

TERMINATION OF FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS

JOINT HEARINGS BEFORE THE SUBCOMMITTEES OF THE COMMITTEES ON INTERIOR AND INSULAR AFFAIRS CONGRESS OF THE UNITED STATES EIGHTY-THIRD CONGRESS SECOND SESSION

ON

S. 2750 and H. R. 7319

PROVIDING FOR LEGISLATION PURSUANT TO H. CON. RES. 108, 83D CONGRESS, FIRST SESSION, DECLARING THAT IT IS THE POLICY OF CONGRESS, AS RAPIDLY AS POSSIBLE, TO MAKE THE INDIANS WITHIN THE TERRITORIAL LIMITS OF THE UNITED STATES SUBJECT TO THE SAME LAWS AND ENTITLED TO THE SAME PRIVILEGES AND RESPONSIBILITIES AS ARE APPLICABLE TO OTHER CITIZENS OF THE UNITED STATES, TO END THEIR STATUS AS WARDS OF THE UNITED STATES, AND TO GRANT THEM ALL OF THE RIGHTS AND PREROGATIVES PERTAINING TO AMERICAN CITIZENSHIP, AND DIRECTING THE SECRETARY OF THE INTERIOR TO REPORT TO CONGRESS HIS RECOMMENDATIONS AS TO WHAT LEGISLATION, IN HIS JUDGMENT, MAY BE NECESSARY TO ACCOMPLISH THE PURPOSES OF SAID RESOLUTION

Part 7

FLATHEAD INDIANS, MONTANA

FEBRUARY 25, 26, AND 27, 1954

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HOUSE CONCURRENT RESOLUTION 108, 83D CONGRESS
1ST SESSION

AUGUST 1, 1953.

Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and

Whereas the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians: The Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatamie Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are on the Turtle Mountain Reservation, N. Dak. It is further declared to be the sense of Congress that, upon the release of such tribes and individual members thereof from such disabilities and limitations, all offices of the Bureau of Indian Affairs in the State of California, Florida, New York, and Texas and all other offices of the Bureau of Indian Affairs whose primary purpose was to serve any Indian tribe or individual Indian freed from Federal supervision should be abolished. It is further declared to be the sense of Congress that the Secretary of the Interior should examine all existing legislation dealing with such Indians, and treaties between the Government of the United States and each such tribes, and report to Congress at the earliest practicable date, but not later than January 1, 1954, his recommendations for such legislation as, in his judgment, may be necessary to accomplish the purposes of this resolution.

Attest:

LYLE O. SNADER,
Clerk of the House of Representatives.

Attest:

J. MARK TRICE,
Secretary of the Senate.

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TERMINATION OF FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS

THURSDAY, FEBRUARY 25, 1954

UNITED STATES SENATE,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS OF THE UNITED STATES SENATE;
AND SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

The committees met at 10 a. m., pursuant to recess, in room 224, Senate Office Building, Senator Arthur V. Watkins, chairman, presiding.

Present: Senator Watkins; Representatives D'Ewart, Harrison, Berry, Westland, Aspinall, Donovan, and Haley.

Present also: Senator Murray; Albert A. Grorud, member of the professional staff of the Senate Committee on Interior and Insular Affairs.

Senator WATKINS. The committees will be in session.

The measures for consideration at the present hearing are S. 2750 and its companion bill in the House, H. R. 7319. Since they are identical we will place only S. 2750 and the Interior Department report in the record at this point.

(The bill and report are as follows:)

[S. 2750, 83d Cong., 2d sess.]

A BILL To provide for the termination of Federal supervision over the property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and the individual members thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to provide for the termination of Federal supervision over the trust and restricted property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana and the individual members thereof, for the disposition of federally owned property acquired or withdrawn for the administration of the affairs of such Indians, and for a termination of Federal services furnished such Indians because of their status as Indians.

SEC. 2. For the purposes of this Act—

(a) "Tribe" means the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.

(b) "Secretary" means the Secretary of the Interior.

(c) "Lands" means real property, interests therein, or improvements thereon, and includes water rights.

(d) "Tribal property" means any real or personal property, including water rights, or any interest in real property, that belongs to the tribe and either is held by the United States in trust for the tribe or is subject to a restriction against alienation imposed by the United States.

SEC. 3. The tribe shall have a period of three months from the date of this Act in which to prepare and submit to the Secretary a proposed roll of the members of the tribe living on the date of this Act, which shall be published in the Federal Register. If the tribe fails to submit such roll within the time specified in this section, the Secretary shall prepare a proposed roll for the tribe, which shall be published in the Federal Register. Any person claiming membership rights in the tribe or an interest in its assets, or a representative of the Secretary on behalf of any such person, may, within sixty days from the date of publication of the proposed roll, file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such roll. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals the roll of the tribe shall be published in the Federal Register and such roll shall be final for the purposes of this Act.

SEC. 4. Upon publication in the Federal Register of the final roll as provided in section 3 of this Act, the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property which may be inherited or bequeathed, but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such tribal property as provided in section 5 of this Act without the approval of the Secretary. Any contract made in violation of this section shall be null and void.

SEC. 5. (a) Upon request of the tribe approved by a majority of the adult members thereof voting in a referendum called by the Secretary, the Secretary is authorized to transfer within two years from the date of this Act to a corporation or other legal entity organized by the tribe in a form satisfactory to the Secretary title to all or any part of the tribal property, real, and personal, or to transfer to one or more trustees designated by the tribe and approved by the Secretary title to all or any part of such property to be held in trust for management or liquidation purposes under such terms and conditions as may be specified by the tribe and approved by the Secretary.

(b) Title to any tribal property that is not transferred in accordance with the provisions of subsection (a) of this section shall be transferred by the Secretary to one or more trustees designated by him for the liquidation and distribution of assets among the members of the tribe under such terms and conditions as the Secretary may prescribe: *Provided*, That the trust agreement shall provide for the termination of the trust not more than three years from the date of such transfer unless the term of the trust is extended by order of a judge of a court of record designated in the trust agreement.

(c) The Secretary shall not approve any form of organization pursuant to subsection (a) of this section that provides for the transfer of stock or an undivided share in corporate assets as compensation for the services of agents or attorneys unless such transfer is based upon an appraisal of tribal assets that is satisfactory to the Secretary.

(d) When approving or disapproving the selection of trustees in accordance with the provisions of subsection (a) of this section, and when designating trustees pursuant to subsection (b) of this section, the Secretary shall give due regard to the laws of the State of Montana that relate to the selection of trustees.

SEC. 6. (a) The Secretary is authorized and directed to transfer within two years from the date of this Act to each member of the tribe unrestricted control of funds or other personal property held in trust for such member by the United States.

(b) All restrictions on the sale or incumbrance of trust or restricted land owned by members of the tribe (including allottees, heirs, and devisees, either adult or minor) are hereby removed two years after the date of this Act, and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid incumbrance. The titles to all interests in trust or restricted land acquired by members of the tribe by devise or inheritance two years or more after the date of this Act shall vest in such members in fee simple subject to any valid incumbrance.

(c) Prior to the time provided in subsection (b) of this section for the removal of restrictions on land owned by more than one member of a tribe, the Secretary may—

(1) upon request of any of the owners, partition the land and issue to each owner a patent or deed for his individual share that shall become unrestricted two years from the date of this Act;

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or

any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That any one or more of the owners may elect before a sale to purchase the other interests in the land at not less than the appraised value thereof, and the purchaser shall receive an unrestricted patent or deed to the land; or

(3) if the whereabouts of none of the owners can be ascertained, cause such lands to be sold and deposit the proceeds of sale in the Treasury of the United States for safekeeping.

SEC. 7. (a) The Act of June 25, 1910 (36 Stat. 855), the Act of February 14, 1913 (37 Stat. 678), and other Acts amendatory thereto shall not apply to the probate of the trust and restricted property of the members of the tribe who die six months or more after the date of this Act.

(b) The laws of the several States, Territories, possessions, and the District of Columbia with respect to the probate of wills, the determination of heirs, and the administration of decedents' estates shall apply to the individual property of members of the tribe who die six months or more after the date of this Act.

SEC. 8. The Secretary is authorized, in his discretion, to transfer to the tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribe which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary for public use and from which members of the tribe will derive benefit.

SEC. 9. No property distributed under the provisions of this Act shall at the time of distribution be subject to Federal or State income tax. Following any distribution of property made under the provisions of this Act, such property and any income derived therefrom by the individual, corporation, or other legal entity shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation, or other legal entity.

SEC. 10. (a) Effective on the first day of the calendar year beginning after the date of the proclamation provided for in section 14 of this Act, the deferment of the assessment and collection of construction costs provided for in the first proviso of the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C. 386a), shall terminate with respect to lands within the Flathead Indian irrigation project, and the reimbursable construction costs chargeable against such lands shall be repaid in annual installments of approximately equal amount over a fifty-year period. Such lands shall also be subject to the payment annually of the operation and maintenance charges assessed against them. The Secretary shall cause the first lien against such lands created by the Act of May 18, 1916 (39 Stat. 139), and May 10, 1926 (44 Stat. 453, 464-466), to be filed of record in the appropriate county office.

(b) The Secretary is hereby authorized to adjust unpaid operation and maintenance assessments against Indian owned lands within the Flathead Indian irrigation project and to cancel or eliminate all or any part of such assessments that he determines to be inequitable.

(c) Nothing contained in any other section of this Act shall affect in any way the laws applicable to the Flathead Indian irrigation project or the contractual arrangements entered into pursuant to such laws.

SEC. 11. Prior to the transfer of title to, or the removal of restrictions from, property in accordance with the provisions of this Act, the Secretary shall protect the rights of members of the tribe who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs by causing the appointment of guardians for such members in courts of competent jurisdiction, or by such other means as he may deem adequate.

SEC. 12. Pending the completion of the property dispositions provided for in this Act, the funds now on deposit, or hereafter deposited, in the United States Treasury to the credit of the tribe shall be available for advance to the tribe, or for expenditure, for such purposes as may be designated by the governing body of the tribe and approved by the Secretary.

SEC. 13. The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this Act, or to establish a marketable and recordable title to any property disposed of pursuant to this Act.

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SEC. 14. (a) Upon removal of Federal restrictions on the property of the tribe and individual members thereof, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to the affairs of the tribe and its members has terminated. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

(b) Nothing in this Act shall affect the status of the members of the tribe as citizens of the United States, or shall affect their rights, privileges, immunities, and obligations as such citizens.

SEC. 15. (a) Effective on the date of the proclamation provided for in section 14 of this Act, the corporate charter of the tribe issued pursuant to the Act of June 18, 1934 (48 Stat. 984), as amended, ratified by the tribe on April 25, 1936, is hereby revoked.

(b) Effective on the date of the proclamation provided for in section 14 of this Act, all powers of the Secretary or other officer of the United States to take, review, or approve any action under the constitution and bylaws of the tribe are hereby terminated. Any powers conferred upon the tribe by such constitution which are inconsistent with the provisions of this Act are hereby terminated. Such termination shall not affect the power of the tribe to take any action under its constitution and bylaws that is consistent with this Act without the participation of the Secretary or other officer of the United States.

SEC. 16. The Secretary is authorized to set off against any indebtedness payable to the tribe or to the United States by an individual member of the tribe any funds payable to such individual under this Act and to deposit the amounts set off to the credit of the tribe or the United States as the case may be.

SEC. 17. Nothing in this Act shall affect any claim heretofore filed against the United States by the tribe.

SEC. 18. Nothing in this Act shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever any such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject thereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency.

SEC. 19. The Secretary is authorized to issue rules and regulations necessary to effectuate the purposes of this Act, and may in his discretion provide for tribal referenda on matters pertaining to management or disposition of tribal assets.

SEC. 20. All Acts or parts of Acts inconsistent with this Act are hereby repealed insofar as they affect the tribe or its members. The Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378), shall not apply to the tribe and its members after the date of the proclamation provided for in section 14 of this Act. Effective on the first day of the fiscal year beginning after the date of the proclamation provided for in section 14 of this Act the recoupment requirement of the last proviso under the heading "Bureau of Indian Affairs" in title I, Second Deficiency Act, fiscal year 1935 (49 Stat. 571, 584), shall become inapplicable to the unrecouped balance of funds expended in cooperation with Joint School District Numbered 28, Lake and Missoula Counties, Montana, pursuant to the Act of June 7, 1935 (48 Stat. 328, ch. 191).

SEC. 21. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., January 4, 1954.

Hon. RICHARD M. NIXON,
President of the Senate, Washington, D. C.

MY DEAR MR. PRESIDENT: Enclosed herewith is a draft of a proposed bill to provide for the termination of Federal supervision over the property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., and the individual members thereof, and for other purposes.

The proposed bill is submitted in response to House Concurrent Resolution 108, 83d Congress, 1st session. It is requested that the proposed bill be referred to the appropriate committee for consideration.

There are also enclosed for your convenience copies of an analysis of the bill and a summary of background information relating to the Flathead Indians.

There are presently some 4,213 members in the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont. Census records indicate that only 7 percent of them are fullblood Indians, 64 percent of them are of less than one-half Indian blood, and more than a third of them are of less than one-fourth Indian blood. Approximately one-half of the tribal members are established away from the reservation area, and the members residing on or near the reservation area are outnumbered 13 to 1 by non-Indians living in the same area. It is estimated that nine-tenths of the Flathead Indian families are fully self-supporting.

The major resources of the Flathead Indians consist of some 644,015 acres of trust lands, including the Flathead forest, 1 developed hydropower dam site, and 2 potential dam sites. In addition, they have two tribal business enterprises: A mineral bath, and a resort lodge. A total of 200,008 acres of the trust lands are individually owned. Approximately 14,300 acres of these lands are within the Flathead irrigation project, constituting slightly more than 15 percent of the lands within the project.

The continued protection of the watershed area that includes the Flathead forest merits special attention by the Congress. The Flathead forest lands, aggregating 474,200 acres, are located on the mountain slopes immediately above the Flathead Valley and adjoin national forest lands that are located at higher elevations on three sides of the valley. In the valley below the Flathead and national forest lands there are extensive irrigation developments which represent substantial investments by the Federal Government and the individual owners of valley lands, largely non-Indians. The problem of protecting the watershed area, however, is beyond the scope of the proposed bill.

Field officials of the Bureau of Indian Affairs of this Department have held group meetings and individual conferences to discuss a preliminary draft of the proposed bill with tribal members, officials of the State of Montana, officials of the local governments primarily involved, and other interested persons, both Indian and non-Indian. Tribal members residing away from the reservation were invited to express their views by letter.

The sentiment expressed by individual tribal members residing in the reservation area was decidedly in opposition to the proposed bill. At a general meeting called for the purpose of discussing the preliminary draft, attended by about 130 adult Flathead Indians, a substantial majority voiced their opposition. The tribal council members voted unanimously against endorsement of the proposed bill, declaring they did not want to accept a terminal bill at this time. They are supported in this position by the tribal attorney and by officials of a missionary group on the reservation. However, there is a small reservation group that favors termination of Federal responsibility for administering their affairs.

Off-reservation tribal members, on the other hand, have generally indicated they favor the purposes of the proposed bill. At this time, 134 replies have been received in response to the invitation for their comments, which represents an estimated 40 percent of the off-reservation families. Approximately 82 percent of the responses favor the purposes of the proposed bill, while 7 percent oppose it. About 11 percent of the responses do not indicate a definite position.

Officials of the State of Montana at the time that they were consulted did not commit themselves to a definite position with respect to the proposed bill, but they indicated that they saw no reason for objection to the preliminary draft as long as arrangements are made to protect the elderly fullblood Indians who might not be capable of looking after themselves. In separate conferences, the chairmen of the boards of county commissioners of the two counties primarily involved likewise indicated they saw no reason for objection to the preliminary draft. They, too, urged that care be taken not to hurt in any way the elderly fullblood Indians.

