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P16 PAIUTE RESTORATION ACT

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HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

S. 1273

TO RESTORE THE SHIVWITS, KANOSH, KOOSHAREM, AND INDIAN PEAKS BANDS OF PAIUTE INDIANS OF UTAH AS A FEDERALLY RECOGNIZED SOVEREIGN INDIAN TRIBE, TO RESTORE TO THE CEDAR CITY, SHIVWITS, KANOSH, KOOSHAREM, AND INDIAN PEAKS BANDS OF PAIUTE INDIANS OF UTAH AND ITS MEMBERS THOSE FEDERAL SERVICES AND BENEFITS FURNISHED TO FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBES AND THEIR MEMBERS, AND FOR OTHER PURPOSES

NOVEMBER 8, 1979
WASHINGTON, D.C.

Printed for the use of the Select Committee on Indian Affairs

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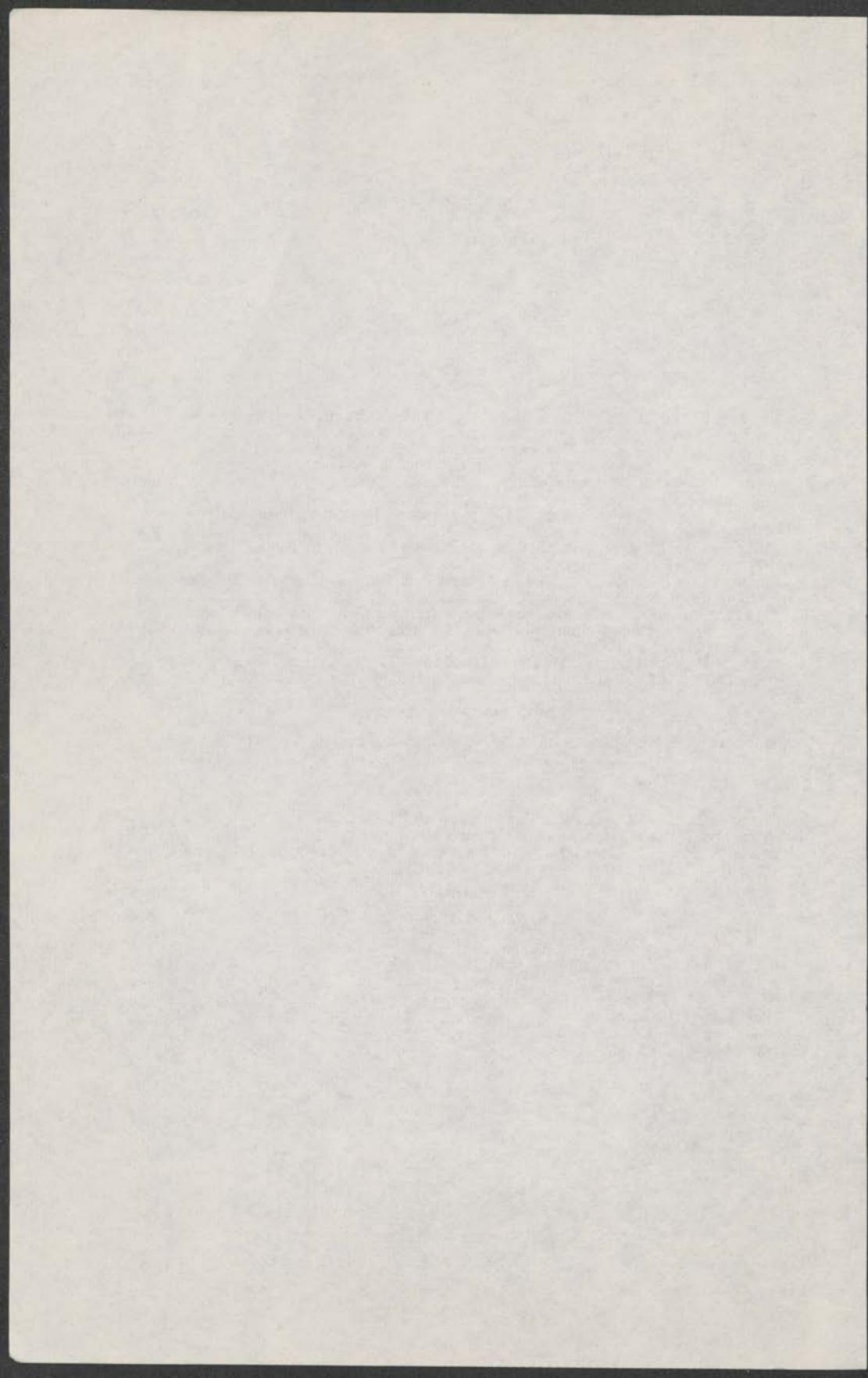
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PAIUTE RESTORATION ACT

THURSDAY, NOVEMBER 8, 1979

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:07 a.m., in room 357, Russell Senate Office Building, Senator Daniel K. Inouye presiding. Present: Senators Inouye, DeConcini, Hatfield and Hatch.

Staff present: Max I. Richtman, staff director; Michael Cox, minority counsel; and Jo Jo Hunt, staff attorney.

Senator INOUE. The committee will come to order.

The purpose of this hearing before the Senate Select Committee on Indian Affairs is to receive testimony from the administration, the Paiute Indians of Utah, and other interested parties on a bill which would restore Federal status and Federal services to certain Bands of Paiute Indians in the State of Utah.

S. 1273, a bill introduced by Senator Hatch, would restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah to the status of a federally recognized tribe and would restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and their members those Federal services and benefits furnished to federally recognized Indian tribes and their members.

The Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians were terminated pursuant to the act of September 1, 1954. The Cedar City Band of Paiutes was not specifically terminated by an act of Congress, but services of the Bureau of Indian Affairs and the Indian Health Service have been withheld from the four specifically terminated bands and the Cedar City Band.

Termination was the official Federal Indian policy from the early 1950's through the late 1960's. Well over 100 tribes, bands, and rancherias were terminated through congressional enactments during this period.

The Federal termination statutes provided for the cessation of the Federal-Indian relationship. The thrust was to eliminate the reservations and to turn Indian affairs over to the various States.

Through termination, Indians would become subject to State control without any Federal support or restrictions; Indian land would no longer be held in trust and would be fully taxable and alienable, just like non-Indian land in the States; and Federal health, education, and general assistance would end.

Termination has dramatically affected the tribes. Large amounts of Indian land have been lost and termination has not had the effect which its proponents predicted of integrating Indians into mainstream America.

In fact, socioeconomic data indicate that terminated Indians, like other Indians, continue to have higher unemployment rates, lower incomes, and lower levels of educational attainment than the surrounding non-Indian community, yet the programs of the Bureau of Indian Affairs and the Indian Health Service are not available to respond to their needs.

Congress has acknowledged that termination of tribes was a mistake and has specifically rejected the policy of termination by legislatively restoring six tribes to Federal status.

These tribes, the Menominee Tribe of Wisconsin, the Confederated Tribes of Siletz Indians of Oregon, and the Modoc, Ottawa, Peoria, and Wyandotte Tribes of Oklahoma, are now eligible for the services and benefits provided by the Bureau of Indian Affairs and the Indian Health Service.

Without objection, I will now place in the record a copy of S. 1273 and also a prepared statement by Congressman Dan Marriott in support of the bill.

[The bill and prepared statement follow:]

96TH CONGRESS
1ST SESSION

S. 1273

To restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5 (legislative day, MAY 21), 1979

Mr. HATCH introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

A BILL

To restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 That this Act may be cited as the "Paiute Indian Tribe of
2 Utah Restoration Act".

3 SEC. 2. For the purposes of this Act—

4 (1) the term "tribe" means the Cedar City, Shiv-
5 wits, Kanosh, Koosharem, and Indian Peaks Bands of
6 Paiute Indians of Utah;

7 (2) the term "Secretary" means the Secretary of
8 the Interior or his authorized representative;

9 (3) the term "Interim Council" means the council
10 elected pursuant to section 5;

11 (4) the term "member", when used with respect
12 to the tribe, means a person enrolled on the member-
13 ship roll of the tribe, as provided in section 4 of this
14 Act; and

15 (5) the term "final membership roll" means the
16 final membership roll of the tribe published on April
17 15, 1955, on pages 2499 through 2503 of volume 20
18 of the Federal Register and on April 14, 1956, on
19 pages 2453 through 2456 of volume 21 of the Federal
20 Register.

21 SEC. 3. (a) Federal recognition is hereby extended to
22 the tribe, and the provisions of the Act of June 18, 1934 (48
23 Stat. 984) as amended, except as inconsistent with specific
24 provisions of this Act, are made applicable to the tribe and
25 the members of the tribe. The tribe and the members of the

1 tribe shall be eligible for all Federal services and benefits
2 furnished to federally recognized Indian tribes. Notwithstand-
3 ing any provision to the contrary in any law establishing such
4 services or benefits, eligibility of the tribe and its members
5 for such Federal services and benefits shall become effective
6 upon enactment of this Act without regard to the existence of
7 a reservation for the tribe or the residence of members of the
8 tribe on a reservation.

9 (b) Except as provided in subsection (c), all rights and
10 privileges of the tribe and of members of the tribe under any
11 Federal treaty, Executive order, agreement, or statute, or
12 under any other authority, which were diminished or lost
13 under the Act of September 1, 1954 (68 Stat. 1099), are
14 hereby restored, and such Act shall be inapplicable to the
15 tribe and to members of the tribe after the date of enactment
16 of this Act.

17 (c) This Act shall not grant or restore any hunting, fish-
18 ing, or trapping right of any nature, including any indirect or
19 procedural right or advantage, to the tribe or any member of
20 the tribe, nor shall it be construed as granting, establishing,
21 or restoring a reservation for the tribe.

22 (d) Except as specifically provided in this Act, nothing
23 in this Act shall alter any property right or obligation, any
24 contractual right or obligations, or any obligation for taxes
25 already levied.

1 SEC. 4. (a) The final membership roll is declared open.
2 The Secretary, the Interim Council, and tribal officials under
3 the tribal constitution and bylaws shall take such measures as
4 will insure the continuing accuracy of the membership roll.

5 (b)(1) Until after the initial election of tribal officers
6 under the tribal constitution and bylaws, a person shall be a
7 member of the tribe and his name shall be placed on the
8 membership roll if he is living and if—

9 (A) his name is listed on the final membership
10 roll;

11 (B) he was entitled on September 1, 1954, to be
12 on the final membership roll but his name was not
13 listed on that roll; or

14 (C) he is a descendant of a person specified in
15 subparagraph (A) or (B) and possesses at least one-
16 fourth degree of blood of members of the tribe or their
17 Paiute Indian ancestors.

18 (2) After the initial election of tribal officials under the
19 tribal constitution and bylaws, the provisions of the tribal
20 constitution and bylaws shall govern membership in the tribe.

21 (c)(1) Before election of the Interim Council, verification
22 of descendency, age, and blood shall be made upon oath
23 before the Secretary and his determination thereon shall be
24 final.

1 (2) After election of the Interim Council and before the
2 initial election of the tribal officials, verification of descen-
3 dancy, age, and blood shall be made upon oath before the
4 Interim Council, or its authorized representative. A member
5 of the tribe, with respect to the inclusion of any name, and
6 any person, with respect to the exclusion of his name, may
7 appeal to the Secretary, who shall make a final determination
8 of each such appeal within ninety days after an appeal has
9 been filed with him. The determination of the Secretary with
10 respect to an appeal under this paragraph shall be final.

11 (3) After the initial election of tribal officials, the provi-
12 sions of the tribal constitution and bylaws shall govern the
13 verification of any requirements for membership in the tribe,
14 and the Secretary and the Interim Council shall deliver their
15 records and files, and other material relating to enrollment
16 matters, to the tribal governing body.

17 (d) For purposes of sections 5 and 6, a member who is
18 eighteen years of age or older is entitled and eligible to be
19 given notice of, attend, participate in, and vote at, general
20 council meetings and to nominate candidates for, to run for
21 any office in, and to vote in, elections of members to the
22 Interim Council and to other tribal councils.

23 SEC. 5. (a) Within forty-five days after the date of the
24 enactment of this Act, the Secretary shall announce the date
25 of a general council meeting of the tribe to nominate candi-

1 dates for election to the Interim Council. Such general coun-
2 cil meeting shall be held within sixty days after the date of
3 the enactment of this Act. Within forty-five days after such
4 general council meeting the Secretary shall hold an election
5 by secret ballot, absentee balloting to be permitted, to elect
6 six members of the tribe to the Interim Council from among
7 the nominees submitted to him from such general council
8 meeting. The Secretary shall assure that notice of the time,
9 place, and purpose of such meeting and election shall be pro-
10 vided to members described in section 4(d) at least fifteen
11 days before such general meeting and election. The ballot
12 shall provide for write-in votes. The Secretary shall approve
13 the Interim Council elected pursuant to this section relating
14 to the nominating and election process have been met. If he
15 is not so satisfied, he shall hold another election under this
16 section, with the general council meeting to nominate candi-
17 dates for election to the Interim Council to be held within
18 sixty days after such election.

19 (b) The Interim Council shall represent the tribe and its
20 members in the implementation of this Act and shall be the
21 acting tribal governing body until tribal officials are elected
22 pursuant to section 6(c) and shall have no powers other than
23 those given to it in accordance with this Act. The Interim
24 Council shall have full authority and capacity to receive
25 grants from and to make contracts with the Secretary and

1 the Secretary of Health, Education, and Welfare with re-
2 spect to Federal services and benefits for the tribe and its
3 members and to bind the tribal governing body as the succes-
4 sor in interest to the Interim Council for a period extending
5 not more than six months after the date on which the tribal
6 governing body takes office. Except as provided in the pre-
7 ceding sentence, the Interim Council shall have no power or
8 authority after the time when the duly-elected tribal govern-
9 ing body takes office: *Provided*, That no authority to make
10 payments under this Act shall be effective except to such
11 extent or in such amounts as are provided in advance in ap-
12 propriation Acts.

13 (c) Within thirty days after receiving notice of a vacancy
14 on the Interim Council, the Interim Council shall hold a gen-
15 eral council meeting for the purpose of electing a person to
16 fill such vacancy. The Interim Council shall provide notice of
17 the time, place, and purpose of such meeting and election to
18 members described in section 4(d) at least ten days before
19 such general meeting and election. The person nominated to
20 fill such vacancy at the general council meeting who received
21 the highest number of votes in the election shall fill such
22 vacancy.

23 SEC. 6. (a) Upon the written request of the Interim
24 Council, the Secretary shall conduct an election by secret
25 ballot, pursuant to the provisions of section 16 of the Act of

1 June 18, 1934 (48 Stat. 987), for the purpose of adopting a
2 constitution and bylaws for the tribes. The election shall be
3 held within sixty days after the Secretary has—

4 (1) review and updated the final membership roll
5 for accuracy, in accordance with sections 4(a), 4(b)(1),
6 and 4(c)(1),

7 (2) made a final determination of all appeals filed
8 under section 4(c)(2), and

9 (3) published in the Federal Register a certifica-
10 tion copy of the membership roll of the tribe.

11 (b) The Interim Council shall draft and distribute to
12 each member described in section 4(d), no later than thirty
13 days before the election under subsection (a), a copy of the
14 proposed constitution and bylaws of the tribe, as drafted by
15 the Interim Council, along with a brief. Impartial description
16 of the proposed constitution and bylaws, except that such
17 consultation may not be carried on within fifty feet of the
18 polling places on the date of the election.

19 (c) In any election held pursuant to subsection (a), a
20 vote of a majority of those actually voting shall be necessary
21 and sufficient for the adoption of a tribal constitution and
22 bylaws.

23 (d) Not later than one hundred and twenty days after
24 the tribe adopts a constitution and bylaws, the Interim Coun-
25 cil shall conduct an election by secret ballot for the purpose

1 of electing the individuals who will serve as tribal officials as
2 provided in the tribal constitution and bylaws. For the pur-
3 pose of this election and notwithstanding any provision in the
4 tribal constitution and bylaws to the contrary, absentee bal-
5 loting shall be permitted.

6 SEC. 7. The Secretary may make such rules and regula-
7 tions as are necessary to carry out the purposes of the Act.

Statement
of
Congressman Dan Marriott
on S.1273
Senate Select Committee on Indian Affairs
November 8, 1979

Mr. Chairman, I appreciate the opportunity to express to this committee my strong support for enactment of legislation to restore federal trust status to the Kanosh, Koosharem, Shiwits, Cedar City and Indian Peaks Bands of Paiute Indians of Utah.

