian Development Fund, which will secure contributions. This fund could also be used to start a local youth camp, and to provide for vocational training for Menominees.

Following the unanimous decision to form a co-operative, the group viewed proposed designs for the buildings in the Visitor Destination Center. The designs included a large Thunderbird whose wings formed the letter "M" for Menominee. The artist present also displayed a large wall mural of a dancing Indian which is proposed for the Wall of the Menominee County Co-operative. The third and most impressive display was that of a large fountain and monument that will stand at the entrance to the Visitor Destination Center.

—o—

JACK WALTERS LEAVES FOR UPPER MICHIGAN POST

Mr. Jack Walters has resigned as Menominee County guidance counselor as of August 5, 1968, to take the position of Neighborhood Youth Corps Director in Upper Michigan. He will be working with the Upper Peninsula Committee for Area Progress, a locally created, directed and controlled planning organization. The office is located in Escanaba. About leaving, he said:

"I will be leaving with very mixed emotions. Although I am very convinced that the challenge and worth of my new job will represent an important step in my personal and vocational growth. I will find leaving Menominee County very difficult. I am so very grateful for having had the opportunity to spend a part of my life here in Menominee County with these people whom I have learned to love and respect.

"I wish you and the communiy action program continuing growth and success in offering this county a most valuable very warm thank you."

"MENOMINEE PRINTS"

Published every two weeks by the Menominee Community Action Program, Keshena, Wisconsin; Mr. Clyde Atwood, Director
Kerron Barnes ---- Editor
Mabel Brown ----- Asst. Editor
Rena White
Sally De Vay ---- Contributors
Dawald Craig ----- Printer

MENOMINEE PRINTS is dedicated to informing the residents of Menominee County about new opportunities for personal and community advancement in the areas of jobs, schooling, health, and social progress. The Prints intends to publish honest information about the federal, state and county efforts in these [illegible] residents of Menominee County can take advantage of them. MENOMINEE PRINTS also intends to demonstrate to residents of surrounding counties that Menominee County can survive and prosper as a Wisconsin County and still retain the individuality that is its unique heritage.

Menominee Prints invites letters from whatever source. Letters will not be edited except where space dictates shortening. Questions concerning tourism should be directed to Menominee Trails, Inc., Box 28, Keshena, Wisconsin 54135.

MAINSTREAM TRAINEES CUT, 36 MAY BE NEW NO.

Operation Mainstream Program had expected to begin a new fiscal year with openings for 510 trainees, at this time. funding has not yet been approved, but when it is, it is not expected for 50 trainees, but somewhere in the vicinity of 36.

—o—

The classes in creative dramatics which were scheduled to begin in Keshena on Aug. 12 have been rescheduled and will begin Aug. 14. The sessions will run from Aug. 14 to 28 from 1:30 to 3 pm in Keshena Park. No fees or registration in advance are dequired.

Milwaukee Sentinel 9-25-67

Menominee Enterprises Inc., Neopit, Wisconsin

TELEPHONE NEOPIT 2281

Menominees Approve Sale Of Tribal Land to Whites

Special to The Sentinel

Neopit, Wis. – Sale of Menominee Indian tribal land to the white man for the first time since 1848 was approved at a meeting of stockholders in the Menominee Enterprises Corp.

The corporation was formed in 1961 when the Menominee reservation became a county.

The sale proposal was called for by the board of directors to increase the tax base and take the load of the county tax burden off the corporation. Menominee Enterprises, a lumber mill, now pays about 82% of all taxes in the county.

The vote Saturday came after eight hours of debate and discussion in a meeting held in St. Anthony's school gymnasium, attended by about 150 stockholders.

The total vote—97,738 yes, 11,387 no—represents in reality only about 10% of the voting stockholders.

There are 370,000 votes in the corporation, 79,362 of which are held in trust by the Wisconsin Trust Co., of Milwaukee, for the ill and infirmed, and those under 21.

Of the remaining 290,638 votes at large, only 29,763 were cast.