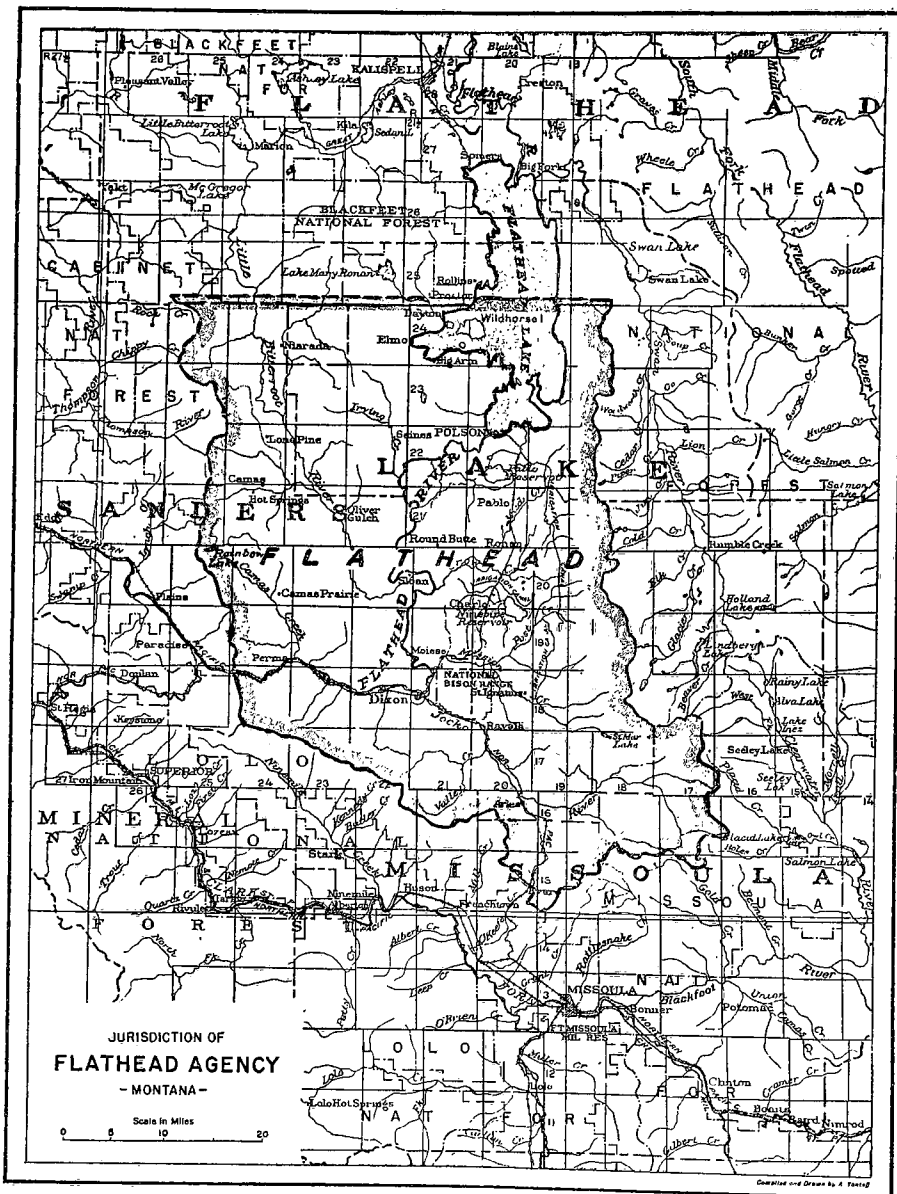
Representatives of the three irrigation districts of the Flathead irrigation project were also consulted on the preliminary draft because it was proposed to include provisions for the transfer of the management of the project to the districts. The largest of the three districts definitely opposed the inclusion of such provisions in the proposed bill. Since then it has become apparent that further study of Montana irrigation law is essential, inasmuch as the mechanics of such

a transfer will be conditioned by applicable State laws. The matter is therefore not treated in the proposed bill, except to provide for placing the Indian-owned lands within the project in the same status as non-Indian-owned lands. Instead, it is proposed to treat the matter of transfer of management responsibility for the project in separate legislative recommendations at a later date.

Because of the specified date by which the legislative recommendations of the Department are to be submitted in response to House Concurrent Resolution 108, the proposed bill and this report have not been cleared through the Bureau of the Budget, and, therefore, no commitment can be made concerning the relationship of the proposed bill and the views expressed herein to the program of the President.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.



INFORMATION RELATING TO THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, MONT.

Background

The Indian people of the Flathead Reservation, in Montana, are descendants of members of groups and bands from a number of tribes which were once located throughout the area that is now western Montana, northern Idaho, and eastern Washington and Oregon. Under a stipulation of the Hell Gate Treaty of July 16, 1855 (12 Stat. 975), which was negotiated in the Bitter Root Valley of Montana, the Flathead, Kootenai, and Upper Pend d'Oreille Indians were designated as confederated tribes and, together with such other friendly bands and tribes of the Territory of Washington who might agree to consolidate with them, were declared to constitute the Flathead Nation. Tribes actually represented on the reservation in addition to the Flathead, Kootenai, and Pond d'Oreille include the Kalispel, Spokane, Nez Perce, and Colville in substantial numbers, and the Cree, Chippewa, Blackfeet, Snake, Shoshone, Chinook, and Iroquois in lesser numbers. Many of the Indians on the Flathead Reservation also have French, Scotch, and Scandinavian ancestry as a result of early intermarriage between the Indians and Hudson Bay fur traders and trappers and, later, their descendants. In 1936 the Indians of the Flathead Reservation incorporated under the provisions of the act of June 18, 1934 (48 Stat. 984), under the name of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont.

The Hell Gate Treaty, *supra*, also provided for the establishment of a general reservation to be settled by the Flathead Nation as created by the treaty. The treaty also set aside a portion of the Bitter Root Valley as a supplementary reservation for the Flatheads, but the Indians located there were later removed to the general reservation pursuant to the act of March 2, 1889 (25 Stat. 871). The general reservation, for 40 years called the Jocko Reservation, is now known as the Flathead Reservation. Allotment of the Flathead Reservation and the opening to settlement of the lands remaining after allotment, except for certain areas reserved for specified purposes, were authorized by the act of April 23, 1904 (33 Stat. 302). Subsequent acts provided for the sale or reservation of additional portions of the lands previously opened to settlement. Additional allotments were authorized by the act of February 25, 1920 (41 Stat. 452), this time to unallotted living children enrolled or entitled to enrollment with the tribes. These allotments were made largely in the timber areas, and the first cutting of timber on them was to be reserved for tribal benefit after which title to the residual timber was then to pass to the allottees. The election of the tribes to have the act of June 18, 1934, *supra*, apply to them brought an end to further general disposition of the reservation lands, except for specific conveyances of land to the State of Montana and Lake County, Mont., which were authorized by subsequent acts. Under authority of the act of June 18, 1934, *supra*, the Secretary of the Interior by an order of February 13, 1936, restored to tribal ownership 192,424 acres remaining of the lands previously opened to settlement. Approximately 50 percent of the original reservation is now owned by non-Indians.

The act of April 23, 1904, *supra*, in addition to authorizing allotments and non-Indian settlement of the surplus lands, provided for a survey to determine the feasibility of an irrigation project. Following a favorable finding, construction was begun on the Flathead irrigation project in 1909 with funds appropriated by the act of March 3, 1909. All appropriations for the construction were made from tribal funds until 1916, when the act of May 18, 1916 (39 Stat. 141), provided for reimbursement to the tribes for such expenditures. The construction activities were carried on by the Reclamation Service, under an arrangement made in 1907, until 1924, when the Reclamation Service withdrew from the project. The Flathead irrigation project was established to embrace both Indian and non-Indian lands, and today approximately 80 percent of the lands under irrigation are non-Indian owned. Most of the non-Indian lands under the project are covered by three irrigation districts organized under State law, each within a different watershed. The total designated irrigable area aggregates 130,000 acres. There are 93,000 acres actually under irrigation at this time, of which slightly more than 15 percent is in Indian ownership.

The people

Currently there are 4,213 members in the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont. It is estimated that 28 adult members are unable to speak English and 55 are unable to read and write. Approximately 50 percent of tribal members are established away from the reservation area, and the members residing on and near the reservation are outnumbered

13 to 1 by non-Indians within the same area. Census records indicate that 64 percent of the tribal members are of less than one-half Indian blood and that only 7 percent of the tribal members are fullbloods. More than a third of the members are of less than one-fourth Indian blood. Flathead Indian children have been in attendance at public or mission schools for a period of several decades. In 1942, 27 percent of the children of school age were not attending school, while currently only 7 percent are not attending school for various reasons.

During fiscal year 1952, 111 Flathead families were totally dependent upon categorical aids or tribal welfare funds and 11 families were partially dependent upon such sources for their support. The sources of Indian livelihood on the reservation, in the order of their importance, are wage work, timber operations, grain farming, dairy and beef cattle, hunting and fishing, and tourist trade. It is estimated that some 457 families derive their full support from use of reservation resources and 467 families fully support themselves by gainful pursuits away from the reservation. It is estimated the reservation resources would provide a livelihood for all but 132 of the resident Indian families at an annual income level comparable to the locally prevailing non-Indian income level of \$2,400.

Reservation resources

The Flathead Reservation is located between the cities of Missoula and Kalispell, Mont. It is about 65 miles long from north to south and about 35 miles wide. The crest of the Mission Mountains form the eastern boundary, the Cabinet Mountains bound it on the west, and the Lolo National Forest on the south. The northern boundary is a straight line about 24 miles south of Kalispell, approximately bisecting Flathead Lake. Reservation elevations range from 2,500 feet to 10,000 feet, with the average elevation more than 3,000 feet. The growing season ranges from 120 days to 180 days, and precipitation averages 15 inches.

The reservation area comprises 644,015 acres of Indian trust lands, of which 442,804 are tribal, 200,008 acres are allotted or held in restricted fee patent, and 1,203 acres are reserved by the Government for administrative purposes. The reservation lands are classified as follows:

	<i>Acres</i>
Irrigated farming.....	18, 600
Nonirrigated farming.....	¹ 46, 876
Grazing.....	¹ 54, 435
Forest.....	474, 200
Barren and waste.....	42, 043
Administrative sites.....	468
Miscellaneous, including reservoirs.....	7, 473

¹ Figures are not mutually exclusive.

Indians themselves farm 7,889 acres of the 18,600 acres under irrigation and 23,833 acres of the 46,876 acres of dry farmland. Indians themselves use almost 80 percent of the grazing lands, which are estimated to have a carrying capacity of approximately 36,000 cow-months. Only 89,000 acres out of the 200,008 acres of land individually owned by Indians are used directly by Indians.

The Flathead forest is managed on a sustained-yield basis with a long-term allowable cut ranging between 10 and 12 million board feet annually. In calendar year 1952 the actual cut was 28,223,000 board feet on tribal lands and 1,207,000 board feet on allotted lands, yielding gross revenues of \$612,560 and \$20,923, respectively.

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Additional assets and revenue of the Confederated Salish and Kootenai Tribes include:

	Assets	Net income
1. Tribal loans as of June 30, 1953: ^{1 2}		
Cash on hand.....	\$37,051	
Loans outstanding.....	330,423	
Net cattle loaned, 740 at \$65 ³	48,100	
Total.....	415,574	
2. Lease of power and dam site: Income from Montana Power Co., fiscal year 1952.....		\$202,200
3. Hot Springs mineral baths:		
Plant investment as of June 30, 1952.....	500,000	
Net income, fiscal year 1952.....		2,211
4. Blue Bay Lodge:		
Plant investment as of June 30, 1952.....	150,000	
Net income, fiscal year 1952.....		1,000
5. Leasing of tribal grazing lands, fiscal year 1952.....		14,529
6. Income from timber sales, calendar year 1952 ⁴		551,340
7. Interest on funds in U. S. Treasury ⁵		15,600
8. Miscellaneous income, fiscal year 1952.....		15,875
Total annual income, fiscal year 1952.....		802,755

¹ It was estimated that individual Indians had the following additional credit as of June 30, 1952: Local banks, \$104,900; Production Credit Association, \$3,700.

² Interest income is reported under "Miscellaneous income," item No. 8.

³ Excess of cattle owed to tribe over cattle tribe owes Government.

⁴ 10 percent Government administrative charge deducted from actual sales for the year.

⁵ Based on \$390,000 on deposit in U. S. Treasury at 4 percent interest.

Contrasted with recent annual income of approximately \$800,000 are the budgeted tribal expenditures for fiscal year 1954 in the amount of \$151,920, detailed as follows:

General administration.....	\$45,260
Welfare.....	8,580
Health.....	50,000
Education.....	8,480
Law and order.....	16,550
Land management.....	7,830
Livestock.....	3,380
Fire suppression.....	5,000
Credit.....	6,840
Total.....	151,920

Services

Flathead Indians receive services from both the State and local governments and the Bureau of Indian Affairs, and the tribes contribute in part to the financing of some of the services as reflected in their budget for fiscal year 1954 above. The State and local governments admit Flathead Indians to public schools, acknowledge their eligibility for all categories of welfare assistance, and accept institutional cases in State facilities.

The Bureau of Indian Affairs currently provides the following services at the Flathead Reservation: General supervision of tribal activities; management and operation of the Flathead irrigation project and reservation timber; construction, operation, and maintenance of certain reservation roads; management of trust property; supervision of tribal credit activities; furnishing of medical services; and furnishing of off-reservation boarding school facilities for certain Indian children and financing under contract a portion of the costs of local public schools attended by Flathead Indian children of one-fourth or more Indian blood. These services required the expenditure of \$194,083 in gratuity funds during fiscal 1952, exclusive of agency, area office and central office general administrative costs.

SPECIAL PROBLEMS IN CONNECTION WITH TERMINATION OF SPECIAL FEDERAL RELATIONSHIPS WITH THE FLATHEAD INDIANS

Organization

The principal and basic problem confronting the Flathead Indians in connection with termination of special Federal relations is that of retention, modi-

fication of holdings, or liquidation of the tribal assets. Assuming scheduled termination of special Flathead relations with the Federal Government the Indians must determine their need for a successor organization to the present organization established under the Indian Reorganization Act (act of June 18, 1934, supra) which would be adequate to manage or dispose of their tribal assets. This decision will in turn condition the methods by which the Federal Government will divest itself of trust title to the tribal assets and terminate other trust obligations with respect to its management of the tribal assets.

Timber

The major economic decision confronting the tribe will be whether to make provision for continuing the management of tribal timber or to effect its disposition. This decision should be made after full consideration of the problems and possible alternatives by the Indians. Special advantages of alternatives will depend to a certain extent upon factors such as State and Federal requirements by way of taxation and management and Indian attitudes toward short-range financial advantages of liquidation in comparison with long-range financial advantages of continued operation by an organization under complete Indian control. A special complication is the fact that about 25 percent of the timbered trust lands are in allotments made in 1920 on which the tribe reserved rights to the first cutting of timber. There is an inherent conflict of interest between an incorporation of such allotments into an overall program of sustained-yield forest management and the desire of the allottees to realize an immediate return from their allotments.

Flathead irrigation and power system

The Bureau of Indian Affairs now operates a joint electric power and irrigation venture at the Flathead Reservation. The need for adequate measures for divesting the Bureau of its management responsibilities for the project constitutes another special problem. The power system serves approximately 5,000 customers and the irrigation system provides water currently for approximately 93,000 acres of which 14,300 acres are Indian-owned with only 3,600 acres of these lands actually being farmed by Indians. Power revenues are used to subsidize irrigation costs. The joint enterprise operates 109 miles of telephone line for control and dispatching purposes. Construction costs, advanced by the Federal Government are largely still outstanding. Under the terms of the Levitt Act of July 1, 1932 (47 Stat. 564) liability of Indian lands for repayment of construction costs to the United States Treasury has been deferred indefinitely. Approximately \$160,000 of unpaid operation and maintenance charges have accrued against Indian lands covered under the irrigation project, most of these lands not having been placed under irrigation as yet.³

A careful plan will need to be developed to provide for operation of the joint power and irrigation system following termination of special Federal services to Flathead Indians. A particular problem arises from restrictive provisions of Montana irrigation district law which relate to operation of electric power systems by such districts. It may be desirable to seek modification of this statutory provision.