Congress terminated the Bands' trust status in 1954 as part of an effort intended to benefit Indians by cutting off their unique legal ties with the United States government. As we know, Congress has since judged the termination policy to have been a failure, and has recently restored federal recognition and services to six terminated tribes.

I have the privilege of representing the congressional district in which reside a majority of the approximately 550 people who would be affected by S.1273. My own review of their history, from termination to the present, has led me to three conclusions.

First, the bands were wrongfully terminated. They met neither the Bureau of Indian Affairs nor Congress' own stated criteria for termination. Moreover, their consent, or lack of opposition to being terminated was based on promises from their elected representatives that were never fulfilled.

Secondly, termination did not, as predicted, bring about improvements in the social and economic conditions of the bands. Rather, it directly led to the loss of much of their land base and a deterioration of their already poor economic conditions. There is also little

doubt that the psychological impacts on the Paiute people which accompanied the label "terminated Indian" had done far more harm than good.

Thirdly, the current circumstances of the bands appear to meet all reasonable criteria to qualify them for federal Indian services. Were it not for the fact that they were terminated by statute, the bands would clearly be eligible for federal services under existing Interior Department regulations. The regulations set forth criteria and procedures for Indian tribes or groups who, unlike the Paiute Bands, never had a formal relationship with the United States, to qualify for and receive federal Indian services.

Based on these conclusions, I introduced in the House last July H.R.4996. Like S.1273, my bill would make federal Indian services and benefits available to the five Paiute bands. Like S.1273, my bill would not grant or restore any hunting, fishing or trapping rights or grant or restore a reservation for the tribe.

The House Interior Committee held a hearing on H.R.4996 on October 26. At that hearing the Department of the Interior took the position that action on the bill should be deferred until the State of Utah completed a study of the bands which was expected to confirm the Department's preliminary findings that the bands met their criteria for federal recognition. However, a witness for the State said that no such study was under way or planned. Instead, we learned that

the BIA or someone was trying to obtain a grant from HEW's Administration for Native Americans (ANA) for the bands to study themselves and provide the information to the Interior Department!

Mr. Chairman, I do not believe that we need to wait for the results of a study that everyone knows will confirm the information already provided to the House Committee and this committee today, and I hope you will agree.

As I see it, for Congress to terminate the Paiute bands was the equivalent of giving a lame, jobless man and his family a new house, then looking the other way when the mortgage came due. It simply wasn't fair. It wasn't right.

This Committee and this Congress has the power and the opportunity to restore to the Paiute people of Utah benefits and a measure of dignity which were wrongfully taken from them 25 years ago. I urge that we do so ^{swiftly} by [^]enacting the legislation now before you.

Senator INOUE. The first witness this morning is the Acting Deputy Commissioner of the Bureau of Indian Affairs, the Department of the Interior, Mr. Sidney L. Mills.

STATEMENT OF SIDNEY L. MILLS, ACTING DEPUTY COMMISSIONER, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY RALPH REESER, DIRECTOR, CONGRESSIONAL AND LEGISLATIVE AFFAIRS, BUREAU OF INDIAN AFFAIRS; AND TED KRENZKE, DIRECTOR, OFFICE OF INDIAN SERVICES, BUREAU OF INDIAN AFFAIRS

Senator INOUE. Is Mr. Mills here?

Mr. MILLS. Yes, sir.

Senator INOUE. Welcome, sir.

Mr. MILLS. Good morning, sir.

Mr. Chairman, I have with me Mr. Ted Krenzke, who is the Director of the Office of Indian Services and Mr. Ralph Reeser, Director of Congressional Affairs, Bureau of Indian Affairs.

Mr. Chairman, I am pleased to present the views of the Department of the Interior on S. 1273, a bill "to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, and to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members."

Because of the lack of complete information, which I will discuss later, we are recommending deferral of action on the bill.

The Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah were terminated pursuant to the act of September 1, 1954. Since termination, we understand that the members of those bands and their descendants have remained for the most part in the former reservation areas near the Utah cities of St. George, Cedar City, Santa Clara, Kanosh, and Richfield.

The total population of the bands which would be affected by the subject bill is approximately 375, the largest band being the Shivwits with about 170 members. In addition, there are about 750 other persons who can prove Paiute descendency.

However, there is some confusion as to whether the Cedar City Band was affected by the 1954 termination act. Although our research indicates that both the Congress and the Bureau were aware of the existence of the Cedar City Band in the 1950's, the band was not specifically mentioned in the termination legislation.

There are two possible explanations for this: (1) Congress intended to include the band among the other Paiute groups terminated, but, through some oversight, did not mention them in the act; or (2) Congress did not intend to terminate them and thus, did not mention them.

Whatever the reason for their exclusion, their current status as a terminated tribe or nonterminated tribe is unclear. Our report on the bill suggests an amendment to recognize the situation and resolve the problem.

We believe that the present circumstances of these people warrant reconsideration of their termination. Recent studies by the Utah State Indian Affairs Commission may indicate that the termination of these Bands of Paiutes did not result in any improvement in their socioeconomic condition, as was predicted by advocates of the now-repudiated termination policy of the 1950's.

They still may not have been fully integrated into the mainstream of the surrounding non-Indian communities. Several of the bands may have lost much of their pretermination land bases because they could not afford to pay the taxes assessed on those lands.

The average adult member of the bands apparently has only an eighth-grade education. With an unemployment rate of 30 percent which rises to 60 percent in the winter months, the average family income is well below the poverty level and housing is predominantly substandard.

If these facts are correct, restoration could make a great difference in the lives of these people. Restored to Federal recognition, they would be able to participate in BIA programs such as the Johnson-O'Malley aid for elementary and secondary students in public schools; BIA scholarships for education beyond high school; and health programs and benefits offered through the Indian Health Service of the Department of Health and Human Services.

In addition, the tribes would also be eligible for certain BIA loan funds. Too, under the terms of the Indian Self-Determination and Education Assistance Act, the bands could contract to administer certain BIA programs, resulting in additional employment of band members as well as the benefits of the programs involved.

We estimate that the BIA program costs under the subject bill would amount to \$540,000 for the first year after enactment. That figure includes \$183,000 for one-time costs of implementation and \$357,000 for program costs.

Thereafter, program costs would increase yearly until they reach approximately \$409,000 in the fifth year. Programs included would be social services, employment assistance, housing, tribal operations, and education.

We would recommend enactment of the bill if certain criteria are met. Those criteria are contained in the Interior Department's reports on bills which became the acts restoring the Confederated Tribes of the Siletz, 25 U.S.C. 711, and the Modoc, Wyandotte, Peoria, and Ottawa Tribes of Oklahoma, 25 U.S.C. 861.

They are: (a) There exists an ongoing, identifiable community of Indians who are members of the formerly recognized tribes or who are their descendants; (b) the Indians are located in the vicinity of the former reservations; (c) the Indians have continued to perform self-governing functions, either through elected representatives, or in meetings of the groups' general membership; (d) there is widespread use of their aboriginal language, customs, and culture; (e) there has been marked deterioration in their socioeconomic conditions since termination; and (f) their conditions are more severe than in other adjacent rural areas or in comparable areas within the State.

Based upon preliminary findings by State officials and Bureau field office contracts, it may be that these terminated bands of Paiutes meet these criteria. We understand that the tribe has applied to the Admin-

istration for Native Americans for funding for a study of these bands to confirm the preliminary findings.

We also understand that if their application is approved, the Utah State Indian Affairs Commission stands ready to offer facilitative assistance to the tribe in carrying out the study if the tribe so desires.

Since no trust land base is proposed for the tribe, we suggest that the BIA-IHS service area for the tribe be specified in the bill or, as in the case of the Siletz Restoration Act, in the legislative history. We would recommend a service area of Iron, Millard, Sevier, and Washington counties, Utah, in which the tribe's members reside and in which their former trust lands are located.

Our report includes an amendment to limit eligibility for Federal services to those who were members of the bands at the time of termination and to their descendants. This would avoid any other Paiute descendants not now eligible for Federal services from obtaining such services by adoption into the bands.

This concludes my prepared remarks. I would be happy to answer any questions that you may have at this time.

Senator INOUE. Mr. Mills, in your statement, you indicate that action on this measure should be deferred because of a lack of information. That being the case, how did you get information on the population figures?

Mr. MILLS. Those were furnished to us from the bands.

Senator INOUE. If that is the case, the population figures provided us by the Paiute Indians do not coincide with yours.

Mr. REESER. Mr. Chairman, we got the figures from our field office and we had assumed that they got them from the bands. There was a judgment distribution to the Paiutes several years ago and they may have produced them from those figures.

Senator INOUE. I would suggest you be more careful and show better concern for the Paiutes.

On page 2 of your statement and also in the Department's report, it is indicated that the Congress and the Bureau were aware of the existence of the Cedar City Band in the 1950's. Is that correct?

Mr. MILLS. Yes, sir.

Senator INOUE. Yet, the band was not included in the 1954 termination bill. Is that correct, sir?

Mr. MILLS. Yes.

Senator INOUE. If that is the case, is it not true that any abrogation of any Indian right must be specifically legislated and cannot be inferred, and any ambiguities or any other unclear portions of the law are interpreted in favor of the Indians?

Mr. MILLS. Yes, sir.

Senator INOUE. Then, why won't you do that?

Mr. REESER. Mr. Chairman, we do not think that the Cedar City group was terminated by the legislation, but there is some confusion in the legislative history. There is some evidence that it may have been thought that they were part of the Indian Peaks group.

Since the proposal is that the Cedar City Band be part of this single tribal government that is going to represent all bands, we recommend that they be dealt with in this legislation so there will be no problem in the future.

Senator INOUE. You have indicated, I suppose as your initial statement, that the Cedar City Band was not terminated. If that is the case, why did the Bureau of Indian Affairs and the Indian Health Service stop providing services to this federally recognized band?

Were you violating the laws of the land?

Mr. REESER. I am not aware that any members of the band actually applied for services and were turned down. If they had, then we would have not been following the rules and you would be correct.

Senator INOUE. I would suggest you check your files because, according to our files, they have filed for it. That is why we are bringing it up. Mr. Mills?

Mr. MILLS. Yes, sir; we will check that, sir.

Senator INOUE. Your recommendation to defer was based upon the lack of information. So, a study becomes important in your eyes. Who is going to conduct this study?

Mr. MILLS. Well—

Senator INOUE. The State apparently is not going to conduct this study, and you are reluctant to do so. Are you leaving it up to the Paiute Indians, who are admittedly poor and impoverished, to conduct this study?

Mr. REESER. Mr. Chairman, we understand that they have applied for the funding for the study and that the State will aid them in the study if they wish the State to do so.

Senator INOUE. They are funding the study?

Mr. REESER. No; it would be funded through HEW's Indian programs.

Senator INOUE. What is the Bureau of Indian Affairs doing?

Mr. REESER. We have never funded a study of a restoration situation, Mr. Chairman, and we were not asked for funding in this case, at least as far as I know.

Senator INOUE. What if the Paiute Indians should ask you now? You are speaking of an application here that has to be approved. Suppose an application has been made?

Mr. MILLS. Mr. Chairman, at this time I am not aware of an application that has been made for funding. But should the application be made at the present time, the Bureau doesn't have funds for it.

Senator INOUE. Are you assisting the Paiutes in their application to the Administration for Native Americans?

Mr. REESER. Mr. Chairman, our field staff has been doing some work with the bands. Our problem here is that the termination legislation actually makes it illegal for us to extend any aid to the terminated groups.

Senator INOUE. It would be illegal?

Mr. REESER. Yes, sir.

Senator INOUE. It would be equally illegal not providing services to the Cedar City people.

Mr. REESER. I agree.

Senator INOUE. Who is the big illegal man here, the Paiutes or the BIA-IHS?

Mr. REESER. I don't think the Paiutes have done anything illegal, Mr. Chairman.

Senator INOUE. Why don't you want to help them? Don't you recognize that they are Indians?

Mr. REESER. Technically, as far as the Bureau is concerned, except for the Cedar City Band, they are not Indians under the terms of the Termination Act. They are no longer eligible for any services from the BIA or the IHS.

Senator INOUE. What are they?

Mr. REESER. They are what we generally call "terminated Indians" which means those who have been terminated from the BIA-IHS services.

Senator INOUE. If the Paiutes should apply now for assistance in conducting this study, what would your response be?

Mr. REESER. Outside of the budget problem that Mr. Mills mentioned, we would have the problem of whether the terms of the Termination Act would stop us from using any of our funds for the study.

Senator INOUE. Why do you make it difficult for the Indians? Can't you just make up your mind you are going to help them? I have been here 20 years now, and the bureaucracy can make up its mind and decide to mold the laws accordingly.

Do we have any official representative of the Paiute Indians here?

Mr. PARRY. Yes, sir; there are three.

Senator INOUE. Why don't you request assistance for the study right now, for the record? Would you like assistance from the Bureau of Indian Affairs to conduct this study?

Mr. PIKYVIT. Mr. Chairman, I think we would.

Senator INOUE. What is your name?

Mr. PIKYVIT. McKay Pikyvit. I am chairman of the Paiute Tribal Corporation.

Senator INOUE. Would you like to formally request assistance be granted to you to conduct this study?

Mr. PIKYVIT. Yes, sir, I would.

Senator INOUE. What is your response, Bureau of Indian Affairs?

Mr. MILLS. Mr. Chairman, I would have to review this with our Solicitor's Office.

Senator INOUE. I would hope you will expedite it and make it easy for them because from what I gather, this committee is not inclined to wait too long. I think the Indians have waited long enough.

Mr. MILLS. I agree with you, Mr. Chairman.

Senator INOUE. I would suggest that you expedite this matter with all vigor and I think everyone concerned would appreciate it. It will be expedited, sir.

Mr. PIKYVIT. OK.

Senator INOUE. How did the Department reach the estimated program cost without having adequate information?

Mr. MILLS. These costs were worked out by our program people with information from our field office.

Senator INOUE. You must have had information that would be sufficient for you to reach conclusions.

Mr. MILLS. It is based on the information that we received from our field office. They obtained the information by visiting with the bands.

Senator INOUE. Won't that information be sufficient for you to take a position on this measure?

Mr. REESER. Mr. Chairman, our problem is that we did not have adequate detailed information to give all our policymaking officials the information that they felt they needed in order to decide if it met the criteria.

Senator INOUE. But, the information was sufficient for you to reach precise costs, \$183,000, \$409,000. They are not round figures. They are pretty precise.

Mr. REESER. Yes, sir.

Senator INOUE. You must have had some information. So, you either have information, or you don't have information.

Mr. MILLS. We would like to check our current information more thoroughly to see if it is accurate.

Senator INOUE. Then these dollar figures are not accurate?

Mr. MILLS. They could change, sir.

Senator INOUE. On page 4 of the report the recommendation is made to limit services. Has it happened that individuals have been left off such rolls who were members of the tribes before termination?

Mr. REESER. Yes, sir. The language of the bill, I believe, reads, "or who were eligible to be on the rolls."

Senator INOUE. You will take care of those people?

Mr. REESER. Yes, sir.

Senator INOUE. How would the Department recommend the Cedar City Band be treated with respect to initial membership in the tribe and eligibility for services given the fact that the band was not terminated? There is no termination roll and the members of the band were not entitled to be on the final roll.

Mr. KRENZKE. Mr. Chairman, there was a judgment award back in 1968. At that time, the Bureau of Indian Affairs did develop a roll in relation to that group. We would recommend that this be used as a basis for determination of membership for the members of the Cedar City Band.

Senator INOUE. Are the members of the band satisfied with that roll?

Mr. KRENZKE. We are not certain of that, sir. We do have to do some more checking on that.

Senator INOUE. Is there anyone here who can speak for the band?

[No response.]

Senator INOUE. May I request that the staff make appropriate inquiries to find out if the band approves of that roll?

Much of the land belonging to the Paiute Bands has been lost and I think there is no disagreeing with this. The Termination Act provided for approval by the Secretary of the selection of trustees.

How were the trustees selected and what oversight, if any, has the Department had over trustees since their initial selection, including land transfers?

Mr. REESER. Mr. Chairman, we have had no contact at all with the trustees and I am not sure how they were selected in the first place.

Senator INOUE. You left it up to people that you weren't aware of?

Mr. REESER. Mr. Chairman, the legislation terminated all our responsibilities and authority as to those groups.

Senator INOUE. Who had the responsibility over the trustees?

Mr. REESER. My understanding is that they are subject only to State laws.

Senator INOUE. Who appointed the trustees?

Mr. REESER. A local bank, as I understand.

Senator INOUYE. Who appointed the trustees?