"I think the majority of the stockholders are satisfied," said Circuit Judge William R. Moser, a member of the board of trustees.

The vote was advisory. The board of trustees, who unanimously endorsed the plan, can act on their own.

"We plan to take the vote to the people on every issue," said Moser. "This land is their lifeblood. The board wouldn't want to act without their approval."

Some dissenters at the meeting claimed that if parents had been allowed to vote their children's stock, the vote would have failed.

"I don't think so," Moser said. "If you consider that it was approximately 18,000 to 11,000, and that there was a proportionate number of parents in each group, the vote would still have passed."

The proposal, which, according to Moser, should be completely enacted within three years, calls for:

- Damming of a creek to flood two ponds and one swamp to create about seven and one-half miles of saleable lakefront property.
- The sale of land in Neopit and Keshena, the two main cities in the county, to industries or commercial store owners.
- Sale of land in a tract on the Wolf river to developers for the construction of recreational and service facilities. It would include horseback riding, water skiing, golf, snowmobiling and skiing.
- Sale of lots on Bass lake and other lakes east of Keshena.

The total plan affects about 8,700 acres of land in the county's 234,000 acres. It is expected to add about $10 million to the county's present $18 million tax base.

The sale of land on the proposed lake, one of the most important facets of the development, is set up to require each land buyer to erect a home on the property with a minimum of 1,000 square feet of living space, within three years.

"The damming of the lake and clearing of the land should begin in about a year," Moser said.

Previously, people had been allowed to lease land for 40 year periods, but were not permitted to buy it.

Lots in the proposed seven and one-half mile area will sell for an estimated $50 per front foot.

"If we could attract some industry," Moser said, "it would be exactly what the community needs. Next year the sawmill is going to cut back, and about 26 men will be out of work."

The sale of the land will include offering options to the people who now hold leases on property in the area.

All of the land under consideration for sale is brushland. The Menominee forest land is not included anywhere in the package.

'ELEPHANTS' GO ON BLOCK

Three Lakes, Wis. – The annual "white elephant" auction, sponsored by the Three Lakes (Oneida county) parent-teacher association, will be held in the school auditorium at 7 p.m. Oct. 14. Proceeds from the auction will be used for financing two annual scholarships.

Gerald Nevala
Oct 1, 1971

LEGEND LAKE - RELEASE

Following termination of reservation status in 1961, the Menominee Indians faced the reality of having to establish some kind of economic activity in order to provide the revenues necessary to support the operation of a county government. The loss of much federal support, the inadequacy of state aids, and the extremely limited economic activity within what is now Menominee County all added to the urgency with which development possibilities were explored.

Large economic impacts were needed over a short period of time. The Wisconsin legislature had established a study committee that was to periodically review the progress of the Menominees and ultimately recommend whether or not the Indians should continue under separate status as the state's 72nd county. If necessary economic gains were not in evidence, it was most likely that the legislature would have recommended that Menominee County be divided up and the various portions annexed to adjoining counties.

Shortly after termination, several independent studies were undertaken to inventory Menominee County's resources and identify alternatives for economic development. The most recent of these studies was done by the firm of Ernst & Ernst and financed through the federal government's Economic Development Administration. These studies reached a common conclusion -- that the only realistic alternative likely to produce the needed economic impacts over a short period of time was some form of

recreational land development that focused upon the county's natural resources.

Consistent with study recommendations, Menominee Enterprises, Inc. (MEI) identified "economic development zones" totaling 8,760 acres within the county and began a program of leasing recreational homesites within these zones. Later, actual sale of land for recreational use was tried adjacent to some of the county's natural lakes. However, these early efforts were neither generating the revenues nor expanding the tax base sufficient to meet the problem.

Menominee Enterprises, Inc. then acquired a dam permit from the Public Service Commission to build Westlake, on the site of what now represents the first phase of Legend Lake. After experiencing problems in the areas of engineering, financing, and marketing, MEI began the search for a partner that would provide the needed expertise, as well as the financial resources.