State and local relations

There appears to be some question about the ability of the State and local subdivisions of government to absorb from local taxes the costs of furnishing to Flathead Indians the full complement of government services currently made available by Montana to its non-Indian citizens.

It is estimated that potential real and personal property tax revenues from Flathead trust lands and Indian personal property will amount to approximately \$145,000 annually while present tribal and Bureau annual expenditures on activities of a governmental nature amount to approximately \$286,000.³ While these data require analysis to ascertain that current Bureau and tribal expenditures are commensurate with costs which would be incurred by the State and its local subdivisions after termination of Federal supervision and trusteeship, it does appear from the facts at hand that such termination will present a financial problem to the State and local governments.

³The present system can furnish water to approximately 107,000 acres and can be enlarged to serve a total of 138,000 acres.

²In fiscal 1951 Bureau provided \$233,000 and the tribe furnished \$53,000 to finance services of a governmental nature.

From the Indian standpoint, another problem in State and local relations is the matter of extension of State law and order jurisdiction to Indian trust lands. The Flathead Indians have expressed opposition to such a move in the past on the grounds of concern about possible loss of exclusive fishing and hunting rights on Indian trust land and possible discrimination on the part of non-Indian law enforcement officials. On the basis of observation by Bureau representatives of local non-Indian attitudes, the fear of discrimination appears unjustified.

Fractionated land interests

There are substantial numbers of undivided ownership interests in Indian allotted lands at Flathead. The extent to which this situation constitutes a problem in a terminal readjustment program hinges on the extent to which the Federal Executive and Legislative Departments determine that prior elimination of such fractionated land interests is to be undertaken by the Federal Government.

Power site and water rights lease to Montana Power Co.

In the event the members of the tribe decide to liquidate their tribal assets, some difficulty may be encountered in disposing of this contract which is subject to renegotiation with the Montana Power Co. It would appear that this company would be the logical purchaser of the contract and water rights if satisfactory terms could be agreed upon.

Indian claims and treaty rights

The Flathead Indians have claims presently pending before the Indian Claims Commission and may have certain treaty rights yet extant. However, it does not appear that these considerations will impede or prevent termination of special Federal relations.

SECTION-BY-SECTION ANALYSIS OF A PROPOSED BILL TO PROVIDE FOR THE TERMINATION OF FEDERAL SUPERVISION OVER THE PROPERTY OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, MONT., AND THE INDIVIDUAL MEMBERS THEREOF, AND FOR OTHER PURPOSES

1. Section 1 of the bill is a statement of purpose.
2. Section 2 of the bill consists of definitions that are designed to eliminate the need for repeating phrases through the bill.
3. Section 3 of the bill provides for the preparation and publication in the Federal Register of a membership roll for the tribe, which shall be final for the purposes of the act. Primary responsibility for preparation of the roll is placed on the tribe. The Secretary will publish the roll prepared by the tribe without reviewing it. Corrections to the roll will be handled entirely by the appeal process. Any aggrieved person may appeal to the Secretary. After the Secretary has decided all appeals he will republish the roll, and it will be final for the purposes of the act. As the Secretary does not review the roll except to the extent necessary to decide appeals, the Superintendent or other designated representative of the Secretary will have the right to appeal on behalf of any Indian in order that he may protect the rights of persons who should but who fail to appeal, to the extent he knows about them.
4. Section 4 of the bill declares that the right of each enrolled member of the tribe to share in the use or disposition of tribal property is a personal property right which may be bequeathed or inherited, but which may not otherwise be alienated before the Federal trusteeship over the property is terminated.
5. Section 5 of the bill provides for the termination of Federal supervision over tribal real and personal property. Within a 2-year period from the date of the act, the tribe may request the Secretary to transfer title to the property either to a corporation organized by the tribe or to one or more trustees of the tribe's choice for management or liquidation purposes. The request of the tribe in order to be valid must be approved by a majority of the adult members of the tribe voting in a referendum called for that purpose by the Secretary. If the tribe does not exercise an option, the Secretary will transfer title to the property to a trustee of his choice, who will take title for liquidation purposes only.
6. Section 6 of the bill provides for the termination of Federal supervision over the personal and real property of individual members of the tribe. Within a 2-year period from the date of the act, the individual members will be given unrestricted title to their funds and other personal property held in trust. All restrictions on trust or restricted lands owned by individual members are removed

2 years after the date of the act, but during the interim period the Secretary may upon request of an owner partition or sell lands owned by more than one Indian, or issue patents to the owners for their undivided interests. Under this procedure restrictions will be removed as rapidly as the title problems are resolved.

7. Section 7 of the bill makes State law rather than Federal law applicable to the probate of trust or restricted property of Indians who die 6 months or more after the date of the act. The Bureau of Indian Affairs will complete the probate of estates pending at that time, but will not be responsible for the probate of any new estates.

8. Section 8 of the bill provides for the disposition of federally owned property, as distinguished from Indian property, that is now used for the administration of Flathead Indian affairs and that will no longer be needed for such purposes when the terminal program is completed. Such property may be given to the Indians or to public or nonprofit agencies if the Indians will derive a benefit therefrom, or may be retained in Federal ownership.

9. Section 9 of the bill makes the distribution of trust property under the act not subject to Federal or State income tax, but after the distribution is made the property and income therefrom will be subject to the same Federal and State taxes as in the case of non-Indians.

10. Section 10 of the bill provides for the assessment and collection of reimbursable construction costs chargeable against Indian-owned lands within the Flathead Indian irrigation project following the removal of trust restrictions from such lands. It also provides authority to make adjustments in unpaid operation and maintenance assessments against Indian-owned lands within the project in cases where such assessments are determined to be inequitable. Otherwise, the section makes no changes in the laws applicable to the Flathead Indian irrigation project.

11. Section 11 of the bill directs the Secretary of the Interior to protect the rights of Indians who are minors, non compos mentis, or unable to handle their property without assistance by causing the appointment of guardians or by such other means as he deems adequate.

12. Section 12 of the bill provides for the use of tribal funds in the Treasury of the United States for any purpose approved by the tribe and the Secretary.

13. Section 13 of the bill authorizes the Secretary to execute any conveyancing instruments necessary to carry out the purposes of the act or to establish a marketable title.

14. Section 14 of the bill provides that when Federal restrictions are removed from the property of the tribe and its members a proclamation will be published in the Federal Register, and thereafter such Indians will have the same status under State and Federal law as any other person or citizen.

15. Section 15 of the bill revokes the corporate charter issued to the tribe under the act of June 18, 1934 (48 Stat. 984), and terminates all powers under the tribal constitution that are inconsistent with any provision of the act. The section also terminates the power of the Secretary to take, review, or approve any action under tribal constitutions.

16. Section 16 of the bill authorizes funds payable under the act to an individual Indian to be set off against any debts owed by the individual to the tribe or to the United States.

17. Section 17 of the bill protects claims heretofore filed in the Indian Claims Commission.

18. Section 18 of the bill protects existing valid leases, permits, rights-of-way, liens, or other contracts, but authorizes the Secretary to transfer any functions he may have under such instruments to another Federal agency.

19. Section 19 of the bill gives the Secretary of the Interior authority to issue rules and regulations necessary to carry out the purposes of the act.

20. Section 20 of the bill repeals all inconsistent provisions in other acts, and makes the act of June 18, 1934 (48 Stat. 984), as amended (commonly called the Indian Reorganization Act), inapplicable to the Flathead Indians. It also makes a required recoupment of funds expended in cooperation with school districts inapplicable to the balance of unrecouped funds expended in cooperation with Joint School District No. 28, Lake and Missoula Counties, Mont.

21. Section 21 of the bill contains a separability provision.

Senator WATKINS. This is a joint hearing being conducted by the subcommittees of both the Senate and the House Committees on Interior and Insular Affairs.

We have with us this morning besides Congressman Berry, who is chairman of the House subcommittee, and Mr. D'Ewart, who is a member of the House subcommittee, Senator Murray, who is a member of the Senate Committee on Interior and Insular Affairs.

We are glad to have you here, Senator Murray.

We understand that you desire to introduce one of the witnesses and possibly make a statement.

Senator MURRAY. Mr. Chairman, I merely wish to ask that Mr. Richard Shipman, a prominent farmer of Montana, be permitted to testify this morning. Because I will not be able to be present tomorrow, and therefore I have come up this morning to be here during the testimony that he is about to give.

Mr. Shipman is a very well known farmer in Montana, and I believe that he expresses the viewpoint generally of the people of Montana.

We feel a very strong interest in the Indians of our State. We feel that it would be a great mistake to take any action which might be injurious to their best interests and welfare. And we are very anxious that a very careful study should be made of this proposed legislation before any final action is taken.

Mr. Shipman is very well qualified to testify on this matter this morning, and I ask the chairman to call him as the first witness.

Senator WATKINS. We will call Mr. Shipman, then.

Thank you, Senator Murray.

Mr. Richard Shipman. You may be seated opposite the reporter.

Will you give us your name and address? Senator Murray has already stated your occupation.

STATEMENT OF RICHARD SHIPMAN, LEWISTOWN, MONT., VICE PRESIDENT OF THE MONTANA FARMER'S UNION

Mr. SHIPMAN. Mr. Lazarus is legal counsel of one of the associations which I represent, and he also wishes to testify this morning.

Did everyone get a copy of my testimony here?

Representative D'EWART. This is Oliver LaFarge's. Is that who you are speaking for?

Mr. SHIPMAN. Yes, as well as the Farmers' Union.

Mr. Chairman and members of the committee, my name is Richard Shipman. I live at Lewistown, Mont., where I own and operate a combination dairy, grain, and cattle ranch. I am here today representing the Montana Farmers' Union, of which I am vice president.

I wish to thank the chairman and the members of the committee for giving me this opportunity to appear before you.

I am unknown to some of the members of your committee, and so I would like to make a few personal remarks by way of background information.

My family came to Montana in the early 1880's, and my father ranched in country where the buffalo still grazed. The Indian problem was not a newspaper item, but was an important factor in the daily life of the Montana cattleman.

I grew up in Indian country. My ranch and the region it lies in are rich in Indian tradition. Indian signal buttes can be seen from the windows of my home and our plows often bring long-buried Indian arrowheads to view.

On my own account, then, I speak here today as neighbor and friend of the Indians of Montana. I have come to know and to respect the American Indian citizens of my State. Their economic future and the well-being of my whole State will be injured if the Federal Government withdraws from the Flathead Reservation.

This is the view of both the organizations I represent today.

The Montana Farmers' Union includes almost one-half of all the farm families in the State of Montana and our members are deeply concerned with the fate of our Indian citizens.

I am also here at the invitation of Mr. Oliver LaFarge, president of the Association on American Indian Affairs. The great work of this association on behalf of the American Indian is well known to the members of this committee, I am sure.

Our opposition to withdrawal rests on 3 grounds—moral, economic, and legal. I will attempt to present the first 2, and Mr. Lazarus will present a brief on the legal aspects. In our opinion, withdrawal is indefensible on any one of these grounds.

I will speak of the moral aspect first. To my mind it is the most important of the three. Whether we act as individuals, as a Nation, or as a Government, we are nothing if we do not act in accordance with ageless principles of moral law.

I believe that to carry out the program proposed in this bill would be to violate age-old principles of public morality and to do so in the name of the Government and the people of the United States.

That is strong language. I use it because I believe it is true and because I am deeply concerned about the effect such action would have upon the honor and the integrity of our country.

If this bill becomes law the United States Government will stand before the world guilty of tearing up the sacred treaty it entered into with the Salish and Kootenai Indian Nations in the year 1855.

The United States Government knew, and the Indians knew, that the treaty of 1855 was meant to guarantee to the Kootenai and the Salish Indians a homeland that would be theirs forever.

It was not a gift. In exchange for this final refuge, the Indians deeded to the Federal Government a huge tract of land comprising the whole of the Bitterroot Valley.

And I might say at this point that the Bitterroot Valley comprises some of the finest land in Montana, I believe.

The treaty, everyone understood, was to end forever the long and sordid history of the injustices toward the first owners of this land. It was a promise that from that date onward and for all time, the Kootenai and the Salish Indians would have a homeland where they could live in peace and security under the guidance and protection of the United States Government. This was the intent; this was the moral obligation of that treaty. We of today do wrong if we belittle or attempt to escape from this obligation.

When the intentions of the Government became known to the Indians of the Flathead Reservation last fall, an elder tribesman among the Indians stood up at his tribal council meeting and said, "It has now become clearly understood by us that a treaty with the United States Government means nothing." I read those words with a feeling of shame.

We have commissions and committees to investigate and study almost everything under the sun, but what study, what investigation

was made before bringing in this proposal to end suddenly the 100-year-old Federal supervision of Flathead Indian affairs? Certainly there have been no studies commensurate with the importance of this step.

Indians throughout the country are well aware of the fact that last summer, in the final hours of the Congress, a bill to extend State law over Indian reservations was passed virtually without debate. Public Law 280 reversed within minutes a century-old policy of the United States Government.

It is no wonder that Public Law 280 was criticized editorially by responsible American newspapers from New York to Seattle.

It is no wonder that President Eisenhower signed it only with "the greatest reluctance," and only after requesting the Congress not to implement the bill without the fullest consultation and negotiation with the Indian peoples concerned.

Senator Murray and Congressman Lee Metcalf, of Montana, have given us an example of how the Government can deal with the Indians, fairly and in the American tradition. They have introduced a bill, H. R. 7193—and I omitted the number of the Senate bill there, an identical bill—which amends Public Law 280. The amendment would have this law become effective only where the Indians—

accept such jurisdiction by a majority vote. * * * at a special election held for that purpose.

I understand that similar bills have since then been introduced by other Members of Congress, including the chairman of the House subcommittee, Congressman Berry. They certainly deserve commendation for that action.

There has been no adequate consultation with the Indians of the Flathead Reservation. Do the Indians of the Flathead Reservation want termination of Federal supervision? This committee cannot be blamed if the answer is that it does not know. The Bureau of Indian Affairs has held no consultation worthy of the name with the tribal council or its officers. The Indians have been told that this thing will be done to them. They have been told that it was so decided for them in Washington. They have been told to get ready for it overnight.

Such things are not in the tradition of this land of freedom.

Let me assure this committee that there is no mystery or question as to how the Indian people feel about the proposed bill. They are opposed to it, and more; they are disillusioned, and they are bitter. They cannot understand why the great American Government could strike such a final and irrevocable blow against them. They have made their own consultation among their people; and you will hear from their own spokesmen that the vast majority of Indians living on the reservations are opposed to termination. This feeling goes far beyond the Flathead reservation. All the Indians of Montana are apprehensive and fear that this is only the beginning and are wondering who will be the next to be liquidated.

It is true that some persons have managed to confuse a small number of Indians as to what is involved. These are mainly Indians who left the reservation many years ago, have only a few ties there and now see an opportunity for some quick, easy money at the expense of those who remain behind.

The State is filled with rumors. Word has passed among the Indians that each member of the tribe would receive \$15,000 in cash upon liquidation of the reservation. The effect on some of the less informed Indians has been to give them wholly unrealistic visions of personal wealth. They have forgotten the fate of other Indians who, in the past, sold their allotments and in a matter of weeks or months lost, squandered, or were robbed of all they possessed.

Who is at fault when indigent Indians become public charges on the State of Montana, or any State in the same situation? I say we must all share the blame, that we should learn from the past and not make the same old mistakes again and again.

Such things happen partly because the Federal Government fails in its duty to prepare the Indians to take their part in the general life of American society. It happens, also, because too many of our white Americans are unready to welcome the Indian into full and equal association. The State of Montana, for example, has no law guaranteeing the Indian protection against discrimination. It is not the Indian's fault that in the towns and cities of his own home State he is sometimes denied service in hotels and restaurants and generally is given employment only when no suitable white person is at hand.

I realize that there are many Indians and many friends of Indians who are disappointed with the results of a hundred years of Government supervision and who feel that the best thing they can do to promote Indian welfare is to eliminate the activities of the Bureau of Indian Affairs. They want to help Indians by abolishing the Bureau of Indian Affairs.