Mr. REESER. Mr. Chairman, I don't know.

Senator INOUYE. Do any of you know who appointed the trustees?

Mr. PARRY. I am Bruce Parry, director of the Utah Division of Indian Affairs for the State of Utah. I have substantial knowledge about the whole background of termination. The trustee was appointed by the Bureau of Indian Affairs, and the trustee was Walker Bank Co. of Salt Lake City.

Senator INOUYE. Who was appointed by the Bureau of Indian Affairs?

Mr. PARRY. Yes. They were to act as trustee over the Indian land, I think, for the maximum of a 10-year period. During that time, the Walker Bank did try to sell different areas of the former reservation lands and, in fact, did sell the Indian Peaks Reservation to the State of Utah to be used as a game management area.

I might add that that land was sold despite opposition from some of the band members. The Shivwits Reservation was put up for sale by the trustee. The Indians that formerly lived on that reservation happened to see the notice in the newspaper and protested the sale.

It was only because they noticed it in the paper that they were able to save that land and form their own corporation and still control that land today. The other lands were lost because of nonpayment of taxes and the trustee couldn't say very much about that, and neither can the Indians.

Senator INOUYE. If the Bureau of Indian Affairs appointed the trustees, by law, didn't they have the responsibility of oversight?

Mr. REESER. No, sir.

Senator INOUYE. Oh, really?

Mr. REESER. Under the termination legislation, the whole point was to transfer the Federal trust responsibility to some other trustee and end the Federal oversight responsibilities.

Senator INOUYE. So, you appoint a trustee and you forget about it? Even if the trustee doesn't carry out its trust responsibilities?

Mr. REESER. That is what the act of Congress resulted in, sir. In all fairness, I should say that it was not only an act of Congress, it was an act that, at that time, had the support of the BIA.

I believe that our statement indicates that the whole policy of termination and its results are now viewed as being a very bad mistake.

Senator INOUYE. Were you aware of the activities of the trustees?

Mr. REESER. There may have been some people in the Bureau that knew about it, but I doubt there was any official notice.

Senator INOUYE. Once the Termination Act became law, you weren't concerned with the plight of the Indians?

Mr. REESER. I am afraid that is right, sir.

Senator INOUYE. If they got conned, that was their hard luck?

Mr. MILLS. Unfortunately, I guess that is the way it went, sir.

Senator INOUYE. The Termination Act authorized a special education and training program to better prepare the Paiutes for termination. Was such a program ever established?

Mr. REESER. Mr. Chairman, I am not aware of that. However, I would say that there probably were some individuals who were given services under our regular programs.

In some other situations, Indian groups that were terminated have actually taken us to court, as in the case of the California Indians, and have received a decision from the court that because we had failed to fulfill the requirements of the Termination Act in their situation, that the termination was null and void.

It could well be the case here if we were to research the records to see what services were actually given these people.

Senator INOUE. So you are not aware as to whether these services were provided?

Mr. REESER. That is right, sir.

Senator INOUE. What do you know about the Paiutes? Most of the answers you have given me are that you will have to check the files.

Mr. REESER. Mr. Chairman, because we haven't had contact with them since termination, our information is pretty sketchy. I can say that it's been a truism, both in the Bureau and perhaps in much of the Indian world, that of all the groups that went through termination, these people were the ones that were least ready and perhaps these are the ones who have suffered the most as a result of termination.

Senator INOUE. Is this an afterthought, or were you aware that they were the least ready for it?

Mr. REESER. As I said, this has been a sort of a truism that I have heard for years.

Senator INOUE. I thank you very much and I hope that you will expedite the application just submitted by the representative here for assistance in the study.

Mr. MILLS. I surely will, sir.

Senator INOUE. I appreciate that very much. Thank you very much.

Our next witness is Dr. Emery A. Johnson, Director of Health, Education, and Welfare's Indian Health Services. Dr. Johnson, welcome, sir.

STATEMENT OF DR. EMERY A. JOHNSON, DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. JOHNSON. Thank you, Mr. Chairman. I have a relatively brief statement. With your permission, I would like to submit that for the record.

Senator INOUE. Without objection, the full prepared statement will be made part of the record.

[Dr. Johnson's prepared statement follows:]

STATEMENT BY EMERY A. JOHNSON, M.D., DIRECTOR, INDIAN HEALTH SERVICE, HEALTH SERVICES ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. Chairman, I am Dr. Emery Johnson, Director of HEW's Indian Health Service. I am pleased to be here this morning to discuss S. 1273.

Let me say at the outset that the Indian Health Service defers to the Department of the Interior and the Bureau of Indian Affairs on questions of granting Federal recognition to Indian tribes. However, in response to your specific inquiries, I am pleased to provide the following.

The Department of HEW, through the Indian Health Service, is responsible for maintaining and operating hospitals and health facilities for and providing health services to certain Indians for which Congress has provided funds. These services would not, therefore, automatically be extended to the Paiute Indians covered by

S. 1273 if the bill were to be enacted. The provision of health care services to this tribe would be dependent on Congressional action providing the necessary funds.

We have no firm figures on the number of Paiute Indians that would be covered by this bill. Estimates range from 133 to 450. We have no specific information concerning the kind of health conditions and health needs of the people involved. We assume that the health needs and conditions are similar to those of other poor rural communities. Before we could implement health services to these people, it would be necessary to determine the size and location of the affected population, survey their health conditions and needs, and discuss the provision of services with their leaders.

We do have problems with two sections of the bill. First, Section 3(a) of the bill provides that "Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation".

The Indian Health Service has authorizing legislation to provide health services to "Indians throughout the United States". However, in appropriating funds, Congress has provided funds for services to federally recognized Indians who live on or near Federal Indian reservations, with certain exceptions, such as where funds have been specifically earmarked for urban Indian projects or particular tribal groups.

We are, therefore, concerned that although the lack of a reservation may be only temporary, Sec. 3(a) could create a special classification of IHS eligibles in addition to those Indians who live on or near Federal Indian reservations. If the Committee proposes to act on this legislation at this time, we believe it preferable that this provision be deleted and that the question of eligibility for health services be determined in the same manner as for other Indians and through the appropriations process.

Second, Section 3(b) provides for the restoration to the "tribe" and all members of the tribe all rights and privileges which were diminished or lost under the Act of September 1, 1954 (68 Stat. 1099). The bill's definition of "tribe" includes the Cedar City Band of Paiute Indians of Utah. The Act of September 1, 1954 did not include the Cedar City Band in its definition of "tribe" for purposes of that Act. Therefore, we can see no apparent basis for restoring rights and privileges lost under the Act of 1954 to the Cedar City Band since they do not appear to have been terminated by that Act.

This concludes my formal statement, Mr. Chairman, I will be happy to answer any questions you may have.

Dr. JOHNSON. I would like to make several comments. Two of the points that we made in our prepared statement were addressed by the Department of the Interior's testimony. One had to do with identifying the service area for the restored bands. We would agree with the Bureau that setting a county boundary, much as was done with the Siletz, would be an appropriate way to respond to our concern on that one.

The second issue has been rather thoroughly discussed and that is the Cedar City Band. Our interpretation of the statute was that they were not terminated and the people that we terminated, or that we no longer provided services after termination, were only those individuals who were listed in the many pages in the Federal Register by name.

Those were the ones that were terminated from participation in our program. If they were not listed by name as being terminated then, obviously, they would continue to be eligible for services.

Senator INOUE. Why was the service terminated?

Dr. JOHNSON. Because they were listed by name. It was published in the Federal Register. There was a list. Every individual on that roll who was terminated by law—and the name was there—was terminated from our program.

Senator INOUE. Were there still some who were not listed?

Dr. JOHNSON. No. Our understanding of the statutes was that the people terminated were the people who were listed.

Senator INOUE. Were all members of the Cedar City Band listed?

Dr. JOHNSON. We have no knowledge that any members of the Cedar City Band were listed. That was the reason for our position here that we questioned why Cedar City was being restored, because we were unaware that they had been terminated.

Senator INOUE. You say that the members of the Cedar City Band were denied services?

Dr. JOHNSON. No. I am saying that the only people who were denied services, Mr. Chairman, were the individuals who were named in the publication of the list of terminated Indians.

Senator INOUE. So, you are saying that other members of the Cedar City Band did receive services?

Dr. JOHNSON. Any person who was not on the termination list remained eligible for services under our program.

Senator INOUE. Did they receive them?

Dr. JOHNSON. I have no personal knowledge of the individuals, but I know that our basic policy and the way we administered the termination was that only those people who were specifically listed were removed from eligibility for services.

Therefore, the correctness of that list, of course, which was not done by the Indian Health Service at all, would be the basis for—

Senator INOUE. So, the health services were not provided to those people who are listed on the rolls?

Dr. JOHNSON. That is correct.

Senator INOUE. Even if the need for such services became very apparent?

Dr. JOHNSON. That is correct, because by law, we were forbidden to expend appropriated funds for that purpose.

The other points that I would like to share—

Senator INOUE. Before you go any further, when did it become apparent to the Government that the Paiute Indians were suffering?

Dr. JOHNSON. I can't give you an official position, but I can give you a personal commentary. I happened to be in that part of the country as the assistant area director for the Indian Health Service about the time of that termination and it was perfectly obvious to me that they were suffering before the termination and certainly, termination wasn't going to help any.

Senator INOUE. Did anyone speak up against termination?

Dr. JOHNSON. The position of the administration and the position of the Congress was that termination was the way to go. Those of us who work in the program are required to carry out the laws and the policies of the administration and the Congress.

Senator INOUE. May I ask Mr. Mills a question: When did the Bureau of Indian Affairs become knowledgeable of the plight of the Paiutes?

Mr. MILLS. Sir, I think they have always been aware of them. Knowledgeable, sir, you mean of the—

Senator INOUE. Problems.

Mr. MILLS. Problems. It is very possible our field office has known all along, sir. It has just been recently that we have been made aware of it in Washington.

Senator INOUE. If that is the case, why didn't the Bureau of Indian Affairs act to bring about a change; suggest an amendment to the laws in your annual reports, suggest that the Congress made a mistake?

Mr. MILLS. Again, sir, as we mentioned earlier, the field office made some contacts and that information, to my knowledge, never filtered to the Washington central office. I am sure that if that information had come here that some action would have been taken earlier.

Senator INOUE. Do you ever go out in the field?

Mr. MILLS. Yes, sir.

Senator INOUE. Did you ever visit the Paiutes?

Mr. MILLS. No, sir.

Senator INOUE. You said the field offices make reports. Who receives these reports?

Mr. MILLS. What I said, sir, was that the field office had been in contact. But there was no report, to my knowledge, given to the Washington office.

Senator INOUE. Who has supervisory responsibility over these field offices?

Mr. MILLS. That would be out of the area office there. There is an area director, sir, that—

Senator INOUE. Was the area director aware of the plight of the Paiutes?

Mr. MILLS. I can't say for sure, sir. I am assuming that some of the program people that make field visits were aware of this.

Senator INOUE. Somehow this information never got to Washington?

Mr. MILLS. To my knowledge, it didn't.

Mr. TITUS. I am Les Titus, legislative assistant to Senator Hatch. I have in my hands a copy of a report dated November 1974, by the Field Solicitor, Department of the Interior out there.

It basically points out that they did recognize the problems at least by 1974; he quotes a lot of information predated to that. So, I might also add that part of the reason for termination was that Senator Watkins, at that time Senator from Utah, was cosponsor of the Indian Termination Act of 1954. He, through his personal negotiations with some of the tribal leaders, struck some deals. I'm not sure of all the details of that. Bruce Parry from the State can fill you in more on that later. But, that was part of the reason for terminating this tribe when they didn't meet all the requirements.

Senator INOUE. Off the record.

[Discussion off the record.]

Dr. JOHNSON. Just a couple more points, Mr. Chairman. It is the official policy to defer to the Secretary of the Interior in the granting of Federal recognition to tribes. Our role here, then, is to try to define what our role would be in the event that the restoration of Federal recognition to these tribes were made.

I am sure you know that we provide health services either directly or by providing funds to the tribes to operate their own health services for federally recognized Indian tribes and their members who live on or near Federal reservations or to certain specific other groups for which Congress has appropriated funds.

The services that we are talking about would not automatically be extended to the tribes being restored under this act. If the bill were

enacted, provision of these services would require the appropriation of funds for that purpose.

That has been the policy and the procedure that has been used going back to the Siletz, the Oklahoma tribes, the restoration in the sense of the legal mechanisms and so forth.

The health problems of the Paiutes, as I pointed out, I was aware of personally back in the late 1950's, early 1960's. We have had no personal contact with these tribes in the intervening period of time.

I can only say that based on our knowledge of their health status at the time, and our experience with other tribes who have been terminated and subsequently brought to restoration, that it would be my judgment that their health status is perhaps significantly lower than that of other populations in the country and in that particular part of the United States.

Senator INOUE. Was anything done about this? You said you were personally aware and I assume the Department was aware.

Dr. JOHNSON. Well, of course, at that time, Mr. Chairman, I was very low down in the Department. I am sure that much of my concerns didn't percolate very far up through the bureaucracy. I have no personal knowledge of what the Department of HEW knew or didn't know at that time.

Senator INOUE. Were you aware of the appointment of trustees?

Dr. JOHNSON. No. The Indian Health Service does not deal with the trust land issue. We would have had no knowledge of it.

Senator HATCH. Dr. Johnson, one of the problems is that the Paiutes would like to have reservation status as well as tribal status. If we restore the reservation status, would that allow them then to open up enormous land claims in Utah and cause dissention between the whites and the Indians in that area?

Mr. Chairman, I have a memorandum from the law firm representing the Paiute—Echohawk, Thorne, Ross, Sloan, and Kearl—which says that they would not have those claims. But, would you agree with that?

Dr. JOHNSON. Senator, I have no expertise in the field of law and land claims. I would simply have to—

Senator HATCH. OK, so, you would have no knowledge of it.

Mr. Chairman, I would ask that the memorandum from Echohawk, Thorne, Ross, Sloan, and Kearl be placed in the record at this point.

Senator INOUE. Without objection, so ordered.

[The memorandum follows:]

MEMORANDUM

ECHOHAWK, THORNE, ROSS, SLOAN & KEARL,
ATTORNEYS AT LAW,
Salt Lake City, Utah, November 6, 1979.

To: Mary Ellen Sloan.

From: Betty Fry.

Re Southern Paiutes, Indian Non-Intercourse Act, and Eastern Tribes Land Claims.

I. Can the Southern Paiutes, who are seeking restoration, also seek land claims similar to the large land areas sought by eastern tribes?

The eastern land claims of the various eastern tribes, like the Passamaquoddy, Penobscott, Narragansett, and Mashpee, are based upon the Indian Non-Intercourse Act, 25 U.S.C. 177. The Act states that any conveyance of Indian land must be approved by the federal government or the transaction is void from the beginning. Several eastern states did not obtain federal approval when they sold

Indian land, and consequently, those tribes are now seeking the return of that land which was conveyed illegally.

The Southern Paiutes would not have claims similar to the eastern tribes for several reasons. First, the Southern Paiutes have already litigated their land claims. They filed a suit concerning their aboriginal land rights in 1951 with the Indian Claims Commission, and the Commission handed down its judgment in 1965.

Second, the Southern Paiutes' land would have had to have been sold illegally within the duration of the 1790 Act. That Act was in force for 2 years, and from then to the end of the next session of Congress and no longer, and it is doubtful that anyone was dealing with Southern Paiute land at that early date. The first treaty, unratified, was not even drawn up with the Southern Paiutes until 1865.

In conclusion, the Southern Paiutes would not have large land claims similar to the eastern tribes because they would not have the 1790 Act to rely on, and because their aboriginal land claims have already been litigated.

Senator INOUYE. I will have to call a recess at this point because I have to go to a conference. The committee will stand in recess.

[Brief recess.]

Senator HATFIELD. The hearing will resume.

We call upon the Senator from Utah, Senator Hatch. Senator Hatch, I am very happy to welcome you to this committee. It is one on which I have had long tenure and I am honored to be able to preside on the day that you testify.

I know of your keen interest in this subject matter, and of your excellent homework which you always do on these subjects in which you are involved. I am happy to hear your testimony.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you very much, Senator Hatfield. I am happy to appear before you. I know of nobody in the U.S. Senate who has more compassion for the American Indians than you do.

I apologize for being late because my son Brent returned this morning from a 2-year mission for our church, and my wife and I met him at the airport. We made plans weeks ago to spend the entire morning with him, but because of the importance of this bill, I wanted to come and encourage my colleagues on this committee to take the necessary action that will insure the restoration to tribal status for the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians and to restore to the Shivwits, Kanosh, Koosharem, Indian Peaks, and Cedar City Bands of Paiute Indians, who live in southern Utah, these Federal services and benefits provided to federally recognized American Indian tribes and their members.