After surveying recreational developments throughout the country and entertaining several proposals, MEI invited N. E. Isaacson & Associates, Inc. (NEI) of Reedsburg, Wisconsin to become a joint-venture partner and operate as Lakes of the Menominees (LOM).

Isaacson joined with MEI and an equal partnership was formed in 1968. The original Westlake project was expanded to 5,170 acres in order to encompass a more reliable watershed for recreation of the man-made lake system.

When the Legend Lake project was started, Menominee Enterprises, Inc. (MEI) carried almost 90% of the county's tax burden, primarily through the sawmill at Neopit and the timber resource. N. E. Isaacson & Associates, Inc., as part of the joint-venture agreement, promised to generate at least $6 million in sales and a minimum of $2.1 million in shared profits for MEI over the period 1968-1972. If the developer (NEI) met his projected figures for sales and earnings, profit-sharing was to be based on a 50-50 split. If projections were not met, the developer would be penalized by a revised profit split which favored Menominee Enterprises.

To date, all projections have been exceeded. Total sales have already surpassed $9 million, with almost one-third of the total project remaining to be sold in the third phase. Menominee Enterprises, Inc. has received a distribution of $1.7 million in proceeds from the sale of MEI lands to the partnership and profits from the joint venture. The tax base of the county has grown from approximately $19 million in 1968 to an ~~estimated~~ $32 million in 1971, and the Menominee Enterprises' share of property taxes has dropped from over 83% in 1968 to an estimated 54% in 1971. In 1970, only two years after the start of the project, Lakes of the Menominees represented some 30% of the valuation in Menominee County. Projections of a total valuation in Menominee County of $45 million by 1975 now look conservative. 38% 1971

Along with projecting sales and earning performance, N. E. Isaacson & Associates, Inc. offered to work with MEI

in developing a project of unusual design that would incorporate strong resource-protective features. This was accomplished by holding density down to 2/3 of what state regulations will allow and preserving 53% of the project area in natural open space. Some 34% of Legend Lake's 43 miles of shoreline is unsubdivided, and there has been liberal provision of conservancy or habitat areas for wildlife.

The entire Legend Lake project, located in the extreme southeastern corner of Menominee County, represents only 2.2% of the county's total land area of 234,000 acres.

Needed economic impacts have been provided without invading the timber resource or the wild borders of the Wolf River. Menominee Enterprises, Inc. has voted not to continue the sale of Indian land once the Legend Lake project sales are completed.

The Legend Lake project has helped preserve the status of Menominee County through large and immediate economic impacts while using only a small fraction of the county's land that was not highly regarded prior to the establishment of the economic development zone. All of the choices open to the Menominees prior to Legend Lake are still open to them as far as utilization of the remainder of the Indian land is concerned. In fact, Legend Lake is the principle reason that the Menominees still have some choices over the future use of their land.

STATEMENT BY SHIRLEY A. DALY BEFORE THE DEMOCRATIC NATIONAL CONVENTION
July 11,1972

I am a Menominee Indian and a delegate to this convention from Wisconsin. I should also mention that I am committed to Senator McGovern. I'm pleased to be here this morning to speak in support of Minority Report #9, an addition to the rights of American Indians at the end of the last sentence on page 111-8, paragraph 6, which states: "In addition we support allocation of Federal surplus lands to American Indians on a first priority basis.

There are probably some people who think we are asking for something that does not belong to us, but let me tell you why I feel that we do have a right to ask for this.....I am a landless Indian now as a result of legislation. I'm not even considered an Indian by law. Our land is not only being legislated away, but so apparently, are our lives.

I am one of your terminated Indians.....in the last century, our Indian land was taken by settlers, soldiers, guns, and missionaries. Now, more subtle methods have been devised. Its being done by means of lawyers, land developers and legislation. But to us, its still a rip-off just the same.

I ask you to support this addition to the rights of American Indians platform. This will be a tremendous boost to the rights and morale of all American Indians.