I, too, feel that there have been serious failures within the Bureau of Indian Affairs and that more effort should have gone into health education, economic development programs, an inservice training to manage their own affairs. Worse than that, I myself have seen scorn of Indians as Indians in the attitude of Bureau officials in Montana. I have seen patronizing attitudes toward Indians by Bureau officials and contemptuous dismissal of their needs and wishes.

But because this is true, we are going to adopt legislation which will only have the effect of liquidating the reservation? Federal withdrawal at this time will throw the Flathead Indians, and eventually others in Montana, into a world they are not prepared to enter and which is not prepared to receive them as equals. To adopt this legislation will merely multiply the mistakes of the past—it will not correct them.

Now, gentlemen, before I continue with the rest, I have some examples here of what I want to illustrate in the next few paragraphs.

I would like to hand out these copies of the Great Falls Tribune, which show some conditions, with pictures. And this is the Sunday supplement of the February 21 Great Falls Tribune.

We do not need to go beyond the State of Montana in order to see what will happen if the Indians of the Flathead Reservation are turned loose without protection for their property and without the essential social services, however they are provided.

In the city of Great Falls, we have a tragic and dramatic example. Here, within sight of the wide plains and the blue mountain ranges they could once proudly call their own, on a barren hill above the Missouri River lives a small band of Indians. Some 50 families, among

whom there are 287 children, live in huts and shacks under slum conditions of the worse sort.

Senator WATKINS. Are these Flatheads?

Mr. SHIPMAN. No; they are not. These are the so-called landless Chippewa Indians. This is merely an example of what happens when you turn them loose. There is no water supply on hill 57, as it is known; no sewage disposal; no electricity. Tuberculosis and dysentery are prevalent.

Senator MURRAY. Where do these Indians come from, Mr. Shipman?

Mr. SHIPMAN. Many of them are the remnants of the Little Shell Band of the Chippewas, who lost their land in the early days under the Ten Cent Treaty.

Senator WATKINS. Under what treaty?

Mr. SHIPMAN. Under the Ten Cent Treaty, so-called. Those are people who have sold their allotments.

Senator MURRAY. Will you explain that a little later?

Mr. SHIPMAN. Yes, I will, Senator. I think it will explain what my reference here is.

Senator MURRAY. All right.

The Indians who live here are subcitizens on the edge of a beautiful and prosperous city; eking out a hand-to-mouth existence. The churches and civic groups of Great Falls call hill 57 a major social problem, a disgrace to their city.

And who are the Indians who live there? They are the remnant members of the Little Shell Band, Chippewa—Crees of North Dakota. Their story of deprivation and aimless wanderings and precarious existence began in the 1880's. At a time when the Indians still considered the great western country their own, Cree and Chippewa Indians followed the buffalo into Canada and stayed there some years. When they returned to the United States, other Indian tribes had been pushed into reservations. There was no homeland for the Chippewa-Crees. They camped near Great Falls and became scavengers on the city dump. In 1895 Congress appropriated \$3,000 to deport them all to Canada. People jeered as they stood, many of them shackled with chains, in the streets of the city awaiting deportation. In a few years many of them had drifted back.

Representative BERRY. These are Canadian Indians, are they not?

Mr. SHIPMAN. No. Well, you see in the early days they ranged all over Montana and Canada indiscriminately. All of the range was theirs at that time.

Representative BERRY. They have never been considered wards of the Federal Government?

Mr. SHIPMAN. No; these have never been reservation Indians. I think their status will become plain as I go on with my testimony, if I may be permitted.

Senator WATKINS. You say in 1895 Congress appropriated \$3,000 to deport them all to Canada. Ordinarily they would not be deported if they were American citizens, and Indians are American citizens. That is, the Indians of the United States are American citizens and not subject to deportation.

Mr. SHIPMAN. I think I explained here that they went into Canada, hunting, and then they came back. They weren't citizens of any particular area.

Senator WATKINS. It is news to me that Congress appropriated money to deport them. I think Congress felt they were not American citizens, or they would not be putting up money to send them away.

Representative BERRY. They are not an example of American Indians, are they?

Mr. SHIPMAN. Yes; I think they are. All of our Indians in Montana range not only over Montana; but also all over that entire area, up into Canada. The Flatheads also did. Part of their native range, which they hunted over in early days, went up into Canada. Boundaries didn't mean anything to Indians of that nature, surely. And they came out of the little Shell Mountains of North Dakota, most of them. Whether you would say they were Canadians or United States citizens, I don't know. But they are United States citizens, I am sure now. They have been there ever since I know of.

Senator MURRAY. Mr. Shipman, do you know whether or not any of these Indians were Indians who went over into Canada during the Louis Riel revolution or rebellion up there?

When I came to Butte first, there were bands of Indians down on the flats there, and I remember going down there to see these Indians, the first Indians I had ever seen in Montana. And I understood that many of these Indians had been up in Canada during the Riel rebellion. But they were American Indians that had gone up there from the Dakotas and from other places. I am not sure about that.

Mr. SHIPMAN. I wouldn't be positive about that, either, Senator. I know they were recognized as citizens, though, because later on in my testimony I point out the fact that too little and too late Congress did set up a reservation to receive them. It was not their homeland, and it was not adequate. Many of the families were unable and unwilling to live on the reservation and continued their slum-like existence on the edge of the city. That is the Rocky Boy, that I am speaking of, where they did set up a small reservation.

Senator WATKINS. You brought in this matter of Congress appropriating money to deport them. Ordinarily Congress does not appropriate money to deport citizens of this country to some other country.

Mr. SHIPMAN. I don't know why Congress did that.

Senator MURRAY. Is that a fact that they did that? Are you sure?

Mr. SHIPMAN. Yes; that is a matter of history.

Senator WATKINS. I want to check that, because if Congress did that then Congress must have gone into the matter at the time, because they would not actually be deporting American citizens. As you know, Indians are American citizens. At least Indians who were residents of the United States at the time the act was passed. So that is quite an important thing to keep in mind.

I was just asking for information.

You may proceed.

Mr. SHIPMAN. This condition is not peculiar to Great Falls; it is a common situation in many cities throughout Montana and the Dakotas.

I am opposing the present legislation because I fear that if it is adopted, in the course of time Indians now on the Flathead Reservation may be compelled to live on some other Hill 57. Not only the friends of the Indians of Montana, but the taxpayers generally are fearful that where we now have Hill 57, we may have 57 hills.

Fortunately, there are many groups of citizens in Montana who are alive to this problem and are determined to do something about it. As part of their effort they are opposing the present bill under consideration here today. It is the desire and determination of good Americans to see that our injustices to the Indians are ended. This determination has never before been as urgent and as widespread as it is today.

I was recently made aware of this increased interest when I attended a conference at the University of Minnesota where the proposed liquidation of the Flathead Reservation was one of the chief issues under consideration. Civic, professional, farm, and labor representatives from 12 States and the District of Columbia came to Minneapolis and made known their opposition to the proposal.

This public attitude was evident, too, at a meeting held in Great Falls, Mont., last December 14, under the auspices of the Cascade County Community Council.

In the next paragraph, gentlemen, I would like to point out an error which has crept into this copy. In the first paragraph at the top of page 7, instead of saying—

At this meeting—

it should say:

At a meeting of the Montana Conference of Social Welfare.

I wanted to be sure and have that corrected, because the Cascade County Community Council is not a resolution-making body and has not taken any vote on it. They have merely taken up and discussed the matter on two occasions. But at the meeting of the Montana Conference of Social Welfare, which I refer to in this next paragraph, State, county, and city officials from welfare, health, and taxing bodies joined with representatives of 35 civic organizations, church representatives, farm and labor leaders of the State of Montana in unanimously passing a resolution opposing the withdrawal program.

Many similar meetings have been held in our State since the proposal became known, and all of them have been widely publicized in the press. The proposed separation of our Indian citizens from Federal supervision has become one of the key public questions in my State.

Senator WATKINS. You say "our Indian citizens." You do not mean all the Indian citizens of Montana, do you. The bill we are now considering, is the one with respect to only the Flathead Indians.

Mr. SHIPMAN. Yes, I realize that.

Senator WATKINS. You have more Indians than Flatheads, do you?

Mr. SHIPMAN. Yes. Yes, we have seven reservation. And, of course, the policy of your joint resolution last summer, which pointed to the fact that you intend to liquidate all the reservations as time goes on, makes us all apprehensive that there are others.

Senator WATKINS. You do not find anything in the resolution that says we are going to liquidate them?

Mr. SHIPMAN. I don't know. I wouldn't say as to 108. They are using all kinds of phrases.

Senator WATKINS. Have you read 108?

Mr. SHIPMAN. Oh, yes. Many, many times.

Senator WATKINS. You do not think it says we are going to liquidate these reservations?

Mr. SHIPMAN. At least these bills provide for the liquidation of the reservations, and that is what I believe will happen in most cases.

Representative BERRY. In what event do they provide for liquidation?

Mr. SHIPMAN. Well, of course, the first proposal is that they be allowed to set up corporations under State law, or, if that isn't feasible, then to go ahead.

Representative BERRY. It is up to the Indians, is it not?

Senator MURRAY. Mr. Chairman, Mr. Lazarus, who is sitting here with the Indians, intends to give us an analysis of the bill when Mr. Shipman concludes his testimony.

Senator WATKINS. We are going to take Mr. Lazarus afterwards. He is an attorney residing in Washington. We will hear him when the visitors have been heard.

Mr. SHIPMAN. It is only because he represents the association as I do.

Senator MURRAY. I thought it would help us very much if Mr. Lazarus, who is a lawyer, and who is well informed on the terms of this proposed legislation, could answer some of these legal questions at the time.

Senator WATKINS. We prefer, Senator, Murray, to let this witness make his own testimony, and Mr. Lazarus will be given full opportunity to present the views of the association. This witness does not need an attorney to answer the questions for him. We think he is fully capable of taking care of himself. If we ask him legal question, we know he is not a lawyer; he hasn't so indicated, and we will pass up the legal questions.

Mr. SHIPMAN. Shall I proceed?

Senator WATKINS. Proceed.

Mr. SHIPMAN. It is certain that neither the State nor the counties and towns are in the least prepared to assume great new responsibilities for Indian welfare.

If this law is passed, similar action may be taken in the case of other Montana tribes, and those of other States. It is the announced intention of the Government to press the process with all possible speed.

But why this urgency? Why this sudden desire for speed in terminating Federal responsibility toward our Indian citizens, a responsibility established by treaty and of a hundred years standing.

Among the people who support withdrawal are those who want things the Indians own. In the past these things were had by force of arms, and many dishonest methods. Today the methods have become more subtle.

On the Flathead Reservation it is principally water resources and timber stands that are coveted.

Today, the Flathead Indian Tribal Council enjoys a substantial annual income from its timber and Christmas-tree sales. In the calendar year 1952, net income to the tribe from its forest totaled \$551,340. This considerable business is conducted by the council under the close

supervision of, and under the protective regulations laid down by the Federal Government. It is subject to review and control by the Congress of the United States.

Also, under Federal supervision, the Flathead Indians lease the site of the Kerr Dam to the Montana Power Co. This is a valuable power site; in 1952 the Indians received some \$200,000 income from this source. Two other power sites on the reservation remain undeveloped. The present operations and future development of this waterpower are guided and regulated by the Federal Government so as to protect the property rights of the Indians. To step this supervision down to the State level would leave the Indians defenseless.

If the tribal properties should be liquidated and sold, there would be only one bidder.

Under what terms would a value be placed on Kerr Dam, which is to be returned to full Indian ownership at the end of a 50-year period? The proposed legislation provides for no protection whatsoever but leaves the Indians of the Flathead Reservation entirely on their own. In effect, it instructs them to form themselves into a corporation under Montana State law or be liquidated.

The best corporation the Flathead Indians could devise will never be an even match for the Montana Power Co.

As far as the Flathead Indians are concerned, sudden removal of these protective features will be the whistle signal for chaos. The golden ball will have been thrown into the air, and the free-for-all grab will begin. Indians will be pitted against Indians by shrewd whites. The nonreservation Indians in other parts of the country will have big money offers dangled before them. The pressure upon the steadfast, enlightened Indians who have devoted their lives to maintaining a homeland will be tremendous. No reasoning person can fail to see that the end result will be poverty and degradation.

As I indicated before, the Flathead Indians are not the only ones concerned about this bill. Many people in Montana fear the Blackfeet, Fort Peck and Fort Belknap Reservations will be next in line for separation. Word has already been passed around proposing permanent sale of the mineral rights.

"This (the Blackfeet Reservation) is now one of the hottest oil areas in the Nation," the Montana Oil Journal stated. This is a trade journal, published in the interest of the oil industry in Montana.

The article deals with a proposal by Lucian A. Cullen, nephew of H. R. Cullen, the Texas oil magnate, "having as its objective the control of oil and gas rights on the entire Blackfeet Reservation." The mere threat of withdrawal has been sufficient to attract oil speculators who propose to take over reservation management on the grounds that it will be easier for the oil industry to deal with them than with the Federal Government.

I earnestly appeal to the committee to consider the proposed legislation in this light. This view is not one held by me alone, far, far from it. Go anywhere among the farmers and working people of my State—of any State where the issue has become known—and you will hear no polite phrases used to describe this move.

Armed with all the facts, I believe that this committee and the Congress will act generously and justly. If I did not believe that, I

would not have left my ranch and my work in Montana to present my views to you.

I thank you for giving me the opportunity to do so and for your courtesy in listening to my statement.

Senator MURRAY. Mr. Chairman, following the testimony of Mr. Shipman, I would like to ask that I be permitted to file a legal analysis of S. 2750 and H. R. 7319 by Mr. Arthur Lazarus, and Richard Shifter, counsel, American Association of Indian Affairs. I think it would be very helpful to us to have this analysis of these bills in connection with the testimony just offered by Mr. Shipman.

Senator WATKINS. We would be glad to examine it and have it placed in the record at the proper place.

I may state that we called this witness out of order to accommodate you, Senator, and I think probably we will then properly rearrange the exhibits and matters to be inserted. Ordinarily, the presentation for the bill should be made first and the rest later. Here we are reversing the order in order to accommodate some of the witnesses, and it presents the record in a haphazard shape. When the record is actually printed, we can arrange to have it printed in a more proper order.

As far as I am concerned, it can follow for the present at least the Shipman statement.

Senator MURRAY. That would be very satisfactory.

Senator WATKINS. I think the Senator understands how we handle these matters. We would like to have it in order, so that we can proceed with the explanation.

Senator MURRAY. I do not want to interfere with the order in which the Chairman proposes to carry on the study of this proposed legislation. If it could be inserted following the statement made by the attorneys who are in support of the legislation, it would be satisfactory to me.

Senator WATKINS. I think we might be able to do that.

At any rate, the joint committee can meet and decide how we want it to appear in the record. There is no reason why we should not accept it as a part of the record, but the order in which it will follow will be determined later.

(The document referred to is as follows:)

LEGAL ANALYSIS OF S. 2750 AND H. R. 7319

S. 2750 and H. R. 7319 have as their expressed purpose the termination of existing Federal supervision over, and assistance to, the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and the individual members thereof. Aside from the fundamental policy decision as to whether Congress should take any action at this time to cut off such services, careful consideration must also be given to the manner in which the severance of special relations between the United States and the Flathead Indians is to be effected. To be honorably and constructively achieved, the termination of Federal responsibilities requires that the rights of the Indians concerned be respected, that their future economic and social welfare be safeguarded, and that their own desires with regard to the management of their affairs be given full weight.

The Association on American Indian Affairs does not believe that the proposed legislation, as presently drafted, conforms to these standards, and urges that S. 2750 and H. R. 7319 should not be enacted until basic amendments thereto are adopted. The considerations that have led the association to this conclusion and recommendation are as follows:

I. THE PENDING BILLS WOULD GRANT TO THE SECRETARY OF THE INTERIOR ADDITIONAL ARBITRARY CONTROLS OVER THE AFFAIRS OF THE FLATHEAD INDIANS

S. 2750 and H. R. 7319 are based upon the assumption that the Flathead Indians now are ready to manage their own property and activities. Nevertheless, the process of withdrawal provided by the proposed legislation would give the Secretary of the Interior far-reaching powers over the conduct of their affairs, including, in some instances, authority which he does not at present possess.