I understand that you have been briefed on some of the details of this case. I hope that through the course of this hearing, you will be able to clear up any questions you may have.

I would like to emphasize that these Bands of Paiute Indians did not meet all the criteria to qualify for termination under the Indian Termination Act of 1954. Local officials of the Bureau of Indian Affairs recognized this.

William Zimmerman, the Acting Director of Indian Affairs, did not classify them with tribes ready for termination, and Congress did not include them in its list of Indian tribes to be terminated.

On August 29 of this year, I held a hearing in Cedar City, Utah, which lasted for over 4 hours, during which time I listened to the testimonies of 27 witnesses representing the Indians, local officials,

ranchers, and other members of the community. By the end of that meeting, I concluded that: (1) Almost everyone recognized that the Paiutes need help; (2) that they were unjustly terminated and had not benefited from termination; (3) that the restoration to tribal status was the best means available to provide them with the help they need; and (4) there was no significant opposition to this legislation and only some concern as to the inclusion of land in the restoration.

The economic condition of these five bands of Paiutes is poor. They have an average per capita income of \$1,968 in 1979 as opposed to \$7,004 for Utah citizens in general. In other words, most Paiutes are trying to live on less than one-third of what other Utahans are living on.

Approximately one-third of the heads of families have full-time employment. Another third have part-time employment. Thirty-six percent are considered unemployable. The work opportunity for these Indian people leaves much to be desired.

Most jobs are seasonal and the wages are very low. Without the help they need in training and education, they cannot hope for better jobs and will continue to be discriminated against on the labor market.

I might also point out that there will be no problem determining which persons qualify as members of the tribe for benefits under tribal status since this is a tribe which has had very little intermarriage with non-Indians and, therefore, are almost all 100 percent Indian.

Restoration to tribal status would make these individuals in the five Paiute bands eligible for the benefits and services of certain programs administered by the Bureau of Indian Affairs. It would qualify them for health services furnished by the Indian Health Service.

It would make many other Federal programs available to help them solve the many social and economic problems they now face. It would also help them develop some sense of dignity as American Indians and confidence in their own ability to deal with the pressures of an increasingly complex society.

I have great confidence that if we respect their cultural heritage and their desire to improve by helping them, as the Federal Government has helped other tribes to regain their unique status, that before long, we will witness this tribe contributing to the strength of America.

Congressman Marriott has introduced a similar bill in the U.S. House of Representatives, and I understand that they are going to try to hold markup on November 28. I commend my colleague, Congressman Marriott, and the House for taking prompt action to mark up this legislation and correct this unfortunate situation.

I want to thank the distinguished chairman, Senator Melcher, for honoring my request to schedule this hearing, and it is my hope that this committee will also move expeditiously to mark up this bill.

Thank you for allowing me to come and testify.

I might also add that I have been concerned about the restoration not only of tribal status, but also of reservation status to these good people. The concern that has bothered a number of townspeople in that area is if we give reservation status back, will we be allowing for a future right in the Paiute Indians to claim additional lands other than the lands that they presently own.

I have been given the opinion in the form of a memorandum, which we have placed in the record from the attorneys for the Paiutes, which says that they will not have those rights.

Also, the State Indian leadership representing the State and who will testify here today agrees with that position. The Interior Department has taken that position. I think the law is such that that is the position.

But, I would suggest this: I would like to have the bill modified to include the reservation status as well as the tribal status, but also have within the bill—and, I have chatted with committee counsel—a statement stating, in the correct legal form, that the restoration of reservation status will not grant any further claims to lands.

I believe we can solve the need for additional lands through the Federal Government, which owns about 67 percent of Utah. I think our Government can show some compassion to these people by assisting them to have some reservation lands as well.

I have also been led to believe that unless the reservation status is granted, as well as the tribal status, that these people might not be able to achieve and obtain the necessary Federal help that they so badly need.

I have great compassion for these people. I believe that they are wonderful people. I can tell you they have not been treated well. When they originally forewent their tribal status, Senator Watkins thought he was doing them a favor in suggesting that that was a good move to take.

I am sure he was as sincere as any man could have been, but it has not turned out to be that way. We can correct a basic and great injustice by having this bill pushed through as quickly as we can for the benefit of these good Indian people.

I am prepared to answer any questions, and I certainly appreciate the work of this committee. I want to thank you, our distinguished chairman and friend, Senator Hatfield and also Senator Melcher for honoring my request to schedule this hearing.

Senator HATFIELD. Senator, you have given us excellent testimony. I might just share with you for a moment an experience that we had in the State of Oregon that may be helpful in terms of reducing hostile opposition against the people you have represented here in your testimony.

We had a group of Indians known as the Siletz Indians which had reservation qualification and they had termination. We had statutory action that restored their tribal status and are in the process now of having them select certain Bureau of Land Management lands—federally owned lands in the area—not in a sense of restoring of a reservation, but as to giving them a land base because these are timberlands.

They will be able to sell the timber from the land and establish, then, a center there in the community of what they call Government Hill where they used to have their chief activity during the days of the reservation.

By giving them, in a sense, a land base without a reservation, it gives them the economic undergirding and job training opportunities and other such things. I only mention that as something that might

provide you an option to consider in dealing with this problem in Utah.

Senator HATCH. I appreciate that. I do respectfully request the committee that in its markup, that we restore both tribal and reservation status so long as there will be no right to claim additional lands except as the Government deems its intent to help them with, perhaps under the same circumstances and same situation that you have just outlined.

I appreciate having that advice.

Senator HATFIELD. Our staff of the committee here and my personal office staff may be of help to you. They can work with your staff people to give you the background and details on some of these options.

Senator HATCH. We really appreciate it. I am honored to have been able to appear before you and before these people. I need to be on the floor. If you feel it is essential for me to stay, however, I will.

But I know that you will enjoy the testimony of these good folks.

Senator HATFIELD. Thank you very much. I understand your busy schedule.

I would like to call now Dr. Emery A. Johnson to complete his testimony. We thank you, Dr. Johnson, for waiving your time until Senator Hatch completed his testimony.

STATEMENT OF DR. EMERY A. JOHNSON, DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

Dr. JOHNSON. Thank you, Senator Hatfield.

I had only one more point that I wanted to make. This is sort of an informal discussion. My formal presentation is to be included in the record. That is that we would feel that the restoration of tribal recognition to these four groups—as we have said earlier, we believe the Cedar City Band has never been terminated—that we would require and want to work with the tribal interim government to help them develop a clearer picture of their population distribution, the health care needs and to work with them to design a health delivery system which would be most appropriate for their circumstances.

We have done that with each of the other groups that have come back into Federal recognition, either through statute or through a legal determination. Rather than have a standard cookbook approach, we say this is what we would do if they were restored. I would much prefer to work very closely with the tribal leadership and try to design the appropriate system with them.

For that reason, Senator, we are really unable to give you firm figures on either population nor on what it would cost to do it. I think it would be unfair to the tribe for us to make the presumption of knowing these things in the kind of detail that we would require to present to a health care plan for them.

We would, in summary, Senator Hatfield, I would go back and say let's get together now that you are restored and see what system would make the best sense for them and work it out with them and then, come back to the Congress with recommendations for the funding that might be necessary to carry that out.

Senator HATFIELD. All right.

Dr. JOHNSON. That completes my testimony. I would be happy to answer any questions which you might have.

Senator HATFIELD. Thank you.

Dr. JOHNSON, in the time frame which we have today—it is restricted—I have about seven questions I would like to submit to you in writing and have you respond for the record, if you will do that.

Dr. JOHNSON. I would be glad to do that, Senator.

[Subsequent to the hearing the following information was received:]

Indian Health Service Response to Questions Raised by the Senate
Select Committee on Indian Affairs Concerning S. 1273, A Bill to
Restore Federal Status to Certain Bands of Paiute Indians in Utah

1. You indicated that IHS has no firm figures on the number of Paiutes covered by this bill, but that estimates range between 133 and 450. Could you tell me how these population estimates were obtained?

Answer:

The Indian Health Service (IHS) has no firm figures on Paiute population in Utah. The U.S. Census has not published Paiute tribal data for Utah. The IHS Office of Program Statistics (OPS) has current population estimates and projections for all Indians for all counties in the 28 IHS service states. These estimates and projections are derived using 1970 U.S. Census data as the base. Any estimates of the number of Paiutes are dependent on pinpointing the current geographic locations of the various Paiute bands deciding which counties or parts of counties should be included, and estimating percentage of the resulting all-Indian figure is Paiute.

Our low estimate of 133 was based on the assumption that the majority of the Paiutes were located in Beaver, Millard and Piute Counties. The 450 estimate came from the U.S. Department of Commerce Publication, "Federal and State Indian Reservations and Indian Trust Areas". The figure is a 1972 tribal estimate and reflects the estimated population in Iron, Millard and Sevier Counties, i.e. those counties with state reservation lands and the tribal headquarters at Cedar City.

Attachment A is a map which shows IHS 1980 All-Indian population projection for all Utah Counties. Exactly what percentage of these totals are Paiute is unknown. Attachment B is a map which locates the five Paiute bands according to a March 1972 BIA publication entitled "American Indians and Their Federal Relationship".

In BIA's Bill Report dated November 1, 1979, they estimate that the total population of the bands is about 375, the largest band being the Shivwits with 170. A service area of Iron, Millard, Sevier and Washington counties, as recommended by the BIA would contain an estimated All-Indian population of 786. Again, we have no way of knowing for sure exactly how many of these would be Paiute. The IHS is, however, prepared to accept the BIA estimate, which falls within the range of our estimate.

2. Would the problem you see with Section 3(a) of the bill as indicated on page 2 of your written statement be resolved by adoption of Interior's recommendation that certain counties be designated as the BIA-IHS service area? How are the service areas defined in Oklahoma where there are no reservations?

Answer:

In order to best answer your question it would be helpful to answer the second part first in order to better understand what we see as the problem and to evaluate the Interior Department's recommendation.

The State of Oklahoma is divided into eight administrative units known as Service Units. These eight Service Units cover the entire state. A service unit is the basic health organization of IHS, just as a county or city health department is the basic health organization in a State health department. A service unit is an organizational element of IHS and is responsible for the administration of IHS programs within its respective geographical boundaries. A service unit is not a factor in determining an individual's eligibility for an IHS service or program.

The entire State of Oklahoma has been designated as a single Contract Health Service Delivery Area (CHSDA). Residency within a CHSDA is an element used in determining an individual's eligibility for contract health services. Unless otherwise designated by the Secretary of Health, Education, and Welfare, a CHSDA consists of the county or counties which include all or part of a federally recognized Indian tribe's reservation or which borders that reservation. Deviation from this general rule is permitted where warranted and, therefore, the entire State of Oklahoma was designated as a single CHSDA by regulation.

It should be emphasized that service units and CHSDA's serve different functions--the former administrative and the latter an eligibility factor for contract health services. It is this latter factor that causes our concern. Administratively, one

or more current or new service units could be assigned responsibility to administer any program funded to provide health services to the restored bands. Members of the restored bands would be eligible for available services at any IHS facility regardless of whether or not they resided in a service unit or any particular service unit. But their eligibility for contract health services would be determined in part by residency within a CHSDA as specified in the contract health service regulations.

We understand that the Southern Paiute Tribe in Utah, which consists of the five bands covered by this bill, have state reservation land. It is possible that should the bands regain federal recognition the existence of these state reservations would suffice for establishing one or more CHSDAs. We are checking this possibility out with our Office of General Counsel. Even if possible, however, this might not cover all the counties where the majority of the Paiute bands live. The future acquisition of one or more reservations might alleviate this possible shortcoming.

In the interim, or in light of a possible Office of the General Counsel decision that state reservations were not legally sufficient to designate a CHSDA, the approach recommended by the Department of the Interior should be considered. The language should be very carefully constructed so as to deal with the problem of eligibility without directly impacting on either the programmatic or organization requirements of IHS and BIA which, in some situations, may differ.

Just as we are concerned that the current bill language might create a special classification of IHS eligibles, in addition to those Indians who live on or near reservations, we are also concerned that any language added as a result of the Department of the Interior's recommendation not result in a class with more restrictive criteria for eligibility.

It is suggested that language be added which provides that residency in a designated county meets any requirement that an otherwise eligible individual must reside on or near a reservation to qualify for a service or program. The respective Secretary should be allowed to change the boundary but only with the concurrence of the tribe. This would deal with our concerns with eligibility without mandating a specific administrative element, i.e., service area, service unit, which may or may not be appropriate to IHS or BIA.

The Department of the Interior has included Iron, Millard, Sevier, and Washington Counties, Utah, in its recommendation. We recommend that any legislative language designating counties also include Beaver and Piute Counties, Utah. This would result in a contiguous area by joining the counties recommended by Interior. Also, Indian Peaks is located in Beaver County and the site of a former Paiute reservation is in Piute County which leads us to believe that these two counties would contain a number of members of the affected bands.

3. Were health services ever provided to these bands of Paiute Indians? Were they provided to the Cedar City Band? What kinds of health services were provided?

Answer:

IHS has not provided any community services to any of five bands. The four terminated bands of Paiute Indians were terminated at approximately the same time Indian health responsibilities were transferred from the Department of the Interior to the Department of Health, Education, and Welfare. IHS has not been able to locate any records of services provided to members of the four bands prior to termination. After termination, Southern Paiutes who applied for services were compared to the termination rolls published in the Federal Register and services were denied to anyone on these rolls or descendents from someone of these rolls.

Since the Cedar City Band was not terminated, its members would have remained eligible for services. Because of a widespread belief that the Cedar City Band had been terminated, it is possible that there have been incidences where services have been denied. We have not, however, been able to uncover any denials based on an applicant's being a member of the Cedar City Band. It is also possible that members of the Cedar City Band may have thought they were terminated and, therefore, not have applied for services.

If members of the Cedar City Band had applied for services and had not been denied services based on a mistaken belief that the band had been terminated they would have received available services since their names did not appear on the termination rolls.

However, we have not located any records specifically identifying which, if any, members of the Cedar City Band have actually received services.

4. How has IHS implemented services to other restored tribes?

Answer:

Normally, because we have no data on which to base first year operational costs, we provide minimal start-up costs based on reasonable per capita contract health services costs.

This is not fully responsive to the need but it will at least permit the initiation of some services required by the tribe.

Concurrently, we make an assessment of their health needs which will provide the basis for future funding. The study of health needs takes into account the current health status, health resources available, and the unmet needs of the tribe. IHS then prepares budget proposals to fill the void of critical unmet health needs identified in the needs assessment. The second year of funding would be based on the study findings which would reflect unmet health, environmental and health facility needs.

5. Can you provide the Committee with some cost estimate for the provision of health services to the Paiutes given what little information is available to you? What additional information would you need for such an estimate if a population figure could be provided, a service area of specific counties, and the assumption that the health needs of the Paiutes are similar to those of other poor rural communities?

Answer:

Based on the overall IHS experience, we estimate that the necessary per capita expenditure for health care services for 1980 would be \$654.94.^{1/} Based on the estimated population range of 133 - 450 the annual cost could range from \$87,107.02 to \$294,723.00. Any estimates based on these figures do not include first year non-recurring start up costs, e.g. health and sanitation facilities and equipment, and do not reflect any specific conditions found in Utah. In addition, based on past experience for other newly recognized or restored tribes, we estimate \$50,000.00 would be required for an initial assessment of needs study. This amount was requested in FY 1978 to study the health needs for the newly recognized Siletz Indian Tribe of Oregon and in Fiscal Year 1979 for health care assessment for the newly recognized Pascua Yaqui Tribe.

Additional funds would be needed for sanitation facilities but any initial estimates would have to await the assessment of needs

^{1/} This figure does not include the service population or expenditures in Alaska. Per capita figure including Alaska population and expenditures is \$704.48.

study. The Siletz Tribe has a proposed project for \$66,000. In addition, \$100,000 - \$150,000 is projected for unmet needs for sanitation facilities. The Pasqua Yaqui have \$40,000 in a project for FY 1979 for water and sewer (obligated but unexpended) and \$840,000 projected for a needed village sewer system.

Finally, if a decision were made to operate a new facility, added costs would be incurred. The amount would be dependent upon the type of facility to be added and whether it was to be leased or constructed by the Government.

6. Is there a field office of IHS in Utah, possibly to serve the Uintah and Ouray Reservations? If so, could your field representative assist in a quick cost assessment of health service delivery to the Paiutes?