When the Menominee Tribe was terminated in 1961, we had nearly 10 million dollars in the U.S. Treasury. In addition, we had unspoiled lakes, streams and rivers and forests within our boundaries. We were considered to be one of the richest tribes in the country.....today, we are one of the poorest. We have lost much of our best lands due to termination.

President Nixon has rejected the termination policy, in your support of the platform on the Rights of American Indians, you have joined him in opposing this genocidal policy of wresting from the native American his land and identity. But, words are meaningless without action. Indians have had enough tokenism and lip service. We are no longer satisfied making honorary "Chiefs" out of every politician that wants to boost his political image.

We call on you, the party of the people, to right the wrongs that termination has already wreaked upon native peoples. We want you the delegates to the 1972 Democratic National Convention to vote Yes, and help to restore to the native people some of the land that was taken away from him, usually against his wishes. With your "yes" vote on this matter, you will help to restore hope and self-determination to all American Indians and those whose lives and lands have been dealt a backward step by a genocidal termination policy.

AVC inc ADVANCED CYBERNETICS

2010 ridgecrest drive s.e. ▫ albuquerque, new mexico 87108 ▫ (505) 268-4305

October 4, 1973

The Honorable James Abourezk
Chairman, Senate Sub-Committee on Indian Affairs
5241 New Senate Office Building
Washington, D.C. 20515

Dear Senator Abourezk:

We are writing to you to support Senate Bill 1687 for restoration of the Menominee Indian people to full Federal trust status as an Indian tribe.

Since early this year we have had the opportunity and pleasure of working with the leadership of these people. We are most pleased to have been able to assist them in their endeavors of reorganization of "Menominee Enterprises". They have accomplished every goal and objective proposed.

It is our belief that the present Menominee leadership has demonstrated an unprecedented example of what can be done by a dedicated and disciplined group, when they devote their efforts to assist the progress of everyone. We believe that the corporation, Menominee Enterprises, Inc., would be able to provide capital for growth of the industrial base at Neopit, Wisconsin, after this legislation. Relief of the heavy burden of ad valorem taxes would indeed be beneficial. Modernization of their present mill, and repair and replacement of worn and obsolete equipment can be accomplished when the enterprise is permitted to generate earnings in excess of operating costs. For some years this has not been possible because of the burden of the extra costs which were inherent in termination.

The most obvious asset which we have found during our entire experience is the interest and dedication to the future exhibited by the young people. The voluntary effort which the 18 to 35 age group has shown is most rewarding. We would like to respectfully direct your attention in any consideration or deliberation to this intangible but all important characteristic of the Menominee youth. It will assure each of the members of the Congress of a bright future which is the aim of every responsible person associated with this most worthwhile legislation.

Your efforts in their behalf is exemplary. We hope that each member of the Congress finds the time to assist you in passage of the bill for restoration for the Menominee people.

We support the Menominee people in their efforts and sincerely believe that the assistance of the Congress is an absolute necessity in furthering the goals of all Menominees. We further believe that you and your fellow members of the Congress will always be proud of the assistance you gave these fine people.

Sincerely yours,

E. D. Nunns

E.D. Nunns

EDN:tc

cc: Senator Henry M. Jackson
Senator Joseph M. Montoya

Flandreau Santee Sioux Tribe

Box 292
Flandreau, South Dakota 57028

September 20, 1973

Ada Deer
Representative of the Menominee Tribe
c/o Franklin D. Ducheneaux, Consultant
House Interior and Insular Subcommittee
on Indian Affairs
Washington, D.C. 20036

The Flandreau Santee Sioux Tribe urges the House Interior and Insular Affairs Committee to act favorably on the bill to restore to the Menominee Tribe a federally-recognized tribal status; the district now called "Menominee County".