(1) Section 5 (a), for example, provides that the tribe, if it wishes to continue any form of community enterprise in the future, must request the Secretary to transfer tribal property within 2 years either to a corporation or other legal entity, or to one or more trustees. The corporation, however, must be organized in a form satisfactory to the Secretary and the trustees must be approved by the Secretary. Furthermore, even if those conditions are met, there is no requirement that the Secretary effect the transfer of title within the 2-year period.

Pursuant to section 5 (b), the sole and exclusive alternative to the procedures set forth in section 5 (a) would be the mandatory liquidation and distribution of tribal assets. Thus, through mere delay or a refusal to accept any tribal program, the Secretary, by operation of law, could thwart the expressed desires of the Flathead Indians, could prevent the maintenance of tribal enterprises, and could force the sale of tribal property. This suggested absolute and unreviewable power to dispose of tribal assets, despite a contrary vote by the Indians concerned, not only violates basic principles of fair play, but also conflicts with article VI, section 1 (d) of the present Flathead Indian Tribal Constitution (revoked by section 15 (b) of the pending bills) which provides that the tribal council shall have authority:

"To approve or veto any sale, disposition, lease, or encumbrance of tribal lands and tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other agency of the Government."

(2) Section 11 of S. 2750 and H. R. 7319 directs the Secretary to secure the appointment of guardians for legal incompetents, for minors and also for persons who are "in the opinion of the Secretary in need of assistance in conducting their affairs." By contrast, article VI, section 1 (a) of the Flathead Indian Tribal Constitution, provides that the appointment of guardians is a function of the tribal council, subject merely to ratification by the Secretary. In addition to this transfer of responsibility out of the hands of the Tribal Council, this section contains a further defect in that it provides that the Secretary shall secure the appointment of guardians for minors. Generally speaking, guardians for non-Indian children are appointed only if it is affirmatively shown that the minors' natural guardians cannot discharge their responsibilities. The same rule should apply to Indian children.

(3) Section 3 of the proposed legislation, in setting up a procedure for the promulgation of a final membership roll for the Flathead Tribe, in effect would abdicate control over that roll to the Secretary of the Interior. This provision conflicts with article II of the Flathead constitution, approved by the Secretary of the Interior on October 28, 1935, which sets forth specific criteria concerning tribal membership and gives the tribe authority to make rules governing future membership.

Section 3 should, therefore, be amended to provide that any membership roll is to be prepared in conformity with article II of the tribal constitution. If the Secretary is to have any authority to include or exclude persons claiming membership, that authority should be exercised under the tribal rules. Moreover, the tribe should have standing to be heard in any such inclusion or exclusion proceeding.

II. THE PENDING BILLS WOULD DISREGARD SPECIFIC RIGHTS OF THE FLATHEAD INDIANS

(1) Section 3 of the proposed legislation declares that the Secretary's decision on the inclusion or omission of any individual from the tribal membership roll "shall be final and conclusive." Section 4 further provides that "the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property." Each and every Flathead Indian, therefore, faces the danger that he may be deprived of valuable assets by adminis-

trative fiat, and without recourse in the courts to contest that loss of property. Due process requires at the very least a judicial review of the membership roll, as is provided in the Menominee withdrawal bills.

(2) According to article III of the treaty of July 16, 1855 (12 Stat. 975, 976), the Flathead Indians are entitled to special fishing, hunting, and grazing rights, both within and without their reservation, which are not enjoyed by their fellow citizens. Sections 14 and 20 of the pending bills abrogate treaty rights without compensation and without consent.

(3) Section 24 of the Indian Claims Commission Act (60 Stat. 1049) permits the Flathead Tribe to sue the United States in the Court of Claims on causes of action arising after August 13, 1946. Section 17 of S. 2750 and H. R. 7319 declares that the proposed legislation shall not "affect any claim *heretofore filed* against the United States by the tribe" [emphasis supplied], whereas section 20 states that all acts or parts of acts inconsistent with this legislation "are hereby repealed insofar as they affect the tribe or its members." In conjunction, these provisions would deprive the Flathead Indians of their right to sue the United States for wrongs committed after August 13, 1946, but prior to the date when Federal controls over their affairs terminate. Since the loss of that right to file a future claim could result in serious hardship to the Flathead Indians, the language of the bills should make clear that Congress does not so intend.

III. THE PENDING BILLS WOULD SUBJECT THE FLATHEAD INDIANS TO THE BURDENS OF STATE LAWS WITHOUT GUARANTEEING THAT THEY WILL ENJOY THE BENEFITS THEREOF ON A CONTINUING AND NONDISCRIMINATORY BASIS

(1) Sections 6 and 7 of Public Law 280, 83d Congress, authorize all States, if they so choose, to assume complete civil and criminal jurisdiction over the Indian reservations within their respective borders, a power which most States, including Montana, do not now possess. In signing this measure, President Eisenhower characterized these provisions as a most "un-Christian" approach to the problem of law and order on Indian reservations, and urged that "at the earliest possible time in the next session of the Congress, the act be amended to require * * * consultation with the tribes prior to the enactment of legislation subjecting them to State jurisdiction." The President's message reflected Indian fears that the extension of State jurisdiction would result in the loss or abuse of their rights.

Section 14 (a) of S. 2750 and H. R. 7319, without reference to the desires of the Indians affected and also without reference even to the position of the State of Montana, generally would provide that "the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within the jurisdiction," or, in other words, that existing Federal statutes and tribal codes governing law and order on the Flathead Reservation are to be abolished and Montana laws substituted therefor. The operation of the proposed changes, however, is not conditioned upon the State of Montana or local subdivisions thereof in fact enforcing law and order on Flathead Indian lands, makes no provision for securing Indian consent, and contains no guaranty that the enforcement of such laws, if any will be non-discriminatory. The repeal of existing law and order statutes could create chaos on lands owned by the Flathead Indians; to repeal such laws without Indian consent and without adequate safeguards against discrimination would violate fundamental principles of home rule and fair play.

(2) Section 14 (a) of the pending bills further declares that, after the removal of Federal restrictions on the property of the Flathead Indians (about 2 years from the date of passage of the act), "individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians." This provision would deprive all Flathead Indians of present Federal assistance with regard to education, health, welfare, roads, agricultural extension services, etc., without making provision for State or local agencies to furnish services of equal quality on a nondiscriminatory basis.

In this connection, the report of Assistant Secretary Orme Lewis on the pending bills, dated January 4, 1954, states that the termination of Federal responsibilities "will present a financial problem to the State and local governments." This statement exposes the distinct possibility that the State of Montana, at the time of Federal withdrawal, may not in fact be ready to supply the public services which the members of the Flathead Tribe need, and to which

they are entitled. In view of this fact, the termination of Federal obligations should be conditioned upon the actual assumption of essential services now performed or subsidized by the Indian Bureau by local agencies on a continuing and nondiscriminatory basis.

(3) Section 7 of S. 2750 and H. R. 7319 provides that, 6 months after the date of passage of the act, State laws concerning estates and the probate of wills would apply to the property of Flathead Indians. The Federal and tribal rules governing inheritance now in force are based upon time-honored customs which reflect Indian religious and cultural values. To abrogate such rules without Indian consent would be to disrupt existing domestic relations, to create a host of legal snarls in the administration of Indian estates, and to subject Indians to procedures which are neither familiar nor locally available to them.

IV. THE PENDING BILLS WOULD ESTABLISH A FRAMEWORK OF FEDERAL WITHDRAWAL WHICH IS NOT SUFFICIENTLY FLEXIBLE TO MEET THE NEEDS OF THE FLATHEAD INDIANS

(1) Section 3 of S. 2750 and H. R. 7319 would require the promulgation of a final membership roll for the Flathead Tribe. A final membership roll is necessary, however, only if individual interests in tribal property are to become fixed, such as in the event of the complete liquidation of tribal assets. This unnecessarily restricts the free choice of the Indians if an alternative course is selected.

(2) Section 5 (a) would allow the Flathead Indians, if they elected to continue tribal activities, only the alternative of transferring title to tribal property either to a corporation or other legal entity, or to trustees for management purposes, in accordance with State laws. State statutes governing corporations and trustees, however, are not tailored to fit the requirements of Indian tribes, and very easily may prove too rigid to permit the effective functioning of such organizations. An Indian tribe, after all, is a unique institution on the American scene and cannot reasonably be expected to fit into the framework provided by State laws for business and social organization. The Federal corporate form provided by present law has, by and large, worked well. The possibility of Federal incorporation should be offered to the Indians as one of the alternatives from which they may choose as far as the future organization of the tribe is concerned.

(3) Section 5 (b) of S. 2750 and H. R. 7319 would require the sale of tribal assets if, within 2 years, the Flathead Indians do not propose a program for the future or the Secretary refuses to endorse the plan submitted. Mandatory liquidation in the event that the tribe does not have time to develop and vote upon a pattern of community organization or in the event that the Secretary fails to accept that program is indeed a harsh and inflexible alternative. In order for the Flathead Indians to have a free choice in framing their own destiny, the pending bills should be amended at least to provide (a) that the Secretary prepare an alternative plan for consideration by the tribe, and (b) that the matter be referred back to Congress in the event of continued disagreement.

(4) Section 6 (b) of the proposed legislation would remove restrictions on individually owned Flathead Indian lands 2 years after the date of passage of the act, regardless of tribal action with regard to tribally owned property. The proposed legislation thus makes no provision for the possible cooperative management of individual and community assets, perhaps the most advantageous organization for both types of property. Since the Flathead Indians may desire a unified administration of individual and tribal property, there should be some provision for more flexible handling of individual assets, including authority to assign such lands for tribal management and postponement of the lifting of restrictions until some time after a tribal program is worked out.

V. THE PENDING BILLS WOULD TEND TO DESTROY THE ORGANIZATION AND ECONOMY OF THE FLATHEAD INDIANS

(1) The Flathead Indians today are organized pursuant to the act of June 18, 1934 (48 Stat. 984), as amended, possess a constitution and bylaws and a Federal corporate charter, and elect a tribal council to carry on the affairs of the tribe. In the proposed legislation, sections 20, 15 (a) and 15 (b), respectively, would repeal the Indian Reorganization Act of 1934 insofar as the Flathead Indians are concerned, would revoke the Flathead Corporate Charter, and would emasculate

the Flathead constitution. In addition, sections 5 (a) and 19 would bypass the tribal council on matters pertaining to the management or disposition of tribal assets. These provisions, in effect, would undermine the only organization by which the Flathead Indians can express their collective will and protect their community property. In view of the fact that the termination of Federal services and responsibilities at the very least will cause serious disruptions in the lives of the Flathead Indians, their tribal organization should be strengthened and not weakened.

(2) Section 6 (b) of S. 2750 and H. R. 7319 would allow the alienation of individually owned Flathead Indian lands 2 years after the date of passage of the act; section 6 (c) requires that prior thereto lands owned by more than one member of the tribe which are not capable of partition shall be sold. A substantial portion of the real property covered by these provisions constitutes key tracts within the present reservation area, the disposition of which to non-Indians, particularly where the land lies within the Flathead forest, would seriously endanger the successful operation of tribal enterprises. Nevertheless, the proposed legislation contains no safeguards to the effect that the tribe will have a preference in obtaining these tracts if and when they are sold. Since the transfer of such lands to nonmembers of the tribe would be of such serious economic consequence to the Flathead Indians, the sections of the pending bills with regard thereto should be revised to provide: (a) That the tribe shall have a first priority to purchase the land at its appraised value; and (b) that either the tribe should be advanced credit to make such purchases if tribal funds are not then available or restrictions on the disposition of such lands should be retained until the tribe does have such funds.

(3) Section 9 of the proposed legislation would subject all Flathead Indian lands to State taxation; section 10 (a) would subject irrigated lands to the assessment and collection of construction costs, which charges previously have been deferred; section 10 (b) would subject irrigated lands to unpaid operation and maintenance assessments, unless the Secretary determines such charges to be inequitable. Many of the Flathead Indians are marginal operators, eking out a bare subsistence from their lands. The sudden imposition of additional expenses will wreak havoc with their economy and in many instances will result in the rapid and involuntary alienation of their property.

(4) The Interior Department report on the proposed legislation shows that three of the most important assets of the Flathead Indians are the Flathead irrigation project, the Flathead Forest, and Flathead-owned power sites, the first two of which are now being managed by the Indian Bureau. The Interior Department report further shows that serious problems will arise in the administration of these assets in the event of termination, problems which are not within the power of the tribe to solve. Despite the existence of such difficulties, however, S. 2750 and H. R. 7319 make no provision whatsoever for coping with this grave situation and, in effect, leave the management of such assets subject to unforeseen future events. Since the economy of the Flathead Indians is so dependent upon the efficient administration of these resources, Federal withdrawal should not be effected until the problems to which the Interior Department refers are worked out.

CONCLUSION

The foregoing analysis of the proposed legislation to terminate Federal obligations and services to the Flathead Indians of Montana demonstrates conclusively that substantial revisions are needed in the pending bills if withdrawal is to be honorably and constructively achieved. The Association on American Indian Affairs urges, therefore, that S. 2750 and H. R. 7319 not be enacted unless and until amendments are adopted to eliminate their objectionable features.

Lastly, in considering the pending bills, the association wishes specifically to direct the attention of Congress to a fundamental question of policy involved therein: the question of whether the Government's protective trust over Flathead Indian property should be ended in the near future and whether these lands should be either sold or transferred out of Federal trusteeship under such terms and conditions as would generally subject them to alienation and State land taxes. The association strongly believes, on the basis of historical evidence, that the termination of restrictions upon sale and real-estate tax exemptions at this time would result in the rapid disintegration of the Flathead Indian land base, and thus would leave these Indians open to untold hardships.

Experience has shown the tragic consequences of subjecting Indian lands to alienation and local taxation. The forced termination of trust and tax-exempt status of Indian properties in the past repeatedly has resulted in the rapid loss of such assets through sale or confiscation, and has quickly reduced thousands of Indians to homeless poverty. In the 45 years after passage of the General Allotment Act of 1887, for example, Indian land holdings shrank from 138 million acres to 52 million acres, and the 86 million acres lost included most of the best territory in the Indian estate.

It is the belief of the association that in order to prepare the Flathead Indians for independent participation in American economic life, constructive measures are needed to improve their social and economic well-being. Such measures should be founded on conserving their ownership, use, and control of tribal properties, and on developing additional economic opportunities, as has been suggested by Commissioner Emmons.

Respectfully submitted.

ARTHUR LAZARUS, Jr.,
RICHARD SCHIFTER,

Counsel, Association on American Indian Affairs.

Senator MURRAY. I would just like to know where I can find it when the hearings are all over.

Senator WATKINS. You will find it indexed in the record, Senator.

Mr. SHIPMAN. Mr. Chairman, I would like to have each member of the committee have a copy of this supplement of the Tribune.

Representative BERRY. The record should show they have nothing to do with the Flathead Tribe, don't you think?

Senator WATKINS. I think probably it will show. I haven't read it and do not know.

You have not presented this for the record? You are just giving this to the committee members.

I notice some other members of the committee have come in, Congressman Aspinall, Congressman Harrison, and Congressman Westland, as well as Congressman Haley.

We are glad to have you all here, and we want you to participate.

We will start with Mr. Berry over here and ask him if he has any questions for the witness.

Representative BERRY. Are these Flatheads organized under the Wheeler-Howard Act, do you know?

Mr. SHIPMAN. Yes, they are.

Representative BERRY. Where do you live?

Mr. SHIPMAN. I live at Lewistown, Mont.

Representative BERRY. And how far is that from this reservation?

Mr. SHIPMAN. It is on the other side of the mountains. It is about 300 miles, I guess.

Representative BERRY. Do you have any business over on the reservation?

Mr. SHIPMAN. You mean personal business?

Representative BERRY. Yes.

Mr. SHIPMAN. No, I have no personal or financial interest in the reservation.

Representative BERRY. Do you visit the reservation frequently?

Mr. SHIPMAN. I have been over there quite a number of times.

Representative BERRY. How many times?