Answer:

The attached maps show the boundaries of all current IHS service units serving any part of Utah. The Uintah Ouray Service Unit serves the Uintah and Ouray Reservation and the surrounding area. The Service Unit operates a clinic at Roosevelt Utah which is attached to the community hospital. The clinic operates from Monday through Friday during the day. The answers to questions number 4 and 5 above address cost estimates, the interim steps that are available to us, and the function and importance of a health needs assessment study.

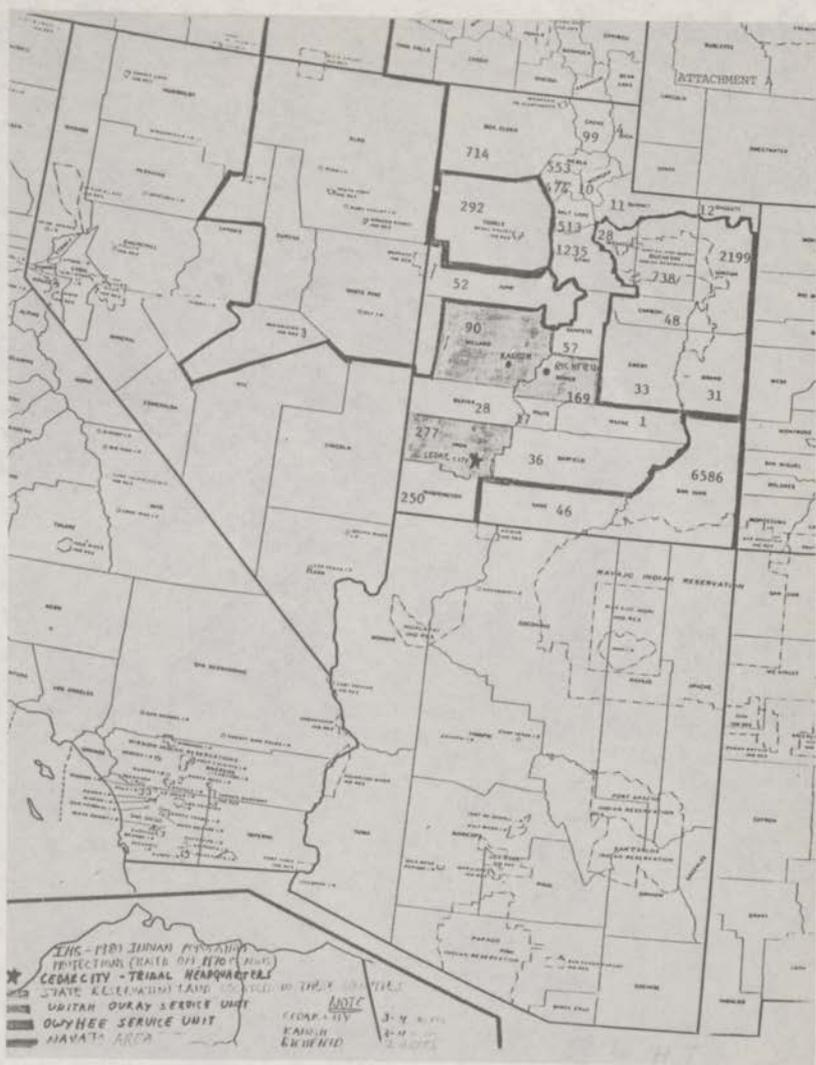
7. Would you describe Indian Health Service's involvement in water and sanitation systems and how this might be helpful to the Paiute's substandard housing situation?

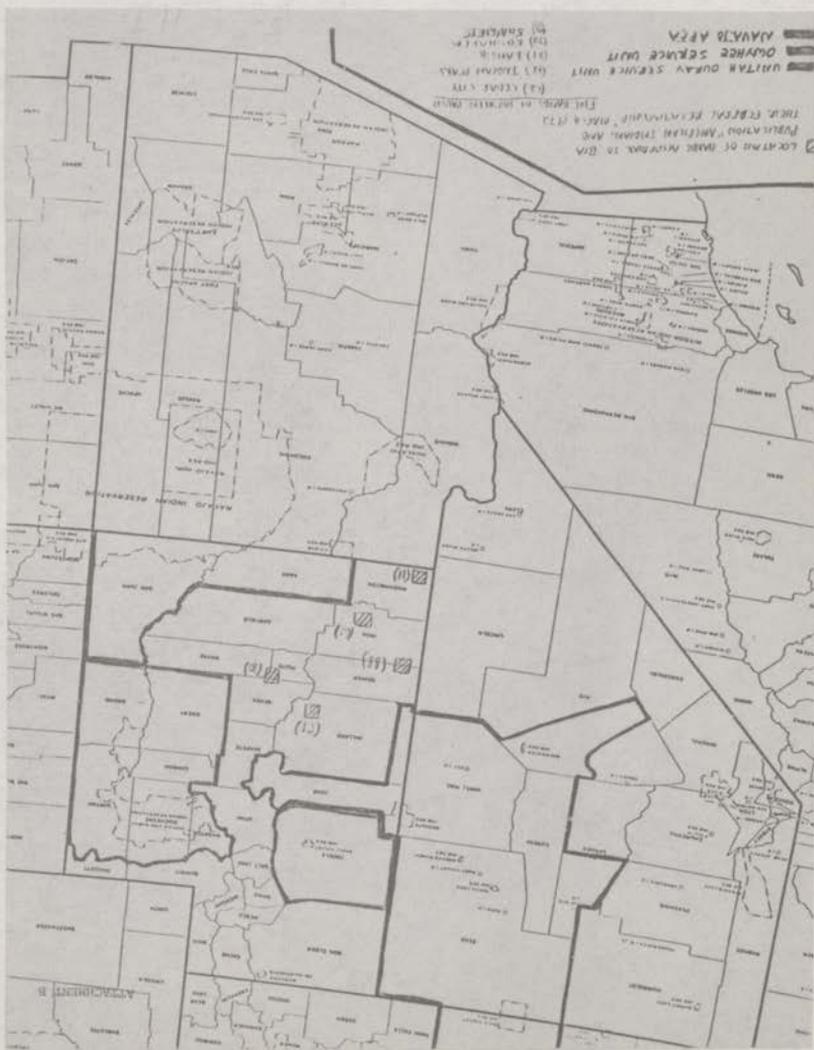
The IHS Sanitation Facilities Program was authorized by P.L. 86-121, the Indian Sanitation Facilities Act of 1959, and supplemented by P.L. 94-437, the Indian Health Care Improvement Act.

The purpose of the program is to alleviate insanitary conditions, lack of safe water supplies and inadequate waste disposal facilities which contribute to the high rate of infectious and gastroenteric diseases among American Indians and Alaska Natives. For the most part, the program is responsible for the construction of sanitation facilities for individual homes and communities. The participation in the program is restricted to federally recognized tribes, Bands and groups and communities composed of persons of Indian or Alaska Native descent.

In recent years, the IHS has received funds to provide sanitation facilities for new and renovated housing units. IHS could provide sanitation facilities for new and renovated housing in conjunction with programs of HUD, BIA or other federal or tribal housing programs in accordance with an interagency agreement based on the availability of funds. FY 1977 was last year Congress appropriated any significant amount of money specifically to provide sanitation

facilities for existing Indian homes and communities. It is anticipated that the environmental conditions and needs of the Paiutes of Southern Utah relative to sanitation facilities are consistent with those of other poor rural Indians. Consequently, we feel the sanitation facilities program would be helpful in improving their health while improving their environment. The construction of new and renovated housing is coordinated through other state and federal agencies., i.e., BIA, FmHA, etc.





Senator HATFIELD. Thank you very much. I appreciate your taking the time to come and assist us this morning.

I would like to now invite the following folk to the table, to have you comment and speak as a panel: Travis Benioh, Beverly Snow, McKay Pikyavit, and Bruce G. Parry.

Ms. Snow and gentlemen, we are happy to have you here today to testify. I have Mr. Benioh as chairman of the Cedar City Band of Paiute Indians and Beverly Snow as chairwoman of the Shivwits Band of Paiute Indians of St. George, Utah, and McKay Pikyavit as chairman of the Utah Paiute Tribal Corporation, and Bruce G. Parry, director of the Utah Division of Indian Affairs.

STATEMENTS OF TRAVIS BENIOH, CHAIRMAN, CEDAR CITY BAND OF PAIUTE INDIANS, CEDAR CITY, UTAH; BEVERLY SNOW, CHAIRWOMAN, SHIVWITS BAND OF PAIUTE INDIANS, ST. GEORGE, UTAH; MCKAY PIKYAVIT, CHAIRMAN, UTAH PAIUTE TRIBAL CORP., KANOSH, UTAH; AND BRUCE G. PARRY, DIRECTOR, UTAH DIVISION OF INDIAN AFFAIRS, SALT LAKE CITY, UTAH

Senator HATFIELD. Are those names and titles correct?

Mr. PARRY. Yes.

Senator HATFIELD. Please proceed now to summarize your testimony. We would be happy to have you decide among yourselves who should go first.

Mr. BENIOH. I guess I am elected first.

Mr. Chairman, I am Travis Benioh from the Cedar City Band of Paiutes. I have been chairman for 5 years. I represent the band as well as the other five bands in southern Utah.

Since the termination of the Paiutes in the 1950's, the goals of the termination haven't been successful. The Paiutes have had a hard time trying to develop themselves into the white society.

The Paiutes have run into discrimination and prejudice within their own respective bands. Trying to get loans and trying to develop credit is hard for Indians to come by. It seemed like the Senator at that time in the 1950's wanted termination, but the respective communities won't give the Indians a chance and, today, they still don't.

There has been discrimination in the schools. The Paiutes have a very high rate of dropout students that never completed high school. Most of them generally go to the Job Corps or just bum around town, working at a few jobs that generally don't last a week.

Since termination, there hasn't been any progress toward educational development, neither within elementary, secondary, or higher education.

Since Paiutes don't have the caliber of education that others have, they have always been stopped from getting better jobs with better pay. Since the Paiutes never fit the four criteria of termination in the first place, reinstatement would be a positive advantage to them.

They would be able to further their education through certain programs that could come about through Federal programs. We could develop our prestige through running our own government and even businesses. Our people could have employment, even professional

employment, which could develop the tribe in the white communities. It would be an asset to everybody around them.

In observing the Paiutes, and comparing them to other tribes that are presently recognized by the Federal Government, the Paiutes seem to have a difference in pride. The Paiutes are slowly losing their culture and pride, while those that are recognized are retaining their heritage and culture.

I think that by getting back under the Federal Government, we can begin to build up our cultural heritage that is diminishing weekly.

The Cedar City Band as well as all the respective five bands of Paiutes are all for the reinstatement of the tribes into Federal Government recognition.

Thank you.

Senator HATFIELD. Thank you very much.

Ms. SNOW. Mr. Chairman, I am Beverly Snow of the Shivwits Band of Southern Paiutes. I am speaking for my people. We, the Shivwits Band of Southern Paiutes, were terminated because our elders at that time did not understand termination. They didn't understand English all that well and the people that came to them gave them a good story, which they fell for.

As it is, we—my people—haven't progressed much and our land lies covered with weeds. The rest is leased to our neighbors for grazing cattle, and some acreage is leased by the cattle association to relatives for gardening purposes.

The moneys made are used to pay corporate taxes and real estate taxes. In that way, we have been able to retain our old reservation lands.

Now, we would like to go back under Government trusteeship so that we may be able to get on our feet and be able to help ourselves and be self-sustaining. Our children are our greatest asset. It is their future we are looking at and there is a great potential here if the children had the education and the know-how to make things go.

The health of our people is also one of our reasons since the health insurance isn't enough to pay for doctors' care, hospitalization, and emergency surgery. Not many of our people hold high paying jobs. The jobs just pay enough so that it makes us ineligible for welfare aid, State or otherwise. So, we owe doctor and hospital bills.

We want restoration, so we can become eligible for all Government aid available to other Indians that are wards of the Government and foreigners.

We, the Paiutes of southern Utah, also suggest that the bill be amended to read that the lands now owned by the Indians be put in trust.

Thank you.

Senator HATFIELD. Thank you very much, Ms. Snow.

Mr. PIKYAVIT. Mr. Chairman, my name is McKay Pikyavit. I am chairman of the Utah Paiute Tribal Corp.

I think the termination of the various tribes was just on the grounds, like the chairperson said, that they had a misunderstanding of the bill and the things that they suggested in that bill which were not also carried out.

So, therefore, the Paiutes have really suffered in a lot of ways because they didn't have the knowledge of the surrounding neighbors as well as they did. They have suffered quite a bit and I think it would be pretty good if they were back reinstated, which would give them some sort of a lien property that they would have, that they would know that they have got, nobody will take away from them.

In the past, as I have seen it, I have seen the termination come in. I have lived with it. But at that time, I really didn't, myself, understand the termination. But, as the things went on and the years went by, a lot of people talked about it, even the white neighbors, says, "How come you guys got terminated?" I said, "Well, I really don't know, probably the way the chairman at that time understood the bill."

So, ever since than, the Paiutes have never progressed, but they have just gone down. They have never really got into where they could be successful in any business. It is also kind of a tough thing for a person like an Indian to get into some kind of a job.

Like the time they said, "We will put them in school and give them some kind of an education or trade or whatever." It is hard for an Indian with no background to try to step into a white society within a few months and try to make a living.

I have seen it where the Indians will go out and work for a while, because most of the jobs they have is done in the summer. They don't have a permanent job. Most of the jobs they have in our area is farming. That is just done seasonally.

In doing that, they try to say we will put you in school, which never went through. It takes a while for a person to acknowledge things if he's got a background. But, if he hasn't got a background of any sort, you are going to be bumping your head against the wall.

So, I think the idea of being reinstated would help these people in many ways, especially some of them in their educational purposes. I think there should be some kind of student programs which we are not entitled to now.

Again, we would be eligible for these. Also, loans and bloc grants which are available to some of the tribes that are under Federal supervision which we are not eligible for. I have tried to get a bloc grant from the Government. They say if you are not an Indian, then you have to go to the State.

Under the State's requirements, we can't get a grant. Under Federal supervision, we will be able to receive these grants that are being put out by the Government.

And also, I would like, if it is possible, the property that they have right now could be put back under Federal jurisdiction before it goes too long. There are a few properties that still remain within the band.

Thank you, Mr. Chairman.

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

Our next witness is Bruce Parry, director, Utah Division of Indian Affairs, Salt Lake City.

Mr. PARRY. Mr. Chairman, I am very pleased to be here this morning. I am Bruce Parry, director of the Utah Division of Indian Affairs in Salt Lake City. I am representing the views of the State Board of

Indian Affairs, charged with the responsibility of making Indian policy in our State.

Before I proceed with my testimony, Mr. Chairman, I would like to have submitted into the record other testimony that I have brought with me from interested parties. That testimony has been provided the staff.

Senator DECONCINI. Without objection, we will have that testimony placed in the record.

Mr. PARRY. I appreciate that.

[The materials follow:]

S. 1273, A BILL, "THE PAIUTE RESTORATION ACT"

PURPOSE OF LEGISLATION

The primary purpose of S. 1273 is to restore federal recognition, services, and assistance to the members and to the five Bands of Paiute Indians in Utah, the Shivwits, the Indian Peaks, the Koosharem, the Kanosh and Cedar City Bands of Paiute Indians. In addition, the bill provides a means by which a tribal government can be established.

INTRODUCTION

During the 83rd Congress, H. Con. Res. 108 was approved, proclaiming a termination policy with respect to the Government's trust responsibility for the Indian people of the United States. Pursuant to this policy, legislation was enacted which terminated Federal interest in the affairs of several tribes. The Paiute Bands of Utah were among those tribes and bands whose federal status was terminated in 1954 (Act of September 1, 1954, Public Law 83-762, 68 Stat. 1099, 25 U.S.C. §§ 741-760).

Experience has shown that termination was not a solution for the problem: facing Native Americans. Congress has attempted to correct this error and restore federal recognition to terminated tribes in subsequent years. In the 93rd Congress, legislation was enacted (87 Stat. 770) restoring federal recognition for the Menominee Tribe of Wisconsin which was terminated in 1954. This action represented the first significant rejection of the termination policy of the 1950's and demonstrated that Congress recognized that the policy of termination had been a failure. Subsequently, other tribes were reinstated. In 1977, the Siletz Tribe of Oregon was reinstated to federal recognition. In mid-1978, the Modoc, Wyandotte, Peoria and Ottawa Indians of Oklahoma were restored to federal recognition.