Respectfully,

Agnes Ross

Agnes Ross, Chairman
Flandreau Santee Sioux Tribe

cc - for your information — support

LUTHERAN CHURCH & INDIAN PEOPLE OF SOUTH DAKOTA
REV. WALTER WEBER • INDIAN SERVICES COORDINATOR

AMERICAN LUTHERAN CHURCH • LUTHERAN CHURCH IN AMERICA • LUTHERAN CHURCH MISSOURI SYNOD

August 30, 1973

The Honorable James Abourezk, Chairman
Senate Subcommittee on Indian Affairs
Senate Office Building
Washington, D. C. 20515

Dear Senator Abourezk:

With great respect for your person, office, responsibility and influence in our U. S. Congress, I urge your careful study and strong support of the Menominee Restoration Act (HR7421 and S1687) reversing termination and restoring federal recognition of the Menominee Indian Tribe. This legislation is of great significance, I believe, not only to the Menominee Indian people but to all American Indians in the USA. The passage of this particular piece of legislation I would hope would be another of the many constructive steps so desperately needed in improving the lot and enhancing the lives of our American Indian citizenry.

I am sharing my concern in this matter also with Lutheran Church & Indian People of South Dakota, Lutheran Church & Indian People (national), the National Indian Lutheran Board, and others within the American Lutheran Church, the Lutheran Church in America, and the Lutheran Church-Missouri Synod constituencies confessing concern for the life and well-being of American Indian people.

Most sincerely + + +

Walter Weber

WW:ee

Identical letters to: George McGovern
James Abdnor
Frank Denholm
James Haley
Henry Jackson
Lloyd Meeds

LUTHERAN SOCIAL SERVICES OF SOUTH DAKOTA
600 WEST 12th STREET • SIOUX FALLS, SOUTH DAKOTA 57104 • (605) 336-3347

CITY of La Habra

OFFICE OF:
Mayor
CHARLES V. STEVENS, JR.

City Council
ROBERT NEVIL
BETH GRAHAM
ROBIN YOUNG
WILLIAM H. ROBERTS

REF:

CIVIC CENTER • LA HABRA, CALIFORNIA 90631

October 1, 1973

The Honorable Alan Cranston
United States Senate
Washington, D. C. 20000

Dear Senator Cranston,

I am writing to respectfully request that you support S. 1687, the Menominee Restoration Bill.

Too often in the past, Federal policy towards Indians has been unenlightened at best. This bill is one of the first pieces of legislation on the Indians that makes any sense. Why this one tribe was singled out for termination is quite puzzling. The Restoration Bill will again allow tribal government, society and economy to function in a revitalized, modern and meaningful way.

I urge your support.

Sincerely,

Robin Young
Councilwoman
City of La Habra

This letter also sent to:

Senator John Tunney
Congressman Charles Wiggins
Congressman Del Clawson
Congressman Richard Hanna
Congressman Andrew Hinshaw

RY/sf

STATEMENT OF LOUIS BRUCE, FORMER COMMISSIONER, BUREAU OF INDIAN AFFAIRS

My name is Louis Bruce, former Commissioner of the Bureau of Indian Affairs. In view of my past involvement in the history of Indian Affairs, I have always and still do believe that the termination of Indian Tribes from federal trust responsibility has been to the obvious detriment of Indian people.

In 1953, when Congress passed the bill to terminate certain Indian tribes and impose state jurisdiction on Indian reservations, this was an outright violation of the Indian Reorganization Act of 1934 which gave Indian tribes the power of self-government.

This act was done with the full intent and knowledge of ignoring the trust responsibility of the federal government in honoring their commitments of enforcing the treaties that they made with Indian tribes.

Gentlemen, I need not elaborate on past Congressional error. It is time to remedy and look to the future with a healthy attitude on Indian people. In exercising the powers of Congress with respect to Indian tribes, we must keep in mind that the concepts of freedom and democracy came from this country and from the Indian people, we must have equal respect for each other.

Restoration of the Menominee Tribe into federal responsibility is only a beginning. I fully support this effort of the Menominee Tribe. Thank you.

LOUIS BRUCE,
Sioux-Mohawk.

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