Mr. SHIPMAN. Gosh, I don't know. I fish over in that country and go over through that country, so I am familiar with it. I don't claim to have any really detailed information as to their financial situation. I don't have any business with them. I am not personally interested in the reservation financially, if that is what you mean.

Representative BERRY. Do you know any of them personally, very many of them?

Mr. SHIPMAN. Yes.

Representative BERRY. Do they speak English well?

Mr. SHIPMAN. Some of them do. Some of them don't speak English at all. I know Mr. Walter McDonald quite well, chairman of the tribal council.

Representative BERRY. Do most of them speak English pretty well?

Mr. SHIPMAN. Well, I would say a large number of them do. But there are quite a few who don't. I am not well acquainted with those who don't, if that is what you mean.

Representative BERRY. They have an irrigation project there, do they not?

Mr. SHIPMAN. Yes.

Representative BERRY. How is that operated?

Mr. SHIPMAN. I don't know all of the details of that. I know it is operated as a part of the Kerr Dam development there.

Representative BERRY. Is the water used principally by the Indians?

Mr. SHIPMAN. Well, there are a lot of whites involved there, too. There are a lot of white people who have gotten land there.

Representative BERRY. What percentage would you say were white, and what Indian?

Mr. SHIPMAN. I wouldn't know. I think that those details Mr. Walter McDonald can undoubtedly supply when he comes up with that.

Representative BERRY. I was trying to get a background for your statement. You are quite definite on many points in the statement. Did you prepare the statement yourself, Mr. Shipman?

Mr. SHIPMAN. Yes. With the aid of others, of course.

Representative BERRY. The factual information you give is principally yours?

Mr. SHIPMAN. Yes.

Representative BERRY. The statements where you deviate from facts are principally yours. Is that correct?

Mr. SHIPMAN. I don't think there are any deviations from fact, Congressman.

Senator WATKINS. You have some opinions in there, don't you?

Mr. SHIPMAN. There may be some opinions; yes.

Representative BERRY. A good share of it is opinion, isn't it?

Mr. SHIPMAN. I wouldn't say that. I think that, of course, this is a controversial matter, if that is what you mean. I think the opinion stated there is an honest opinion, and the opinion of a great portion of the people out in Montana.

Representative BERRY. What portion, would you say? What percentage of the white people, the non-Indians, are opposed to this?

Mr. SHIPMAN. I speak here, of course, only for my organization, the association.

Representative BERRY. How large an organization do you have?

Mr. SHIPMAN. We have 14,000 families. That comprises about 60,000 people, I suppose, men, women, and children.

We passed a resolution at our State convention unanimously in opposition to this, so I would say there is almost no opinion in our

organization than the one I am presenting. I don't mean that you wouldn't find members——

Representative BERRY. Were they all pretty well advised on what they were voting on?

Mr. SHIPMAN. Yes; I think so. The people of Montana are pretty well alive to this issue and worried about it. Ever since the proposal became known last summer, there has been quite a furor around the State about the whole matter. They are worried about it. There are lots of public meetings being held on it. I have some newspaper clippings commenting on various ones.

There was a speaker in Great Falls before a business group, and this was just sent to me since I have been here, this clipping. I am sure the taxpayers are all worried that a new burden is going to fall on them there. And, after all, they had hoped taxes were going to be lower now.

Senator WATKINS. Is that what they have been told, that they are going to have a heavier burden?

Mr. SHIPMAN. I don't think they have been told that. It is pretty well known what happens to the Indians when they lose their property. And these landless Indians have been a sort of a horrible example of what happens to Indians when they lose their resources.

Senator WATKINS. Would you now tell the Flathead Indians that they are in the same category, as far as intelligence is concerned, as those Indians that you claim are out on the city dumps?

Mr. SHIPMAN. I don't think there is any difference in intelligence. I think it is just a question of difference of opportunity to become adapted to the white man's ways of doing business and meeting the pressures which are put upon them. I don't think there is any difference in intelligence. I think it is pretty well established scientifically that there isn't much difference in intelligence among races, that it is mostly differences in intelligence amongst individuals.

Senator WATKINS. Well, individuals. Take the ones you have been describing.

Mr. SHIPMAN. I think they are all comparable.

Senator WATKINS. In training and background?

Mr. SHIPMAN. No, in intelligence, you said. I assumed you meant innate intelligence.

Senator WATKINS. We won't argue about intelligence. Let's get down to the position of being able to take care of themselves.

Would you compare these Indians with those you have been describing?

Mr. SHIPMAN. You mean in education and everything?

No; I would not say so.

Senator WATKINS. That is what I was trying to get at. I think they have probably had more opportunity over there on the reservation. After all, the church and others have helped them a good deal. But there are a great many over there. You see, you can't treat them as a group, as a whole.

Mr. SHIPMAN. There are a lot, as we remarked, that don't speak English, and are in no way prepared to meet life out in the regular community, who I think should be left in the place where they have security and think of as their homeland and which is their homeland.

Senator WATKINS. Let's get down to seeing how much you know

about conditions on the Flathead Reservation, particularly with these people.

How many of them, for instance, are Indians of fullblood?

Mr. SHIPMAN. I don't have those figures available. I don't claim to know those details.

Senator WATKINS. How many of them cannot read or write the English language?

Mr. SHIPMAN. I wouldn't be able to answer that either.

Senator WATKINS. Are there any considerable number?

Mr. SHIPMAN. Yes, a considerable number.

Senator WATKINS. Congressman, do you have some figures on it?

Representative HARRISON. I might say there are 4,159 Indians on the tribal roll. The number of fullbloods totals 296. The number who cannot speak English is 28. The number of adults who cannot read and write English is only 55.

Senator WATKINS. Do you think that is any high percentage that are unable to read or write the English language?

Mr. SHIPMAN. I think it is a considerable number. I believe that is what you said, Senator.

Senator WATKINS. As compared to the 4,000 members, you think that is a considerable number? Couldn't you, as a matter of fact, in many white communities in the United States find a larger percentage of whites who can't either read or write the English language?

Senator MURRAY. Mr. Chairman, I think it is unfortunate that we have not got a bigger room here to hold these hearings. There are a lot of people interested in this matter, and I think it is very unjust to compel them to stand up throughout these hearings. I would suggest that we get a larger room if we are going to be fair to these people.

Senator WATKINS. Well, Senator Murray, in the first place, I think this is one of the first days we have had such a group. We have had no way of knowing how many people were going to come to these hearings.

Senator MURRAY. I know, because they have been coming around to my office by the score for the last week or so. I know there are a lot of people in town interested in this.

Senator WATKINS. We do not want to be unfair to anybody, and this is the first morning that I have seen such a crowd at these hearings. I have been present most of the time. We have sought to find a larger committee room, but we have been unable to find one as yet.

Senator MURRAY. I think you ought to hold it in the park out here.

Senator WATKINS. Well, it is not quite necessary to hold it in the park. We have had crowds before at these committee hearings, and as I remember this committee very seldom leaves its committee room to hold a hearing.

Senator MURRAY. Well, where a bill interests so many people, and so many people have come to the city to attend the hearings and to learn what is transpiring at these hearings, it seems to me only fair that they should be given an opportunity to sit in comfort at the hearings.

I should think we ought to be able to get the caucus room.

Mr. GRORUD. We have tried to get it.

Senator MURRAY. Aren't there any larger rooms we could get?

Senator WATKINS. I am only relying on what the staff has told me, that they have not been able to find a larger room.

If we could get one, I would be happy to get it, because I don't like to see people stand any more than you. The committee is trying to be fair in this matter.

Senator MURRAY. I don't question that the committee is trying to be fair. I just said it is unfortunate that we were not able to provide for these people.

Senator WATKINS. I thought you used the terms "unfair" and "unjust." If you did not, all right.

Senator MURRAY. I say it is unjust and unfair to have these people come all the way to Washington to attend a hearing and then not be able to have a seat. Of course, if you have made every effort, I do not question it.

Senator WATKINS. I say this is the first time, Senator, that we have had a packed house like this at these hearings. We have had plenty of room at the other hearings, as I recall.

We have been holding a series of them. Now you call it to our attention, and we will do our best to continue the efforts to get a larger place.

Senator MURRAY. That is very satisfactory. The Caucus Room over here, I understand, is occupied.

Senator WATKINS. I will say that we are not trying to deliberately hold it in a small room so that people have to stand up. Had you suggested this to me prior to the hearings, we could have done this without having a squabble in the committee.

Senator MURRAY. I do not consider this a squabble. I think I have a right to call attention to the fact that there are a lot of people standing up here. I am not saying that you have not made every effort.

Representative HARRISON. Mr. Chairman, does the Senator have a room to suggest that we might use?

Senator MURRAY. No. It was not my duty to get a room for this occasion. I did not call this meeting. I have nothing to do with providing facilities for hearings. That is not my job. Where would you think I got the right?

Representative HARRISON. The Senator is raising the question.

Senator WATKINS. We are going to check a little further. But in the meantime, we will proceed, and we are sorry we do not have seats for everybody, and we will do our level best to get seats for everybody.

This is the first time we knew we were going to have a crowd like this.

Senator MURRAY. That is satisfactory. I did not intend to raise any question with reference to the efforts of the Chair to get a better room. I am just bringing the matter to the attention of the Chair at this time so that if it is possible to get a room, a larger room, we ought to try to do so. And I am sure you will.

Senator WATKINS. And they tell me they have tried. But we will see. We will keep on making the effort.

Mr. SHIPMAN. In answer to your question on the educational level, maybe I should say that I don't consider reading and writing as an important criterion of their ability to get along in the white man's world, if that is the point of the question. I don't think

reading and writing is such an important indication of their ability to get along in the white man's economic system.

Senator WATKINS. It is the beginning, of course.

Mr. SHIPMAN. Yes; it is the beginning, just the beginning.

Senator WATKINS. I have got the inference from your testimony that these people are not trained and prepared and a good many of them, as you said, did not speak the English language.

Representative WESTLAND. I would like to call attention to the fourth paragraph of the report by the Department of the Interior, where in the last sentence they state:

It is estimated that nine-tenths of the Flathead Indian families are fully self-supporting.

Senator WATKINS. All of that, of course, will be brought into the record. This report will be made a part of the record. If it has not been done, it will follow immediately after the bills.

Representative WESTLAND. I thought Mr. Shipman would like to have that information.

Mr. SHIPMAN. I think, if I might be allowed to comment, the fact that they are self-supporting probably is due to the fact that they are under Federal jurisdiction and trusteeship, and they still do have their property, whereas these other landless Indians, who have lost their resources and their property, have not made it.

Representative HARRISON. But, Mr. Shipman, you personally do not know just what is meant by the statement "self-supporting." You are just guessing. Is that right?

Mr. SHIPMAN. No. I know that the Flathead Indians are getting along very well over there, under the present setup. And I think that should be maintained. That is what I am here to argue, that they should not be cut loose.

Representative HARRISON. But is it your contention that this "self-supporting" matter is merely because they are on the Federal rolls and wards of the Government, or is it possible that some of them have been making a living themselves without that?

Mr. SHIPMAN. I think it is unfair to say they are wards of the Government. They are not. Many people have their property under trusteeship. Millions of white Americans have their property under trusteeship, so that they don't lose it. And I think that that is what happens always, that they lose their resources.

Representative HARRISON. Would you state some instances where they have lost their resources?

Mr. SHIPMAN. I think that is the general rule. I have brought this example in here of folks who have.

Representative HARRISON. I think you should stick to facts and not conjectures. I asked you and would like to have a specific answer. Do you know of any specific instances where these things have happened and their property had been taken away from them? I think that is susceptible to a "Yes" or "No" answer.

Mr. SHIPMAN. What Indians are you referring to?

Representative HARRISON. You have made a general statement that some Indians have had their resources taken away from them. Now, do you know of any instances?

Mr. SHIPMAN. Yes, I am referring to these Indians which are pictured in this supplement here.

Representative HARRISON. What Indians are they, for the record?

Mr. SHIPMAN. They are the Chippewa-Crees.

Representative HARRISON. And what property did they have taken away from them?

Mr. SHIPMAN. They lost their resources.

Representative HARRISON. What resources, if you please?

Mr. SHIPMAN. In North Dakota, in the Turtle Mountain area.

Representative HARRISON. What did those resources consist of?

Mr. SHIPMAN. I can't tell you just how many acres of land there were, but there was a great deal of it.

Representative HARRISON. And when was that taken away?

Mr. SHIPMAN. In the nineties sometime, I believe it was.

Representative HARRISON. And how was it taken away?

Mr. SHIPMAN. I believe they lost it under the so called Ten Cent Treaty.

Representative HARRISON. But you are not sure?

Mr. SHIPMAN. Yes, I am. That is, it is what they tell me. I wasn't there.

Representative HARRISON. What source of information do you have on it? Who "tells" you?

Mr. SHIPMAN. They have an organization.

Representative HARRISON. What do you mean by "they"?

Mr. SHIPMAN. Chippewa-Crees or landless Indians. They have an organization.

Representative HARRISON. Have you got the information from that organization?

Mr. SHIPMAN. Yes, from talking to them.

Representative HARRISON. To what representatives did you talk? Would you identify them?

Mr. SHIPMAN. Yes. Mrs. Thumb, who is the secretary, I believe, of their organization. And their claims are in litigation before the United States Government, I believe, at the present time. They have a claim. I believe it is before the Claims Commission.

You understand the Ten Cent Treaty. The land at that time was selling for around \$2.50, and they were offered 10 cents, and some of them took it, and the rest were driven out. That is the general story as I understand it.

Representative HARRISON. Is that the only instance that you have where their property had been taken away from them, and they have suffered economically since that time?

Mr. SHIPMAN. Well, I think that it is quite common knowledge that a good many of the Indians—

Representative HARRISON. Just what knowledge? Where does it originate from?

Mr. SHIPMAN. In all of the reservations have been allotted lands which they sold, and their resources drifted away from them. I think it is pretty well understood that many Indians don't have much of a concept of investment.

Representative HARRISON. In other words, you think the Indian is not a very bright person. Is that right?

Mr. SHIPMAN. Not at all. I think in his particular field he is a very bright person. In fact, I would hate to compete with him in chasing buffalo or riding horses. I think they are very competent and just as

intelligent as anyone else. And I am proud to call many of them my friends.

Representative HARRISON. But you do think they are not able to handle their own affairs. Is that right?

Mr. SHIPMAN. I think in dealing with such great economic giants as they have to deal with in the State of Montana, they would hardly be able to get along any more than I would. And I don't feel competent to deal with some of those.

Representative HARRISON. You made one statement here I would like to ask you about. It is on page 3, in the second paragraph, saying that in the final hours of Congress, the bill was passed virtually without debate.

Did you check that yourself, as to what happened on that particular time?

Mr. SHIPMAN. Yes. Reading over the record, I think it is a matter of record that one Congressman made the statement that he deplored the fact that there hadn't been sufficient debate.

Representative HARRISON. Debate on the floor of the House under the Consent Calendar? Is that what you mean?

Mr. SHIPMAN. Well, Congressman, I wouldn't know those details.

Representative HARRISON. In other words, are you familiar with the procedure of the House when the bill is brought on the floor under the Consent Calendar?

Mr. SHIPMAN. No, I couldn't claim to know.

Representative HARRISON. Did you check the records to see how much of a hearing had been held on these bills prior to the time it reached the floor of the House?

Mr. SHIPMAN. No.

Representative HARRISON. You did not. So you merely made this general statement that there had been no debate.

Mr. SHIPMAN. That was the objection raised by a Congressman.

Representative HARRISON. I am talking about you. This is your statement, not a Congressman's statement, now. You made this statement. Let's see what you have to say about it.

Mr. SHIPMAN. I will have to say that I took the Congressman's word for it.

Representative HARRISON. In other words, it is pure hearsay, what you have there in that statement?

Mr. SHIPMAN. I wasn't in the Congress; yes.

Representative HARRISON. It is pure hearsay on your part?

Mr. SHIPMAN. No, I read it in the Congressional Record.

Representative HARRISON. You read his statement. But you do know what hearings were held before the committee on this particular bill?

Mr. SHIPMAN. No.