BACKGROUND ON THE PAIUTE TERMINATION

On February 8, 1947, Mr. William Zimmerman, Acting Commissioner of Indian Affairs, testified before the Senate Committee on the Post Office and Civil Service concerning a 4-part formula, devised to measure a tribe's readiness for termination from federal supervision, as follows:

The first one is the degree of acculturation of the particular tribe. That includes such factors as the admixture of white blood, the percentage of illiteracy, the business ability of the tribe, their acceptance of white institutions and their acceptance by the whites in the community.

The second factor is the economic condition of the tribe, principally the availability of resources to enable either the tribe or the individuals, out of their tribal or individual assets, to make a reasonably decent living.

The third factor is the willingness of the tribe and its members to dispense with Federal aid.

The last criterion is the willingness and ability of the State in which the tribe is located to assume the responsibility. (H.R. 2680, 83rd Cong. 2d Sess., Sept. 20, 1954, pp. 8-9).

These four criteria were evidently used by the House and Senate Committees on Interior and Insular Affairs in their consideration of terminal legislation. (H.R. 1904, 83d Cong., 2d Sess., June 22, 1954, pp. 1-2. H.R. 2661, 83d Cong., 2d Sess., Conference Report on S. 2670, August 16, 1954, pp. 1-3).

In 1953 the Bureau of Indian Affairs prepared a list of tribes, bands and groups which it considered to be immediately able to manage their own affairs, in the opinion of field agencies of the Bureau. Of the four Paiute Bands, Kanosh, Koosharem, Shivwits and Indian Peaks, the Indian Peaks Band was the only one

considered ready to manage its own affairs upon fulfillment of certain unspecified conditions. (H.R. 2680, 83rd Cong. 2d Sess., Sept. 20, 1954, pp. 3-4).

Based upon these four criteria, Mr. Zimmerman had grouped certain tribes into categories representing their degree of readiness for termination: group 1 could be released from federal supervision immediately; group 2 could be released in 10 years; and group 3 could be released in an indefinite period of time. The subject Paiute Bands were not listed. (S. Tyler, "A History of Indian Policy," U.S. Dept. Int., BIA, 1973, p. 164.)

House Concurrent Resolution 108, August 1, 1953, 67 Stat. B 132, declared it to be the sense of Congress that most of the tribes (listed them by name) in Zimmerman's Group 1 category be terminated from federal supervision at the earliest possible time. The subject Paiute Bands were not listed.

Hearings on termination bills were held by joint House and Senate Indian Affairs Subcommittees. The first such hearing considered Paiute termination. (S. Tyler, A History of Indian Policy, op. cit., at 172.) The committees cited the four basic criteria used in consideration of terminal legislation as:

1. degree of acculturation;
2. economic condition of the tribe;
3. attitude of the tribe towards termination; and
4. attitude of state and local officials. (H.R. 1904, op. cit., at 2; H.R. 2661, op. cit., at 1-3.)

Degree of acculturation

There was no intermarriage between Paiutes and non-Indians. The percentage of illiteracy in the English language among the four bands averaged approximately 20 percent. (Joint Hearing Before the Subcommittees of the Committees on Interior and Insular Affairs, 83rd Cong. 2d Sess., on S. 2670 and H.R. 7674, February 15, 1954, pp. 13-16.)

S. D. Aberle, Executive Director of the Commission on Rights, Liberties and Responsibilities of the American Indian and former Superintendent of the United Pueblo Agency, met with the four Bands in 1958. Her report ends with this comment:

Some of the evils predicted by those who opposed quick termination for Indians who have been judged by B.I.A. as not ready for termination, can be seen in this small group of Paiutes. Two meetings with one-third of the members of the four bands brought out various difficulties.

One crucial problem is that terminated Indians do not automatically become average non-Indian citizens, with birth certificates, social security numbers recorded land deeds and a command of English and know-how which allows them to operate in white society. They have difficulty in knowing how to register to vote, how to comply with government regulations for a fishing or hunting license, how to obtain a Farmers Home Loan or Soil Conservation Service assistance or other benefits the Federal or State government offers its citizens. So termination actually puts them in the class something like the newly-arrived peasant immigrants.

Therefore, the policy statement of Congress "... to make Indians . . . subject to the same laws and entitled to the same privileges as are applicable to citizens of the United States," from any realistic evaluation, is not accomplished by the legislation passed for this purpose.

This miscarriage of policy and intent is brought about by the speed with which termination was undertaken, lack of explaining the problems to the Indians, lack of a consideration for the Indians' wishes or their needs, and the disregard or absence of consent from the Indians themselves. (S.D. Aberle, "Termination and Its Effects on the Shivwits, Koosharem, Indian Peaks and Kanosh Bands of Paiute Indians in Utah," pp. 10-11, S. Lyman Tyler files, Univ. of Utah.)

A 1968 Bureau of Indian Affairs report leads us to believe that their situation had not materially changed since they were terminated 14 years earlier. The report notes that there was practically no intermarriage between members and non-Indians, resulting in very few mixed-blood Indians among the membership: that the Indians were well advanced in integration into the non-Indian community; however, the author of the report made no special effort to ascertain the extent of participation of the Indian people in the local or social or other activities of the communities in which they live, but said "there was little to suggest more than minimum participation." They lacked skills to take advantage of job opportunities. There was no suggestion of discrimination by public agencies, however, there was a feeling by some that discrimination existed among private employers. Many of the Indians resided on land provided by the L.D.S. Church without cost. The

church furnished some houses and other facilities. ("Social and Economic Survey of Shivwits, Kanosh, Koosharem, Indian Peaks, and Cedar City Bands of Paiute Indians," U.S. Department of the Interior, Bureau of Indian Affairs, 1968, prepared by Leonard M. Hill, Assistant to the Commissioner.)

Economic condition of the tribe

It appears that the Paiutes had no significant economic resources upon which they could have relied after termination. There is no dispute in any of the history as to the economic resources of the Bands. Senator Watkins' words aptly described their situation:

"As it stands many of these Indians are in the depths of poverty . . ." (Joint Hearings, op. cit., at p. 49.)

According to Orme Lewis, Assistant Secretary of the Interior, the average family income of the four bands was less than one-half of the estimated income of non-Indian families in the area adjacent to the reservations. Only a few families among the Paiute Bands were self-supporting; a majority relied either totally or partially on public or church assistance. (Ibid. at pp. 9-16.)

In reference to the Koosharem Bands, Harry Gilmore, Superintendent of the Uintah and Ouray Agency, said:

"The income for this group is very, very low. Permanent employment is hard to obtain. They work in sugarbeet fields and at other seasonal jobs. I would say that probably the income is about a third of that of their non-Indian neighbors. An appreciable percentage of these people are supported by funds obtained through the welfare program.

"This Small band . . . is in a pretty bad way economically. They reside on the outskirts of Richfield, and they are living in poverty

" . . . [The] houses, located up on the reservation are far better than those, mostly tents, in which they live at the colony on the outskirts of Richfield." (Ibid at 57.)

Concerning whether the four bands could afford to send a representative to the hearings in Washington, D.C. considering their termination, Superintendent Gilmore said:

"They were authorized to use tribal funds if they had them. But I seriously doubt if any one of these six bands had tribal funds which it might use to defer expenses to attend the hearing." (Ibid at 55-56.)

(Washakie and Skull Valley Goshute Bands were also being considered by the Committee. They were not terminated, although there was very little difference between them and the Paiute bands.)

Attitude of tribe towards termination

Prior to the last meeting with the Paiutes the record reveals that there was opposition to termination by some Paiutes. (See Joint Hearings S. 2670, H.R. 7674, pp. 60, 87, 84.)

However, at the last meeting held with representatives of the Bands by Senator Watkins, their consent was gained in exchange for promises that crop restrictions would be removed for a five-year period; that marriages, divorces, and adoptions performed by Indian customs up to that date would be ratified; that government loans and mortgages would be cancelled, and, that oil and mineral land rights were to be released to the Indians immediately on the date of the act. (See Joint Hearings, S. 2670, H.R. 7674, p. 51.) In addition, testimony indicates that Senator Watkins told the Band representatives that "they would not have to worry about taxes." In response to a question posed by S. D. Aberle in a meeting held with the four Bands in June 1958 as to why they did not object to termination, one responded as follows:

Senator Watkins said when he talked to us about termination, that taxes would be taken care of, that we would not have to be under the limitation of wheat acreage, that we could plant as much wheat as we liked; but this has not been true. (See S. D. Aberle, "Termination and Its Effects on the Shivwits, Koosharem, Indian Peaks, and Kanosh Bands of Paiute Indians in Utah," p. 5, S. Lyman Tyler Files.)

Even Senator Watkins recognized that their consent was given in return for the promises mentioned above. Senator Watkins stated:

[I] think they are going to feel all right about it if we could do two or three little things which they want to have done. (See Joint Hearings, S. 2670, H.R. 7674, p. 49.)

With the exception of cancellation of loans and mortgages (25 U.S.C.A. § 756) none of the apparent promises were written into the termination legislation. There was a serious question as to whether the irrigation systems that resulted in these

loans and mortgages were constructed with Indian consent, consequently, cancellation of the resultant debts were not considered as a gift by the Congress. (Joint Hearing, op. cit., at 66-71, 74-75.)

Attitude of State and local officials

State and local Utah officials favored the legislation. (Joint Hearing, op. cit. at 52.) In those counties where these bands were located, Bureau of Indian Affairs officials met with some members of the County Commissions, who felt they spoke for the entire boards. In the county in which the Kanosh Band was located, the full board gave its approval. (Joint Hearings, op. cit. at 64-66.)

Conclusion

Local officials of the Bureau of Indian Affairs did not consider them ready for termination. Acting Commissioner of Indian Affairs, William Zimmerman did not include them in his classification of tribes according to their readiness for termination. Congress did not include them in House Concurrent Resolution 108, in which they enumerated certain tribes to be terminated.

The House and Senate Subcommittees, in considering termination of Indian Tribes and Bands, alleged to have consistently applied four criteria: degree of acculturation, economic condition of the bands, attitudes of the Indians toward termination and attitudes of local and state officials. The four Paiute Bands had no significant degree of acculturation before or after termination. They had no significant economic resources. Although the Paiute Bands may have consented to termination, their consent may have been conditioned upon the certain conditions not included in the termination bill.

CURRENT CONDITION OF THE PAIUTES

The present Paiute population consists of 60 members of the Kanosh Band, 67 members of the Koosharem Band, 100 members of the Cedar City Band, 30 members of the Indian Peaks Band and 290 members of the Shivwits Band.

Most of the Paiutes continue to reside in on-going, identifiable Indian communities. Each band has their own community and resides in their own traditional geographical locations which are on or near the location of their originally occupied or former reservation lands; the Bands have continued to perform self-governing functions, either through elected representatives or in meetings of the Bands' general membership. The Paiutes continue to use their aboriginal language and retain their traditional customs and cultures.

After the enactment of the Paiute termination legislation, most of the land held by the Kanosh Band, 4,280 acres, was parcelled out to individual members but eventually all but 80 acres of it was sold or lost due to non-payment of property taxes. The Koosharem Band lost all 400 acres of their land due to unpaid property taxes. The Indian Peaks Band held 8,960 acres at the time of termination but this acreage was subsequently sold. Although Congress appropriated money for the purchase of the land for the Cedar City Band in 1910, it was never spent for the Band, the money reverted to the general fund, and the Cedar City Band did not receive any land. The Shivwits Band owns 26,680 acres of land which is currently held in trust by a local bank for them. Almost all of the Shivwits Band land is leased to local non-Indian ranchers for grazing purposes. The grazing fees only cover the amount of the property taxes.

Although the Paiute lands were never considered by the BIA to be of significant value for purposes of grazing, they did constitute a home for the Bands. The impact of total loss of a land base is most significant. Because they have no land and can not afford to purchase land, at least one of the Bands has not been able to benefit from the availability of HUD low-income housing from which other Paiutes have benefited.

In 1975 the Paiutes formed the Utah Paiute Tribal Housing Authority and received funding from the Department of Housing and Urban Development for the construction of low-rent and mutual help housing units. Those Bands who were able to retain a portion of their land or who are living on land provided by a local church have thus been able to benefit from the availability of new housing. It is only within the last three years that running water and electricity have been available to many homes occupied by the Paiutes. Some of the Paiutes continue to reside in homes which are primarily heated by coal or wood, do not have hot or cold running water, and do not have indoor toilet facilities.

The continuing discrepancy between the economic well-being of the Paiutes and their non-Indian neighbors is reflected in per capita income levels. The average per capita income for the Paiutes in 1979 is \$1,968, whereas the estimated average per capita income for Utah citizens in general in 1979 is \$7,004.¹

For at least one of the Paiute Bands, nearly 60 percent of the adults surveyed had not completed high school.

CONCLUSION

Restoration would make a large difference both to individuals, the band, and the Tribe as a whole, in that they would be eligible for benefits under certain programs administered by the Bureau of Indian Affairs (such as the Johnson-O'Malley Act funds for elementary and secondary school children and BIA scholarships for post-secondary education for tribal youth). In addition, members would be eligible for the health services provided by the Indian Health Service. Many of the other programs of these agencies and other Federal agencies would be available to the tribe and its members to address the social and economic problems they are now experiencing. Just as important to the Paiutes is the fact that this legislation will restore to them their dignity and identity as members of an Indian Tribe.

EXPLANATION OF THE LEGISLATION

To a large extent, the Bureau of Indian Affairs and the Indian Health Service have administratively limited the extension of their services and programs to Indians living on or near an Indian reservation. Inasmuch as the legislation does not re-establish a reservation for the bands, it is recommended that Paiute members residing in the Utah counties of Millard, Sevier, Beaver, Iron and Washington shall meet the "on or near" qualification.

Although the legislation provides for the establishment of a tribal government, it is intended that the tribal governing body shall consist of a representative from each band and that each band shall control and govern assets owned or held by it and that each band shall determine who is a member of said band and thus a member of the Paiute Tribe. This intent is consistent with the traditional governing mechanism of the bands. However, it also recognizes the recent establishment by the bands of a cooperative tribal governing body as reflected in their non-profit corporation. Lands or other property which may be owned by the tribe, or grants received or contracts entered into with the federal government would be governed by the tribal structure. Lands or other property currently owned or owned in the future by the bands would remain under the control of the band unless they desire to transfer the same to the tribal government. The Cedar City Band is included in the proposed bill even though they are not specifically mentioned in the 1954 Termination Act. This was done due to confusion as to whether the Cedar City Band was also terminated. In any event, the Band has at least suffered from *de facto* termination.

Nothing in this legislation is intended to abrogate any water rights of the tribe, bands, or its members. Additionally, it should be emphasized that the intent of the legislation is to be neutral on the question of hunting and fishing rights for the Paiute Bands and Tribe. If the Paiute Bands or Tribe had a treaty or other special hunting or fishing right which was terminated by the Termination Act of September 1, 1954 (68 Stat. 1099), this legislation does not restore such right. If the Paiute Bands or Tribe had such a special right prior to termination which survived the Termination Act, this legislation does not abrogate or impair such a right. Finally, if no amendment is made to allow lands held or owned by the Paiutes to be taken into trust status by the Secretary of Interior, this legislation is not intended to prevent the Secretary of Interior from taking said lands into trust if formal application is made pursuant to the Secretary's administrative process.

KANOSH BAND OF PAIUTE INDIANS

The Kanosh Band feel that after we were terminated, it was not what they said it would be like. We were promised that everything we want would be much easier to come by, like getting a bank loan, which was not true.

We would not get any loan from any bank because we didn't have the right type of land deed, we couldn't buy farm equipment or grain to plant, we were given small wheat allotment, that couldn't support us, before we could do anything the land taxes were on us, we had to sell some land to pay the taxes until all our land was gone.

¹ Conversation with Office of Legislative Fiscal Analyst, October 18, 1979.

How I wish going back under the government was like being terminated. "The Indian agent did all the paper work and the talking, and it took only about six signatures and the promise that we would live like the white people".

Now we know that it was wrong. Now things have changed and we would like to go back under the Federal Government.

MCKAY PIKYAVIT
EARL PIKYAVIT,
Chairman for Kanosh Band.