Representative HARRISON. So that anything you intimate on that is pure hearsay on your part and could be very unfair.

Mr. SHIPMAN. It is merely from a reading of what the Congressman had to say.

Representative HARRISON. On the floor under the Consent Calendar?

Mr. SHIPMAN. Well, this Consent Calendar—

Representative HARRISON. Do you know how many hearings were held before the committee on these particular bills?

Mr. SHIPMAN. No.

Representative HARRISON. That is all.

Senator WATKINS. I am just advised that Senator Hendrickson's subcommittee, which has been using the caucus room, has recessed, and we can now get that room. It is now available.

So if there is no objection from the members of the committee, we will move to the caucus room, which is on the third floor, No. 318. I am sure you will have plenty of room there.

(Whereupon, at 11:10 a. m., the committee recessed until 11:20 a. m., to reconvene in the caucus room.)

Senator WATKINS. The committee will resume session. We hope all of our visitors are now comfortable, and we hope you can all now hear and see.

Congressman Harrison, I think, has some additional questions.

Representative HARRISON. Yes, Mr. Chairman, I would like to ask one further question of Mr. Shipman, one that I overlooked down in the other room.

Mr. Shipman, you mentioned that you had checked the passage of this particular bill from the Congressional Record. Is that right?

Mr. SHIPMAN. Yes.

Representative HARRISON. Do you know the date of that record?

Mr. SHIPMAN. I couldn't just recall, offhand.

Representative HARRISON. To refresh your memory, that was probably July 27, was it not, of this last year, 1953?

Did you notice any other bills on the Consent Calendar at that time, having to do with Indian affairs, that were passed at the same time?

Mr. SHIPMAN. I don't know that I paid any particular attention to that.

Representative HARRISON. Are you familiar with the rule of the House under the Consent Calendar, that one objection will stop the bill from going through, that it takes the unanimous consent of all the members present to allow a bill to go through on the Consent Calendar?

Mr. SHIPMAN. I don't claim to know all the details of parliamentary procedure.

Representative HARRISON. As a matter of the record, at this time I would like to show that on July 27 of 1953, H. R. 1055, the general Indian liquor bill, shown on page 10132 of the Congressional Record of that day, passed without objection and without debate. H. R. 4985, upon the request of Mr. Albert of Oklahoma, was passed over without prejudice. There was an objection made to that bill. House Concurrent Resolution 108 was placed at the bottom of the calendar at that time, because of some questions asked. It was later passed, as shown on page 10141, with amendments, based on the reservations expressed by the Members referred to.

That particular bill had amendments put on it on the floor of the House from Members who were watching that particular legislation.

H.R. 1033, the bill which you are particularly interested in, and one other bill intervening was then called up, on page 10135, and it was passed without objection and without debate, as it had been previously reported by the committee. There were no objections made on the

floor of the House at that time, and any suggestion made later by any Congressman that there was not sufficient debate merely represented the fact that he was not present and did not raise any objection at that time. There was no objection raised. There was no way for the House to know there was any objection to this bill. And certainly the House can't be criticized if those who objected to this legislation were not present and did not look after the interests of their constituents.

Representative ASPINALL. Mr. Chairman, will my colleague yield? As a member of the Objectors Committee of the Consent Calendar, I wish to substantiate what my colleague has stated, that there was no objection made at any time to me. If there had been, the bill would not have been considered at that time.

Representative HARRISON. That is all, Mr. Chairman.

Senator WATKINS. Had you finished, Congressman Berry?

Representative BERRY. Mr. Chairman, we have had so much reference to hill No. 57 and the people that are living on it.

As a matter of fact, from your testimony it seems that these people were moved out of North Dakota, or moved out willingly, having accepted 10 cents an acre for their land.

From your testimony, it then seems that the Congress, then appropriated \$15,000 to move them back to Canada. I would think that it was quite apparent that these people never were American citizens.

Mr. SHIPMAN. I think it was before the time when citizenship was granted to Indians. Full citizenship wasn't granted to Indians until 1924. So I don't see how that could be said.

Representative BERRY. You mean full citizenship was not granted?

Mr. SHIPMAN. I don't know that I know the reason why they were deported, except that I know it happened. I know they lost their resources, and I know what the consequences were. I know the kind of conditions which they have lived under.

Representative BERRY. Do they attend school at the present time?

Mr. SHIPMAN. Many of the children don't, because as it says right in the supplement there, their parents don't have money to buy them clothes. They are a very serious welfare problem, and they have been the subject of a good deal of discussion by the Cascade County Community Council. They have considered that situation and this whole withdrawal proposition on two occasions. And the community council represents almost all of the organizations at Great Falls.

Representative BERRY. As a matter of fact, there were two groups, a loyal group and a disloyal group. The loyal group remained in this country and were placed on a reservation in North Dakota. The disloyal group was returned to Canada. And these people have drifted back from this disloyal group. Is that about the picture?

Mr. SHIPMAN. I wouldn't want to corroborate that, on the basis of loyalty or disloyalty. I know there was some difference of opinion, or I believe there was, from what I hear from these people, as to whether they should accept the 10 cents treaty when other land was selling for \$2.50 which was comparable to it.

Representative HARRISON. Will the gentleman yield there?

If the facts should be this, that this tribe had split into two parts, and one part had been loyal to the United States Government and the other part had been disloyal to the United States Government and gone to Canada, and American citizenship was given to the part that

was loyal to this country, you would not say, would you, if that had been the case, that those who had been disloyal to the United States should have the same rights as those who had been loyal?

Mr. SHIPMAN. I don't think there is any question of loyalty, Congressman.

Representative HARRISON. I just asked you the question. It is a supposition. In those cases, would you say they should have the same care, or should not?

Mr. SHIPMAN. I can't answer that question "yes" or "no." I don't think there is any question of loyalty. They went north on a hunting party up into Canada.

Representative HARRISON. But suppose the circumstances had been as I outlined. Then would you say that they should be treated equally, or not?

Mr. SHIPMAN. I can't say that I understand your question. I don't think it is pertinent to their situation.

Representative HARRISON. That is all.

Representative BERRY. On page 3 of your statement, you say there has been no adequate consultation with the Indians of the Flathead Reservation.

Mr. SHIPMAN. Commensurate with the importance of the situation, I think it says.

Representative BERRY. That is about three-fourths of the way down. "There has been no adequate consultation with the Indians of the Flathead Reservation." Do you know what consultation had been had?

Mr. SHIPMAN. Yes. There was a meeting on the proposition about October 7th, I believe.

Representative BERRY. Was that the first time?

Mr. SHIPMAN. That is the written copy I saw of the notice which was presented to them. I think it reached them on October 7th. And their whole destiny was to be decided, and the Bureau's report go to the Congress, by November 1st, I understand, a matter of three weeks, for the whole destiny of the Flathead people to be decided. And it seems to me that that isn't hardly—

Representative BERRY. Was that the only time when the Indians were ever consulted, or this matter of withdrawal was ever considered with the Indians?

Mr. SHIPMAN. I don't know that that was the only time.

Representative BERRY. What other times have there been meetings on it?

Mr. SHIPMAN. I wouldn't know of all of the meetings. But I know that this is the time at which the proposed draft of the bill or a rough draft of the bill was presented by the Bureau.

Representative BERRY. Do you know whether Bureau officials have been out to the reservation and talked with the Indians in the past several years with regard to withdrawal?

Mr. SHIPMAN. I wouldn't know the complete details on that. But as for consultation with the tribe as a whole, it doesn't seem to me—

Representative BERRY. You only know of one time. Is that right? This one time is the only time you know of?

Mr. SHIPMAN. This is the official time that I know of.

Representative BERRY. The last official time that you know of. Is that correct?

Mr. SHIPMAN. You see I was referring there to the time when they had a concrete proposal for withdrawal.

Representative BERRY. Now, do you know whether any congressional committees have been out there?

Mr. SHIPMAN. Yes, I know a congressional committee came out. I read about it in the newspapers.

Representative BERRY. About when was that? Do you know?

Mr. SHIPMAN. Let's see. I have a clipping on that. It was along in October or November. It was a very short time. The committee took a swing around through all the reservations for a day or two, I believe.

Representative BERRY. Did the Indians know about the committee being there?

Mr. SHIPMAN. Yes. I suppose they did. Some of them, anyway.

Representative BERRY. Do you think that the Indians talked with the committee about this? While the committee was there, do you think there was any exchange of ideas?

Mr. SHIPMAN. I don't think there was, adequately. I talked with the Indians myself, and this whole matter was discussed at the Conference of Social Welfare, when Mr. Higgins came down there, and a number of the Indians made talks there, in which they said that there had been no adequate consultation. They don't feel that there has been, from my talk with them.

Representative BERRY. In the Department's report, when they say that field officials of the Bureau of Indian Affairs of this Department have held group meetings and individual conferences to discuss preliminary drafts, that is before the bill was drafted. Do you think they are right, or wrong? Are they giving us correct information, or misinformation?

Mr. SHIPMAN. I wouldn't say it was their information. I just stand on the statement that not enough consultation with the Indians has been had on this very serious matter of affecting their whole future and the future of the State of Montana.

Representative BERRY. You did not say that in your statement, though, did you? You said, "held no consultation worthy of the name."

Mr. SHIPMAN. Well, the way I understood from them, they raised the question: "Well, what if you don't want this whole affair?"—

And they were told they had to listen to this, they had to accept something.

Representative HARRISON. Who made that statement?

Mr. SHIPMAN. I have talked with so many Indians, that I wouldn't know just who it was.

Representative HARRISON. You mean that you do not remember a statement as serious as that, that would attack the integrity of the congressional committee going into that region?

Mr. SHIPMAN. Well, I wouldn't say it was attacking the integrity of the committee.

Representative HARRISON. It certainly is, when you say we held no hearings worthy of mention, and also that we didn't give them suffi-

cient time. I think that you should submit for the record the name of that gentleman who made that statement.

Mr. SHIPMAN. I think that is a matter of opinion. I am sure that they feel that they haven't been adequately consulted.

Representative HARRISON. But you, yourself, have no information as to how many hearings we held or what was said in those hearings. You were not present, were you?

Mr. SHIPMAN. I wasn't present in the hearing. But I have been studying this whole matter, paying rather close attention to what was going on.

Representative HARRISON. To one side; is that right? You have listened to one side, and you have not availed yourself of any information from the committee itself, or firsthand information from attending those meetings?

Mr. SHIPMAN. I haven't talked with any members of the committee; no.

Representative BERRY. How many times have you been on the reservation since last October?

Mr. SHIPMAN. I was down there and talked to Father Byrne. Just once since last October, I believe.

Representative BERRY. How long were you there?

Mr. SHIPMAN. Of course, there have been numerous meetings. The Indians have been meeting all over the State on this whole affair, the Indians from all of the reservations. And I have talked with them at Great Falls on many occasions; members of the Flatheads and members of the other reservations. They have all been considering this, and I have talked with quite a number.

Representative HARRISON. Will the witnesses who talked with you of those tribes be present to testify?

Mr. SHIPMAN. I think they will.

Representative HARRISON. Then I suggest that they testify, because we can then put it in the record.

Representative BERRY. But from their conversation, you drew the inference that there had been no adequate consultation with the Indians either by the committee or by the Bureau of Indian Affairs. Is that right?

Mr. SHIPMAN. That is right. Not anywhere near enough.

Representative BERRY. You said "No"?

Mr. SHIPMAN. "No adequate." Of course, language means different things to different people.

Representative BERRY. Let's go down about four lines. It says:

The Bureau of Indian Affairs has held no consultation worthy of the name with the tribal council.

We will drop that. I would like to ask about the burden that you people are afraid is going to be thrown upon your State and your county.

Have you consulted with the county commissioners or with any of the county officials out there regarding an additional burden that may be thrown upon their county by reason of this proposed withdrawal?

Mr. SHIPMAN. I have talked to a lot of people. I have talked to one county commissioner, a member of the Blackfeet. He was quite worried.

Representative BERRY. Does this bill cover the Blackfeet?

Mr. SHIPMAN. No. But, of course, 108, which is what the concurrent resolution handles, indicates Federal jurisdiction will be terminated over all of the reservations, does it not? And it has that intent and has been so construed by all the people. They are very much worried, anyway, that all of the reservations will follow suit and that the Indians will lose their lands and become a burden on the taxpayers of Montana, as these other Indians are, these landless Indians.

Representative BERRY. Now, let's stick to the Flatheads for a little bit. Do you know whether the county commissioners of Lake County, for instance, are worried? Do you know what the county commissioners of Lake County have as an attitude with regard to this withdrawal program on the Flathead Reservation?

Mr. SHIPMAN. No, my information is mostly from people at the State level, that they feel that there hasn't been enough consideration as to what the burden will be that falls upon the State.

Representative BERRY. How about the county?

Mr. SHIPMAN. Pardon?

Representative BERRY. How about the county?

Mr. SHIPMAN. Or the county, either one.

Representative BERRY. Isn't the county primarily interested?

Mr. SHIPMAN. Yes.

Representative BERRY. Do you think if the State's attorney of Lake County should say that there would be no additional burden upon them, that would have any influence on you?

Mr. SHIPMAN. I wouldn't think it would be correct.

Representative BERRY. Suppose that the county commissioners of that country would make such a statement. What would you think then?

Mr. SHIPMAN. I wouldn't think that would be correct, either.

I would think that a good many people are anticipating an added burden if the Indians are taken out from under trusteeship.

Representative BERRY. As a matter of fact, I assume that this effort that is being made is an effort to establish a political issue in Montana. Is that correct?

Mr. SHIPMAN. No; I don't think it is an effort to establish one. I think it will become one, probably, if this proceeds.

Representative BERRY. If the State's attorney, or the county attorney, as you call them out there, says that for all practical purposes Lake County has had virtually all of the investigation and prosecution burden with relation to the Indian people for many years past, and, of course, will be required to continue to carry this burden in the future, and that therefore he feels that they will not be faced with any additional financial load, and the passage of the bills "will tend to clarify a confusing question of jurisdiction over the Indians which has hampered law enforcement considerably in this area," you would not agree with the State's attorney in that? You would think he was wrong. Is that correct?

Mr. SHIPMAN. Well, I didn't gather all that you read there, but I have a news account here that indicates that some of the counties—

Representative BERRY. We are talking about Lake County.

Senator MURRAY. Mr. Chairman, I think the witness ought to be permitted to complete his answer before he is interrupted.

Representative BERRY. If he wants to talk about South Dakota, let's talk about it tomorrow in my office. I understand this bill covers the Flathead Reservation. I understand it has something to do with Lake County, Mont. Let's stick to that.

Representative HARRISON. I move that the previous testimony that the witness has given on these irrelevant matters be stricken from the record. I think he should be held to the question.

Senator WATKINS. I don't think there is any harm in having it in the record. But I will caution the witness to try to respond directly to the question and give us the information that he has as nearly as he can, the information within his own knowledge.

Representative BERRY. I think that is all, Mr. Chairman.

Senator WATKINS. Congressman D'Ewart?

Representative D'EWART. I only want to deal with one question. You recite the condition on Hill 57, and then you say:

This condition is not peculiar to Great Falls. It is a common situation in many cities throughout Montana and the Dakotas.

Would you name the cities in Montana and the Dakotas that have the same situation that is now found on Hill 57 with respect to these Indians?

Mr. SHIPMAN. Well, some of the cities that have somewhat similar conditions—

Representative D'EWART. This says the same conditions:

It is a common situation in many cities throughout Montana.

Let's stay to the point. What are the names of the cities that have the same conditions as Hill 57 in Great Falls?

Mr. SHIPMAN. I would say that the conditions were somewhat the same around Havre and Helena.

Representative D'EWART. They are the same. Where?

Mr. SHIPMAN. Do you mean exactly the same?

Representative D'EWART. Where is there a condition exactly the same as around Hill 57?

Mr. SHIPMAN. I understand around Havre they live in the dumps, which is a similar situation.

Representative D'EWART. Where is the situation that is similar around Great Falls?

Mr. SHIPMAN. Around the city dumps, as I understand.

Representative D'EWART. Do you know it for a fact?