KOOSHAREM BAND OF PAIUTE INDIANS

As a representative for the Koosharem Band, I hope that the following words will express the feelings of the members of the Koosharem Band. Our people don't want to merely exist, but we want to live. After termination, the people have been just existing. We haven't been able to enjoy many of the modern conveniences such as indoor plumbing, adequate heating and lighting, as our white neighbors have been able to enjoy. Some of the homes consist of one room shacks, heated by an old wood stove. Only recently have the Paiute bands been able to receive help from H.U.D. for housing. But that hasn't helped the Koosharem Band because they have no land. They haven't been able to obtain any housing. Because land is so expensive and H.U.D. will only pay what the land is worth not what the land owners want, which is usually twice as much as the land is worth. Because of this problem they have been passed over for housing. Most of the people haven't been able to receive the proper education they need in order to obtain a job. Many of the jobs they do obtain are low paying, seasonal jobs. Many of these jobs hold no future for the people. Have you ever applied for a job and been refused because you are an Indian. Not because the employer was prejudiced but because you are an Indian but there is no way you can prove it. Since termination the people have suffered in self respect, because they don't belong in a white society and they don't receive any of the benefits of being an Indian. You ask what happened to Koosharem reservation. After the people were terminated the land was given to the people. The land was split-up by the people, people who had livestock got the land while those who didn't, didn't receive any land. The people then moved to Richfield where they could get employment. The land was sold by each individual to farmers in the Koosharem area. All of the band members fully support being reinstated back under the federal government.

PATRICK CHARLES,
Koosharem Band.

INDIAN PEAKS BAND OF PAIUTE INDIANS

Clifford Jake saying: What remark I made a meeting at Fillmore Utah, at time Senator Watkin had among Southern Paiute Indian Nation about termination to happen among my Indian people Paiutes.

I said to Senator did you ever visit among Southern Paiute Indians. I said let me tell you something about us. The living quarters were very poor, they got the lumber from the dump to build their shack, also were uneducated. Had no income of live stock, and he told me to sit down and shut up and mind my own business. And then he started his talking about termination, how things would be among my Paiute Indians. Where we can get medical help from states and that never help and stand as is now.

There were no answers from other Indian Bands. Tony Tallahash. He didn't like it and said the old Indian treaty never said that, also Wes Levi, he made telephone call to Congress, some said he was too old to understand termination and for to pay attention to him.

Few months later on radio station K.S.U.B. the Senator stated that the Southern Paiute Nation would be terminated, whether they like it or not.

We have been struggling ever since, no business at all what promises be made.

I remember there was no paper signed, I recall back for the termination papers among the Paiute leaders.

State took the Koosharem Reservation then after that I was taken of Chairman for the Indian Peaks Reservation. Then the Indian Peaks Reservation was sold to fish and game, I was chairman for the Indian Peaks Reservation and Roy Taron and Geneva Anderson signed papers to sell this reservation. And I tried to ask for 20 acres to hold after they sell it and they said Roy would sign papers and he never did, so I never got no land. Also George Morris was present.

All the Indian Peaks group all want to go back under Government restatement.

CLIFFORD JAKE,
Chairman, Indian Peaks Band.

THE UNIVERSITY OF UTAH,
October 24, 1979.

STATEMENT FOR CONGRESSIONAL HEARINGS ON PAIUTE RESTORATION

It was my privilege to become involved with programs for Indian students at Brigham Young University a quarter-century ago. Since then, I have continued to teach classes and to do research related to the history of Indian policy. While a consultant to the Commission on the Rights, Privileges, and Responsibilities of the American Indian in 1958-59, I was able to talk to Senator Watkins about some of the negative aspects of the termination policy.

It was during that period that Secretary of the Interior Fred E. Seaton, with the encouragement of Senator Barry Goldwater, made the radio address from Flagstaff, Arizona, in which he stated:

Now, ladies and gentlemen, it is absolutely unthinkable to me as your Secretary of the Interior that consideration would be given to forcing upon an Indian tribe a so-called termination plan which did not have the understanding and acceptance of a clear majority of the members affected.

But, by September 18, 1958, when this speech was given, the Utah Paiutes, economically one of the most disadvantaged Indian groups in the United States, were already terminated, and several of the bands would shortly lose their land. Of the importance of land to Indian peoples, it was said concerning the Klamath, another terminated tribe:

For many Indian people reservations are a highly significant reality, constituting the only familiar homeland, the major continuity with the past, the sole real property, and the principal token of the government's resolution to honor pledges made long ago.

In the process of doing background research for my "History of Indian Policy," published by the Department of the Interior in 1973, it was possible for me to see the five-year Congressional thrust toward termination for Indian tribes in perspective. In 1961, an Interior Secretary's Task Force spoke of a "new trail" for Indians: "one which leads to equal citizenship, maximum self-sufficiency, and full participation in American life."

In a Special Message on the "Forgotten American" of March 6, 1968, President Johnson proposed a "new goal," one "that ends the old debate about 'termination' of Indian programs and stresses self-determination; . . ." In a Special Message of July 8, 1970, President Nixon asked for a new Concurrent Resolution of Congress that would "renounce, repudiate and repeal" the termination policy outlined in HCR 108 of the 83rd Congress.

For the Utah Paiutes, these changes in policy came after the fact. They had been terminated in 1957. However, in recent years there has been a restoration by the Congress of the Federal relationship for the Menominee Tribe. There is now a way open for the Utah Paiutes. We invite Members of the Congress to give their support to legislation that will restore Federal status and reestablish a homeland for these Paiutes, who sorely need our support and friendship.

Thank you,

S. LYMAN TYLER,
Member of Paiute Restoration Committee.

UTAH LEGAL SERVICES,
RURAL LAW PROJECT,
Salt Lake City, Utah, October 24, 1979.

Representative MORRIS K. UDALL,
*Chairman, Committee on Interior and Insular Affairs,
Washington, D.C.*

DEAR REPRESENTATIVE UDALL: I am the director of a legal services project set up to provide legal assistance to low-income persons in southern Utah. I have spent considerable amounts of time in that area and am familiar with the many problems facing the rural poor, including many Native Americans.

The purpose of this letter is to express my strong support for H.R. 4996, legislation currently before your committee which would restore the Paiute Bands in Utah to federally recognized tribal status. Restoration would insure to tribal members numerous benefits which would enable them to substantially improve their present living conditions and economic status. This resolution, which has

broad support throughout the state, would go a long way toward undoing the harm done through their precipitous termination from tribal status, in which these bands had no effective input.

In addition to the provisions in this bill, it is extremely important that a land base be established for the Paiutes. Tribal land is critical to the development of necessary housing for the Paiutes and other aspects of their future economic well-being.

I would encourage prompt passage of H.R. 4996 and request that you and your committee members give it your full support before Congress.

Sincerely,

ANNINA M. MITCHELL,
Managing Attorney, Rural Law Project.

UTAH CONGRESSIONAL DELEGATE,
PAIUTE RESTORATION COMMITTEE,
October 22, 1979.

YOUR HONORS: I have worked with and have been associated with the Koo-sharem band of South Paiute Indians for the past 22 years, and have been acquainted with the Kanosh band, the Shivwitt band of Southern Paiute Indians and I am well acquainted with their conditions.

May I reflect back to the time of termination of the Southern Paiute Indians, and you may check with the Bureau of Indian Affairs records just prior to termination, and you will find that they were rated by the Bureau of Indian Affairs as the most degraded and poverty-stricken of Indians on the rolls of the Bureau of Indian Affairs.

I personally feel it was a political maneuver on the part of certain congressional people at that time for political influence to terminate the Southern Paiute Indians along with twelve other smaller tribes that had integrated into the main stream of society.

Our Southern Paiute Indians have come a long ways educationally and their living conditions have improved through very sad conditions. It is my personal opinion in knowing particularly every adult Southern Paiute Indian, that they have been sorely dealt with by this great Government of ours on termination.

I respectfully request that these good native Americans be reinstated onto the rolls of the Bureau of Indian Affairs with full rights as other American tribes, so that they may have a fighting chance of getting the education that they deserve; that they may have land granted to them as reservations, so that they may have homes, so that they may be a respectable and loved people and so that they may receive the sorely needed medical care that they need.

Therefore, I respectfully request that they be reinstated in full fellowship, with all rights, honors, and prestige of the other recognized Indian tribes in this great America.

REID BLONDQUIST,
Justice Court Judge, Sevier County, Utah.

AMERICAN INDIAN SERVICES AND RESEARCH CENTER,
BRIGHAM YOUNG UNIVERSITY,
October 24, 1979.

COMMITTEE ON CONGRESSIONAL HEARINGS,
Paiute Restoration

DEAR SIR: For the past twenty years I have worked with the Indian people of Utah, Arizona, New Mexico and several other states. The University has a free program which offers service to these many tribes.

Having opportunity to compare the difference, one quickly sees that the Paiute bands in Utah have far less opportunity to grow, develop their natural and human resources. I strongly favor the restoration of the Paiute bands so that they might have federal recognition and receive the guidance and protection and participate in some of the fine opportunities available.

I know many of these people personally and feel that they would be greatly encouraged and strengthened if this privilege was made available.

If you would like further information, I would be more than willing to submit some.

Sincerely,

DALE T. TINGEY, Ph.D.,
Director of Indian Services.

STATE OF UTAH,
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT,
October 23, 1979.

HON. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR CONGRESSMAN UDALL; I hope that by now you have received enough background information to justify your support for the passage of H.R. 4996, the bill which would restore federal recognition to the Utah Paiutes.

This is to let you know that the Utah State Board of Indian Affairs which was created pursuant to Section 63-36-1, Utah Code Annotated 1953, as amended; fully supports Utah Paiute restoration. We have passed several resolutions of support for Paiute restoration during the past five years, the most recent being several months ago. It is the opinion of the Board that the Paiutes were wrongfully terminated and that everything must be done to rectify the problems which in part were created as the result of this termination. If Congress can justify providing assistance for refugees of various foreign countries, I sincerely hope that the Utah Paiutes who are our own "American refugees" be also given some consideration in the form of restoration.

Your positive support for Utah Paiute restoration will be appreciated.

Respectfully yours,

ROBERT K. CHIAGO,
Chairman.

PER CAPITA INCOME

Jurisdiction	1969	1976	1979
Iron County.....	\$2,591	\$4,280	\$4,787
Hillard County.....	2,493	3,768	4,151
Sevier County.....	2,542	4,826	5,511
Washington County.....	2,115	3,824	4,337
State of Utah.....	2,974	5,244	7,004
Southern Paiute Indians.....	946	1,661	1,968

¹ Estimated income for those years (by the Utah Division of Indian Affairs).

Source: 1979 Utah Statistical Abstract, Bureau of Economic and Business Research, College of Business, University of Utah, January 1979.

[In acres]

Paiute Bands	Trust lands, 1954	Present lands
Shivwitz Band.....	27,520	27,520
Kanosh Band.....	5,919	80
Koosharem Band.....	240	0
Indian Peaks Band.....	8,960	0
Cedar City Band.....	0	7

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Salt Lake City, Utah, November 12, 1974.

Memorandum to: Area Director, BIA, Phoenix, Ariz.

From: Regional Solicitor, Salt Lake City, Utah.

Subject: Restoration of Indian Status for Kanosh, Koosharem, Shivwits, and Indian Peaks Bands of Paiute Indians.

In accordance with our conversations and at your request we present our views concerning the termination of Indian status of four Paiute Bands.

In 1954, Congress provided for the termination of the Shivwits, Kanosh, Koosharem and Indian Peaks Bands of the Paiute Indian Tribe, State of Utah (Act of September 1, 1954, P.L. 83-762, 68 Stat. 1099, 25 U.S.C. 741-760.) which was in accord with its termination policy. We have examined the Congressional histories and Bureau of Indian Affairs reports concerning the termination of these Paiute Bands, and believe that the Congressional Committees disregarded certain criteria purportedly used by them in determining whether these bands should be terminated.

GENERAL BACKGROUND ON THE PAIUTE TERMINATION ACT

On February 8, 1947, Mr. William Zimmerman, Acting Commissioner of Indian Affairs, testified before the Senate Committee on the Post Office and Civil Service concerning a 4-part formula, devised to measure a tribe's readiness for termination from federal supervision, as follows:

The first one is the degree of acculturation of the particular tribe. That includes such factors as the admixture of white blood, the percentage of illiteracy, the business ability of the tribe, their acceptance of white institutions and their acceptance by the whites in the community.

The second factor is the economic condition of the tribe, principally the availability of resources to enable either the tribe or the individuals, out of their tribal or individual assets, to make a reasonably decent living.

The third factor is the willingness of the tribe and its members to dispense with Federal aid.

The last criterion is the willingness and ability of the State in which the tribe is located to assume the responsibility. (H.R. 2680, 83rd Cong. 2d Sess., Sept. 20, 1954, pp. 8-9.)

These four criteria were evidently used by the House and Senate Committees on Interior and Insular Affairs in their consideration of terminal legislation. (H.R. 1904, 83rd Cong., 2d Sess., June 22, 1954, pp. 1-2. H.R. 2661, 83rd Cong., 2d Sess., Conference Report on S. 2670, August 16, 1954, pp. 1-3.)

In 1953 the Bureau of Indian Affairs prepared a list of tribes, bands and groups which it considered to be immediately able to manage their own affairs, in the opinion of field agencies of the Bureau. Of the four Paiute Bands, Kanosh, Koosharem, Shivwits and Indian Peaks, the Indian Peaks Band was the only one considered ready to manage its own affairs upon fulfillment of certain unspecified conditions. (H.R. 2680, 83rd Cong. 2d Sess., Sept. 20, 1954, pp. 3-4.)

Based upon these four criteria, Mr. Zimmerman had grouped certain tribes into categories representing their degree of readiness for termination: group 1 could be released from federal supervision immediately; group 2 could be released in 10 years; and group 3 could be released in an indefinite period of time. The subject Paiute Bands were not listed. (S. Tyler, "A History of Indian Policy," U.S. Dept. Int., BIA, 1973, p. 164.)

House Concurrent Resolution 108, August 1, 1953, 67 Stat. B 132, declared it to be the sense of Congress that most of the tribes (listing them by name) in Zimmerman's Group 1 category be terminated from federal supervision at the earliest possible time. The subject Paiute Bands were not listed.

Hearings on termination bills were held by joint House and Senate Indian Affairs Subcommittees. The first such hearing considered Paiute termination. (S. Tyler, "A History of Indian Policy," op. cit., at 172.) The committees cited the four basic criteria used in consideration of terminal legislation as:

1. degree of acculturation;
2. economic condition of the tribe;
3. attitude of the tribe towards termination; and
4. attitude of state and local officials. (H.R. 1904, op. cit., at 2; H.R. 2661, op. cit., at 1-3.) We will comment upon each of these criteria separately

DEGREE OF ACCULTURATION

There was no intermarriage between Paiutes and non-Indians. The percentage of illiteracy in the English language among the four bands averaged approximately 20 percent. Joint Hearing Before the Subcommittees of the Committees on Interior and Insular Affairs, 83rd Cong. 2d Sess., on S. 2670 and H.R. 7674, February 15, 1954, pp. 13-16.)

S. D. Aberle, Executive Director of the Commission on Rights, Liberties and Responsibilities of the American Indian and former Superintendent of the United Pueblo Agency, met with the four bands in 1958. Her report ends with this comment:

Some of the evils predicted by those who opposed quick termination for Indians who have been judged by B.I.A. as not ready for termination, can be seen in this small group of Paiutes. Two meetings with one-third of the members of the four bands brought out various difficulties.

One crucial problem is that terminated Indians do not automatically become average non-Indian citizens, with birth certificates, social security numbers,

recorded land deeds and a command of English and know-how which allows them to operate in white society. They have difficulty in knowing how to register to vote, how to comply with government regulations for a fishing or hunting license, how to obtain a Farmers Home Loan or Soil Conservation Service assistance or other benefits the Federal or State government offers its citizens. So termination actually puts them in the class something like the newly-arrived peasant immigrants.

Therefore, the policy statement of Congress "... to make Indians ... subject to the same laws and entitled to the same privileges as are applicable to citizens of the United States," from any realistic evaluation, is not accomplished by the legislation passed for this purpose.

This miscarriage of policy and intent is brought about by the speed with which termination was undertaken, lack of explaining the problems to the Indians, lack of a consideration for the Indians' wishes or their needs, and the disregard or absence of consent from the Indians themselves. (S.D. Aberle, "Termination and Its Effects on the Shivwits, Koosharem, Indian Peak, and Kanosh Bands of Paiute Indians in Utah," pp. 10-11, S. Lyman Tyler files, Univ. of Utah.)

A 1968 Bureau of Indian Affairs report leads us to believe that their situation had not materially changed since they were terminated 14 years earlier. The report says that there was practically no intermarriage between members and non-Indians, resulting in very few mixed-blood Indians among the membership; that the Indians were well advanced in integration into the non-Indian community; however, the author of the report made no special effort to ascertain the extent of participation of the Indian people in the local or social or other activities of the communities in which they live, but said "there was little to suggest more than minimum participation." It was the general feeling that a lack of work was due primarily to their not being dependable workers. Some drank to excess. They lacked skills to take advantage of job opportunities. There was no suggestion of discrimination by public agencies, however, there was a feeling by some that discrimination existed among private employers. Many of the Indians reside on land provided by the L.D.S. Church without cost. The church furnishes some houses and other facilities. ("Social and Economic Survey of Shivwits, Kanosh, Koosharem, Indian Peaks, and Cedar City Bands of Paiute Indians," U.S. Department of the Interior, Bureau of Indian Affairs, 1968, prepared by Leonard M. Hill, Assistant to the Commissioner.)

ECONOMIC CONDITION OF THE TRIBE

It appears that these Indians had no significant economic resources upon which they could have relied after termination. There is no dispute in any of the history as to the economic resources of the bands. Senator Watkins' words aptly describe their situation:

"As it stands many of these Indians are in the depths of proverty. . . ." (Joint Hearings, op. cit., at p. 49.)

According to Orme Lewis, Assistant Secretary of the Interior, the average family income of the four bands was less than one-half of the estimated income of non-Indian families in the area adjacent to the reservations. Only a few families among the Paiute Bands were self-supporting; a majority relied either totally or partially on public or church assistance. (Ibid. at pp. 9-16.)

In reference to the Koosharem Bands, Harry Gilmore, Superintendent of the Uintah and Ouray Agency, said:

"The income for this group is very, very low. Permanent employment is hard to obtain. They work in sugarbeet fields and at other seasonal jobs. I would say that probably the income is about a third of that of their non-Indian neighbors. An appreciable percentage of these people are supported by funds obtained through the welfare program.

* * * * *

"This small band . . . is in a pretty bad way economically. They reside on the outskirts of Richfield, and they are living in poverty. . . ."

"... [The] houses located up on the reservation are far better than those, mostly tents, in which they live at the colony on the outskirts of Richfield." (Ibid. at 57.)

The reservation had very little irrigation water. Superintendent Gilmore, in response to a question as to whether all 27 members of the band could live on the reservation said:

"[A]s far as making a living on the reservation is concerned, no, sir, it would be impossible. The land is so poor, . . . that this is one reservation about which we never have any inquiries regarding renting the lands for grazing. It seems that nobody wants any of them for grazing purposes." (Ibid. at 57-58.)

Concerning whether the four bands could afford to send a representative to the hearings in Washington, D.C., considering their termination, Superintendent Gilmore said:

They were authorized to use tribal funds if they had them. But I seriously doubt if any one of these six bands had tribal funds which it might use to defer expenses to attend the hearing. (Ibid at 55-56)

(Washakie and Skull Valley, Goshute Bands, were also being considered by the Committee. They were not terminated, although there was very little difference between them and the Paiute bands.)

The 1968 Bureau of Indian Affairs report said that of the heads of families interviewed, 33 percent were employed full time, 30 percent part time and 36 percent unemployed. Thirty-one of these 36 were unemployable. (Social and Economic Survey, op. cit., at 9.)

The kind of employment in which the Indian people are engaged leaves much to be desired. About 45 percent work as ranch or farm hands. The jobs are often seasonal and the wages low . . . (Ibid at 10.)

The average yearly income from all sources including welfare assistance for the 121 families in the Survey was \$2,746 . . . (Ibid at 10)

ATTITUDE OF THE TRIBE TOWARDS TERMINATION

Representatives of the Paiute Bands apparently consented to termination, although some evidence heard by the Joint Sub Committees contradicted this. (See S. D. Aberle, Termination and its Effects, op. cit., at 4, note 1, for a partial listing of contradictions in H.R. 2680, op. cit.) On February 10, 1954, 5 days before the Joint Sub Committee termination hearings commenced, Senator Watkins met with representatives of the bands and evidently discussed termination problems dealing with (1) removal of crop restrictions for a 5-year period; (2) ratification of marriages, divorces and adoptions performed by Indian custom up to date of the act; (3) cancellation of government loans and mortgages except as may be credited against Indian claim awards; and (4) releasing of oil and mineral land rights to the Indians. (Joint Hearings, op. cit., at 51.)

S. D. Aberle, when she met with the four bands in June 1959, asked, "Why, then did you not object to termination during the hearings in 1954?" One responded as follows:

. . . Senator Watkins said when he talked to us about termination 'that taxes would be taken care of, that we would not have to be under the limitation of wheat acreage, that we could plant as much as we liked', but this has not been true. (S. D. Aberle, Termination and Its Effect, op. cit. at 5.)

Senator Watkins apparently recognized that their consent was given in return for these promises when he told the Joint Sub Committees:

I think they are going to feel all right about it if we could do two or three little things which they want to have done. I do not think they are going to hurt this wheat market if they could grow all of the wheat they are able to. (Joint Hearing, op. cit., at 49)

With the exception of cancellation of loans and mortgages (25 U.S.C.A. § 756) none of the apparent promises were written into the termination legislation. There was a serious question as to whether the irrigation systems that resulted in these loans and mortgages were constructed with Indian consent, consequently, cancellation of the resultant debts were not considered as a gift by the Congress. (Joint Hearing, op. cit., at 66-71, 74-75)

ATTITUDE OF STATE AND LOCAL OFFICIALS

State and local Utah officials favored the legislation. (Joint Hearing, op. cit. at 52.) In those counties where these bands were located, Bureau of Indian Affairs officials met with some members of the County Commissions, who felt they spoke for the entire boards. In the county in which the Kanosh Band was located, the full board gave its approval. (Joint Hearing, op. cit., at 64-66)

CONCLUSION

Local officials of the Bureau of Indian Affairs did not consider them ready for termination. Acting Commissioner of Indian Affairs, William Zimmerman, did not include them in his classification of tribes according to their readiness for termination. Congress did not include them in House Concurrent Resolution 108, op. cit., in which they enumerated certain tribes to be terminated.

The House and Senate Subcommittees, in considering termination of Indian tribes and Bands, alleged to have consistently applied four criteria: degree of acculturation, economic condition of the bands, attitudes of the Indians toward termination and attitudes of local and state officials. The four Paiute bands had no significant degree of acculturation before or after termination. They had no significant economic resources. Although the Paiute Bands may have consented to termination, their consent may have been conditioned upon the certain conditions not included in the termination bill. Two Utah Shoshone Bands initially considered for termination with the Paiutes were excluded from the legislation because they did not fully meet the basic criteria. There apparently was no significant difference between the Shoshones and Paiutes in their degree of acculturation and economic condition. One important difference was that the Shoshones expressed their dissatisfaction with termination and requested that they not be terminated. This implies that consent was the major factor when the Committee decided which bands were to be terminated in apparent disregard of other factors such as degree of acculturation and economic condition.

THOMAS O. PARKER,

Regional Solicitor.

By WILLIAM ROBERT McCONKIE,

Attorney.

MR. PARRY. Mr. Chairman, I have been in my position since 1971. One of my first responsibilities, I thought, would be to meet with the Paiute Indians of Utah who, I understood, had been terminated in the 1950's.

From the earliest times, one of the requests of me has been to assist them in gaining Federal recognition again. Because of that request, I met with the Phoenix Area Office of the Bureau of Indian Affairs in 1974 and had a long discussion with the area director of the Bureau, telling him of our desire to extend Federal recognition once again to these Paiute Bands.

It was very encouraging. As a result of that meeting, two things happened. A meeting was arranged for me to meet with Commissioner Morris Thompson—then Commissioner of Indian Affairs—and the area director requested that the regional Solicitor's Office prepare a study to give us some information on the background of termination.

That study is part of the materials that have been entered. What it indicated to us, though, was this: Congress had set up four criteria in the 1950's to determine which Indian tribes were to be terminated.

Paiutes of Utah met none of the criteria. It is my feeling that they were terminated simply because Senator Arthur Watkins, who was the leading proponent of termination at that time, was from our State. He felt that the Utah tribes should probably be an example for the rest of the country.

They were not economically ready. They were not assimilated into the community. They had poor housing and poor health conditions. The State at the time said that they would assume the responsibility for the Paiutes. While the Paiutes have been generally eligible for services provided the citizens of the State in general, the State has never provided special services to these Indians.

Some of the Paiutes, at that time, gave their consent to termination and that was based upon some promises that were made to them that were never actually carried out in the legislation, or afterward.

So, it was our conclusion, and it was the conclusion of the report of the Solicitor, that these tribes were not ready for termination at that time. I can testify, sir, that they are still not ready and couldn't meet the criteria today.

The Paiute have expressed their interest in regaining Federal recognition. The Utah State Board of Indian Affairs heartily concurs with this. The Utah Board also concurs with the fact that land that they now have that are parts of their former reservation should be put back into trust.

Senator Hatch alluded to the fact that reservations should be created for these Indian people. While the Utah State Board of Indian Affairs is generally favorable to this position, we think considerable work will need to be done with local county officials, city officials, the Paiute Tribe itself, the State, and the Federal Government.

They all need to be involved in discussions for the creation of new reservations. I appreciate your comments, sir, on what happened to the Siletz Tribe in Oregon. There has been testimony today that the Cedar City Band was not terminated and that has been our opinion all the time.

The reason they haven't been able to receive services is the fact that they have never lived on, or near, an Indian reservation. Congress twice appropriated funds for a reservation for the Cedar City Band. This didn't occur.

They live in an area that they have traditionally inhabited, I guess, for the last few hundred years.

In conclusion, may I say that the Utah State Board of Indian Affairs supports the current legislation and supports the amendment which would take back into trust the land that is currently owned by the Paiutes and are part of their former reservations.

Thank you very much.

Senator DECONCINI. Thank you, Mr. Parry.

We note that the Bureau of Indian Affairs has recommended that we postpone the Paiute Restoration Bill until a study is done to confirm that they meet the criteria for restoration. What is your answer to that?

MR. PARRY. I appreciate the opportunity to speak to that. I think a further study would just delay righting a wrong that was done. Maybe I can go over the criteria one at a time.

They still exist as an identifiable community. The Paiutes still live on or near their former reservation. There are five small bands. They continue to live there. They are an identifiable community. They continue to practice their former culture.

A great many of the people speak their native language. There has been very little intermarriage. I would estimate that over 96 percent of the Paiutes are full-blood Indians. There has been some question raised about the number.

Very recently, the law firm of Echohawk, Horne, Ross, Sloan, & Kearn visited all five bands. We conducted a little survey of 50 of the approximately 110 families, which is about 50 percent of the families, that indicated that economically—as Senator Hatch pointed out—their income levels were less than \$2,000 per year per capita while the State in general was over \$7,000 a year.

In the four counties where the Paiutes reside, the per capita income levels are over \$4,000 a year. So, even in the local area—which is a rural area—the non-Indians inhabiting that area per capita income is twice as high as the Paiutes.

We have, very recently, been able to help some of the Paiutes with some housing, but we estimate there are still 81 families, approximately, out of 110 that live in very poor housing conditions. The Paiutes near Richfield have no running water. They have no inside bathroom facilities.

This is the case with quite a few of the other Paiute Indians. As I indicated, they continue to perform some functions of self-government. Each of the bands has been informally organized since termination—having elected chairmen and other representatives.

In 1974, the State assisted the Paiutes in forming the Utah Paiute Tribal Corp. The board of directors of that organization is composed of each of the five bands. They have been performing governmental functions for the Paiute members.

I indicated that there is still a large number who speak their native language and who practice their Indian culture. A fifth criteria mentioned by the Bureau, which is: "Has there been a marked deterioration in their socioeconomic conditions since termination"? I can't testify to the fact that there has been a marked deterioration because they were about as low as you could get at the time of termination, and should not have been terminated.

However, the economic facts I have pointed out today clearly indicate that they are nowhere near the economic condition of their non-Indian neighbors.

The last criteria: Their conditions are more severe than other adjacent rural areas or comparable areas within the State. I think the facts clearly point out that economically and socially, they are in a far more severe condition than their non-Indian neighbors, even within a few hundred yards of their neighbors.

There is no question in my mind that they meet all the criteria of the Bureau and that they didn't meet any of the criteria at the time of the legislation.

Senator DECONCINI. The Department of the Interior wants to limit Federal services and benefits to members of the bands who are on the final termination rolls and descendants. What is your thought on the difference?

Mr. PARRY. I have no objection to that, Mr. Chairman, because we have talked to the Paiutes. I think they have the same feeling that I do, that most of the people who are there today, most of the people at the time of termination were included on those rolls.

The bands are very small and it has been very easy to keep track of who their descendants are. In fact, an update of that roll was done in 1968. So, we have a roll that is approximately 10 years old.

We believe that most of the members were on that roll and their descendants should be the ones included on any new roll.

Senator DECONCINI. I take it that you think that most of the Paiutes live within these five bands now?

Mr. PARRY. Historically, there were probably 11 or 12 bands in Utah. Over the years, after the Mormon pioneers started settling the southern area, most of those Indians migrated into one of these five bands that are still there.

There are some people in Utah—not a large number—who have claimed to be Paiute, but who can't in any way tie themselves to one of the five bands that now exist.

In a claims case in 1968, these Paiutes—the few Paiutes in Utah plus others in other parts of the country—were listed in the category of “other Paiutes” who were eligible to participate in the claims case. But, I think the Paiutes who are sitting here at the table today and I, both believe that the people who have generally been associated and tied to these groups were included within either the termination roll or the 1968 roll.

Senator DECONCINI. Do any of you other members of the panel care to comment on the number of Paiutes outside of the five bands? Do you think most of them are identifiable?

Ms. SNOW. Most of the Shivwits are all there except for the few who have moved out of the State. But, they would still retain their membership because they are blood relatives or they are full blood.

Senator DECONCINI. How many do you think that is? Do you have any idea?

Ms. SNOW. In Shivwits, I wouldn't know because there have been a lot of new births. But, at last count, it was about 200, just for Shivwits. That doesn't include the rest of the bands. I think altogether, it is a total of about 450.

Senator DECONCINI. Do you have any idea how many don't live on or don't have identifiable descendancy?

Ms. SNOW. There are only about two or three families that have moved out, but they are young families and they have not inter-married. Their children aren't of marriageable age yet. They left the State for jobs.

Mr. PARRY. Mr. Chairman, maybe I can clarify. There were a few Paiutes during the 1968 claims hearings who claimed to have Paiute blood. But, those Paiute have never been culturally associated or associated familywise with any of these five Paiute Bands.

Ms. SNOW. They were white people.

Mr. PARRY. Basically, they were a quarter Indians who were never attached to these bands socially or culturally tied with these bands.

Senator DECONCINI. Thank you.

Mr. BENIOH. Presently, I know of three of us chairmen who are working on updating census rolls, particularly paying attention to those families that have moved out—wanting to get their names, their children's names, and so forth.

We are presently working on that right now in Utah.

Senator DECONCINI. Thank you.

Is there any other testimony you would care to give? If not, the hearing will stand in recess, subject to the call of the Chair.

Thank you very much.

[Whereupon, at 11:54 a.m., the hearing was adjourned, subject to the call of the Chair.]

[Subsequent to the hearing the following letter was received:]

CENTRAL UTAH MENTAL HEALTH CENTER,
Richfield, Utah, November 5, 1979.

SELECT COMMITTEE ON INDIAN AFFAIRS,
U.S. Senate.

DEAR GENTLEMEN: Throughout the years since termination our people have not excelled, nor have they just vanished into the non-Indian society. We have been able to keep and hold a lot of our own culture. But by doing so we have

not progressed a lot in the non-Indian Society. When we were terminated we were sent into the non-Indian world to be integrated. Over the years this has simply not happened. We have not had many of the opportunities in housing and education as our non-Indian neighbors have been able to enjoy. Many of our people still have inadequate housing. We do not enjoy a lot of the modern convenience's like indoor plumbing or indoor toilet facilities. A lot of the homes are still heated by old wood stoves.

Many people have expressed their feelings by saying why don't the Paiute people do something about their environment. But with inadequate education they have not been able to secure a high paying, permanent job. A lot of the employment they are able to get is low paying and seasonal work in which they seldom hold a bright future. When it comes to getting a higher education our people, it seems, are always getting passed over. Although we are few in number we have decided to stand up and be counted. We want our children and their descendants to come to have all of the opportunities to grow and excell to make our people proud.

Being reinstated back under the federal government will bring with it new ways we can learn to help ourselves. It will be new to many of us, but we are all willing to change in order to improve ourselves. All of the Koosharem band members want you to know that they fully support being reinstated back under the federal government.

Yours truly,

PATRICK CHARLES,
Koosharem Band Chairman.