Mr. SHIPMAN. I haven't inspected it, myself. But I have here—

Representative D'EWART. Well, do you know that there is a situation in Helena identical or in any way similar to the situation at Hill 57 in Great Falls?

Mr. SHIPMAN. I haven't that information. I haven't personally inspected all of that.

Representative D'EWART. You don't know it to be true?

Mr. SHIPMAN. I have it from people where I consider the source of information reliable.

Representative D'EWART. Would you give us your source?

Mr. SHIPMAN. Well, here is a speech that was made before the Travelers' Club in Great Falls, in which the speaker refers to these conditions being prevalent throughout the cities.

Representative D'EWART. Does it say Helena?

Mr. SHIPMAN. It says:

In fact we have a good start to seven such hills already through Government pressuring of Indians to leave the reservations.

Representative D'EWART. You are not answering my question.

Mr. Chairman, I thought you ruled that he must answer the questions.

Senator WATKINS. Respond to the questions, please, and we will get along better.

Now you pick up newspaper clippings and attempt to read them into the record. That is not permissible unless we consider whether we want that newspaper clipping in the record. You are to testify to what you know.

Representative D'EWART. He has slandered a good many cities in Montana, and I would like to have him prove it.

Mr. SHIPMAN. I don't think it is slanderous. I think it is a condition we all recognize and are sorry for, and are apprehensive about.

Senator WATKINS. Would you confine yourself now to his question?

When you are asked a question about a specific city, answer the question, respond directly to the question. We will give you an opportunity afterward, if you have anything relevant on the matter, that you know of in your own knowledge, to bring it here. But we are not going to permit you to sit here and read newspaper clippings and all that sort of thing. We can read them ourselves in our offices.

All you need to do is hand them over to us, and we will attempt to read them, but we are not going to take the time of the committee in these hearings to do it.

All right, Congressman. Continue with your questioning.

Representative D'EWART. I would like to know his authority for the statement that there is any situation in Helena similar to that at Hill 57 in Great Falls.

Mr. SHIPMAN. As I was saying, Mr. Knipe made a speech before the Travelers' Club in Great Falls in which he named Havre, Helena, Butte, Cut Bank, and Billings.

Representative D'EWART. Now, I would like to know if you know that it is true of your own information, in Helena.

Mr. SHIPMAN. Know? I am a rancher. I think it is true all right.

Senator WATKINS. The answer is that you don't know of your own knowledge?

Mr. SHIPMAN. Well, I think the Great Falls Tribune is a reliable source of information.

Senator WATKINS. Just a moment. We are not going to permit you to do that sort of thing. If you don't know of your own knowledge, answer, and then we will go on and call the witnesses who do know about these matters.

Representative D'EWART. Do you know of your own knowledge of a situation in Helena that is similar to Hill 57 in Great Falls?

Mr. SHIPMAN. I haven't inspected it, Congressman.

Representative D'EWART. You do not know?

Mr. SHIPMAN. I haven't been there and seen it. How I know——

Senator WATKINS. That is the answer. If you do not know, you do not know.

Do you have any other questions?

Congressman Westland?

Representative WESTLAND. I only have one question here, Mr. Shipman. You say on page 4 of your testimony that all these Indians are against this. You want to assure this committee that there is no mystery, and so forth, that all the Indians are against it. You make a rather broad statement there.

Now, on page 2 of the report from the Department of the Interior, they give very definite figures, Mr. Shipman. They say that a meeting called for the purposes of discussing this legislation was attended by 130 adult Flathead Indians. That is out of 4,213 Indians. It was attended by 130, and a substantial majority voiced their opposition. That might be, let's say, 70 or 80. That would be a substantial majority voicing their opposition. Now, on the other hand, they say that from the Indians off the reservation they received 134 replies, and 82 percent of those favored the legislation.

Now, how can you correlate your testimony with those figures?

Mr. SHIPMAN. I think I qualified that statement up there by saying in the next paragraph of my testimony that it is true that some persons have managed to confuse a small number of Indians as to what is involved.

Representative WESTLAND. Now, just a moment. Who has tried to confuse these Indians? I don't know of anybody who has tried to confuse them. Just tell me one person.

Representative BERRY. Maybe it was the Members of Congress, the gentleman feels, who were out there last fall?

Mr. SHIPMAN. I am not here to point out any special person.

Representative WESTLAND. Well, you say that. You say some persons have managed to confuse them. It sounds, from your statement, as though somebody has deliberately gone out and tried to confuse them.

Now, who has done that?

Senator WATKINS. Yes. We are interested in that. We would like to know.

Mr. SHIPMAN. Well, I will let the Flatheads speak for themselves on that, I believe.

Senator WATKINS. That would be better.

Representative WESTLAND. You don't know, yourself. Is that right, Mr. Shipman?

Mr. SHIPMAN. I think that is the case. That is true. I wasn't there when it happened.

Senator WATKINS. You don't know. You are just saying some things you have been told by someone else?

Mr. SHIPMAN. I know from discussing the affair with the Indians. That is all I know.

Senator WATKINS. What you have, of course, is hearsay evidence. We are interested in getting what you know yourself, when it comes to facts. And you have already given us your opinion, so that is in the record.

Representative BERRY. Will the gentleman yield there?

As a matter of fact, you were reading a paper that was prepared by someone else, weren't you?

Mr. SHIPMAN. No, sir.

Well, I have had assistance with the paper, but I prepared the facts.
 Representative HARRISON. All the facts in the statement—were they your ideas, or were they given to you by others who helped you in the preparation of this particular statement?

Mr. SHIPMAN. I think they are substantially most of my ideas.

Representative HARRISON. Substantially. But there are some that were given to you by others. Now, who else helped you prepare this statement?

Mr. SHIPMAN. Well, I prepared my statement in company with our lawyer from the association, Mr. Lazarus—

Representative HARRISON. Would you name the names, so that we will know who helped you prepare this, and their affiliations or connections?

Mr. SHIPMAN. Mr. Lazarus.

Representative HARRISON. What is his connection, for the record?

Mr. SHIPMAN. Mr. Lazarus and Mr. Shifter are members of the law firm who are counsel and who will prepare the legal aspects of this.

Representative HARRISON. They are under retainer to the particular tribe. Is that right?

Mr. SHIPMAN. I believe so.

Representative HARRISON. Is there anybody else?

Mr. SHIPMAN. I am not sure whether they are on retainer to the tribe. They are being employed by the association.

Representative HARRISON. Which association?

Mr. SHIPMAN. The Association of American Indian Affairs.

Representative HARRISON. But they are being employed in this particular case as attorneys; is that right?

Mr. SHIPMAN. They are being employed as attorneys by the association.

Representative HARRISON. Did anybody else help you prepare that statement?

Mr. SHIPMAN. Well, of course, I don't know just what you mean by "help prepare" it. The Bureau mimeographed it, of course.

Representative HARRISON. I mean did anybody else help you in suggesting any statements to go in there?

Mr. SHIPMAN. I have talked the matter over with a good many people.

Representative HARRISON. No, I am asking you a specific question. Will you please answer it, if you know? It is either "yes" or "no." Did anybody else besides Mr. Shifter and Mr. Lazarus help you in the preparation of this statement?

Mr. SHIPMAN. Yes, Mr. Nash has helped me.

Representative HARRISON. And anybody else outside of those three?

Mr. SHIPMAN. Well, there was a lady who did the typing.

Representative HARRISON. I am not concerned about that, and I think you understand that. I am asking you about the statements that you made, the content that you expressed here.

Mr. SHIPMAN. Mr. Lesser, who is the executive director, was present at the conference.

Representative HARRISON. Those four, now. Were there any others?

Mr. SHIPMAN. No, those are all of the ones that I would say helped prepare this paper.

Representative HARRISON. That part of the statement that was not your opinion was the opinion expressed by these gentlemen you have testified to?

Mr. SHIPMAN. Yes, I think that is true.

Representative HARRISON. That is all.

Senator WATKINS. Senator Murray, would you like to ask some questions?

Senator MURRAY. I might ask him one or two very simple questions.

You are not coming here as an expert on this problem, are you, Mr. Shipman?

Mr. SHIPMAN. No, not as an expert, just as an interested citizen of Montana who has taken a good deal of interest in Indian affairs.

Senator MURRAY. The information that you have is based upon conversations you have had with Indians from several different reservations, and in talking to people generally in our State with reference to the problem?

Mr. SHIPMAN. That is right. And from the press.

Senator MURRAY. And from the press. You have some clippings there, have you, showing the interest that has developed in the State of Montana as a result of this question?

Mr. SHIPMAN. Yes.

Senator MURRAY. Would you care to have those clippings introduced into the record here?

Mr. SHIPMAN. I don't care to particularly. I had a whole handful of them. I didn't think it was necessary to put them in the record.

Senator MURRAY. Very well.

Senator WATKINS. I think it is contrary to the House rules to put them in the record.

Senator MURRAY. I don't want to violate the rules of the House.

Senator WATKINS. We have a joint committee here, Senator.

Senator MURRAY. We have put clippings in the record here, when they have a relation to the subject we are discussing.

Senator WATKINS. We usually file them with the committee. Otherwise we would fill the record up with nothing but newspaper writings and editorials from all over the United States, and we can't do that. There is some cost limitation on this matter.

Go ahead, Senator.

Senator MURRAY. You have talked about Hill 57 in Great Falls. Did you say you knew of any other hills in Montana besides Hill 57?

Mr. SHIPMAN. That is my understanding, that there are around the fringes of most of the cities, and I am familiar with some. I live in Lewistown, and I know in the poorer sections of the town, what you might call the shack-town areas, is where a number of these unfortunate people who lost their resources reside. And it is a shameful condition, and I would hate to see it become more prevalent. That is the only thing that we are worried about, Senator. We don't want a lot more people who are unready to meet the conditions which they will face.

Senator MURRAY. Did you know that we had a sort of a Hill 57 at Butte, Mont., about 55 or 60 years ago? There was a big colony of Indians there, that had come to Butte and camped there and were getting assistance from the city of Butte?

Representative HARRISON. Mr. Chairman, I don't want to be unreasonable, but I would like the Senator to pinpoint this down to this particular tribe of Flatheads. I think we are getting too far astray.

Senator MURRAY. Well, we were discussing the general consequences of these Indians being removed from their reservation and being thrown on their own and losing their resources and eventually winding up as the subject of charity. Isn't that true?

Mr. SHIPMAN. That is right, Senator.

Senator WATKINS. That is on the theory that if some Indians turn up without anything, all Indians will? That is putting all in the same category, that if you run them through the same machine they will come out exactly the same way.

Congressman ASPINALL?

Representative ASPINALL. Mr. Shipman, is it your thinking that the reservation procedure of caring for these fellow citizens of ours should be carried on ad infinitum into the future?

Mr. SHIPMAN. Gosh, I wouldn't want to predict ad infinitum into the future, Congressman.

Representative DONOVAN. Do you feel this way, then: That if the majority of the tribe would wish to come out from under the control by the Federal Government as it relates to its property, and assume the full obligation of citizenship, they should be entitled to do so?

Mr. SHIPMAN. Yes, I think it should be with their consent. If they wish to give up the reservation life, I think it should be with the consent of the majority of the people on the reservation.

Representative DONOVAN. Do you know of your own knowledge any program that has been suggested by any Member of the House or the Senate at this time during this session of Congress that would force any tribe to accept some treatment that would not be referred to them?

Mr. SHIPMAN. Yes, I think the general outline of the bill seems to be that they are offered two alternatives, to set up some business organization of their own under State law, or to accept liquidation. And I believe that the conditions are such that liquidation is what would happen.

Representative ASPINALL. Without any referral to the tribe itself for such action?

Mr. SHIPMAN. There is a referendum as to which they would accept, what they would want to do. But there is no chance to turn it down. There is no chance to say, "We want the status quo. We don't want any change. Go away and leave us alone." There is no opportunity to do that, as far as I can see, under this bill.

Representative ASPINALL. And you think that they should be given that opportunity?

Mr. SHIPMAN. Yes, I certainly do. It seems to me it is a treaty, and I don't see how we could break a treaty with these people without both parties being consulted, both parties to the treaty.

Representative ASPINALL. Who do you think should have the right to vote in the tribe on that proposition?

Mr. SHIPMAN. I think it should be the ones who are living on the reservation. I certainly don't feel that in the case of those who have been able to go out of the reservation and make their way amongst the white people, and have been fairly successful, they should have the

right to liquidate those who have remained, who wanted to remain on the reservation and carry on their tribal life.

Representative ASPINALL. But those to whom you refer, who have gone away from the reservation, are carried on the rolls at the permission of the tribe itself, are they not?

Mr. SHIPMAN. I guess that is the case.

Representative ASPINALL. And they have an interest in the tribal property, just the same as those who live on the reservation?

Mr. SHIPMAN. I believe they do, yes. That is correct.

Representative ASPINALL. Now, let me ask you this. You have stated that you have lived among the Indians most of your life?

Mr. SHIPMAN. Just in Montana. I haven't lived among the Indians on the reservation.

Representative ASPINALL. If you lived with any Indians in Montana, you lived with them just the same as I do in Colorado. To what degree of Indian blood should this question be put? In other words, when does one having Indian blood within his veins fail to continue to be an Indian and become a white person, in your opinion?

If you don't want to answer it, say so, and I will not press the question.

Mr. SHIPMAN. I could only answer that by a general statement, Congressman. It seems to me when we begin to talk about degree of Indian blood, we are treating human beings like pedigreed animals rather than like human beings. And I don't think that is the question here. It seems to me that all those that are accepted on the tribal rolls by the Indians themselves should be the ones.

Representative ASPINALL. That is what I say. And they have the right to make this determination whether they live within the reservation or off the reservation.

That is all, Mr. Chairman.

Senator WATKINS. Congressman Haley, do you have any questions?

Representative HALEY. No questions.

Senator WATKINS. I would like to ask you a few questions, Mr. Shipman. What the committee is interested in is, of course, in trying to determine what is the best policy to pursue with respect to the welfare of these Indians.

As a secondary proposition, I assume, there is the welfare of the rest of the American people as well, but primarily the welfare of the Indians. We have had them on the reservations for many years. It has been a long time since these Indians have been on the reservation. We have some 4,000 of them altogether, and some 1,600 of them have been able to develop themselves to a point where they can leave the reservation and live among the white people and work white men's work and to a large extent be self-supporting.

Now, we have been watching this tribe of Indians for quite a long time. I have, for the 7 years I have been in the Congress. And I believe they have made progress to the point where we should give serious consideration now to giving them further liberty. We are not trying to take anything away from them. We are trying to give them something. We want to give them the liberty to handle their property as they would like to, as we would like to handle our property. And we would like to give that to them, that right, when they are able to handle that responsibility.

You have made some very strong statements here, and I notice that the paper apparently was prepared in the office of the Association on American Indian Affairs here in Washington.

I assume that the attorney and the others who advised with you did not just advise with you about how it was to be typed or anything of that sort. They advised with you with reference to the subject of the statement you were to make. Is not that right?

Mr. SHIPMAN. Yes, we talked it over very thoroughly.

Senator WATKINS. And they helped frame the language, did they not?

Mr. SHIPMAN. Yes.

Senator WATKINS. I assume so. Because it doesn't sound like the ordinary form. That may, however, be your own language.

You mentioned the fact that the people of Montana are fearful that these people are going to be a burden on them. You know, as a matter of fact, do you not, if you have read this bill, that it is provided that when this property is finally turned over to these Indians, their property, like that of every other American citizen in Montana, will be on the tax rolls? You understand that? And that they will be required to pay taxes?

Mr. SHIPMAN. Yes.

Senator WATKINS. And you are acquainted with this property, aren't you?

Mr. SHIPMAN. Yes.

Senator WATKINS. You know the value of the lands that are held by these Indians on the reservation and these individual allotments and ownerships?

Mr. SHIPMAN. I have heard some estimates of the appraised valuation.

Senator WATKINS. It is valuable property; is it not?

Mr. SHIPMAN. Yes; I think the waterside properties especially.

Senator WATKINS. I am talking about the individual holdings, not particularly the tribal, at the moment. It is valuable property?

Mr. SHIPMAN. It is valuable property; yes.

Senator WATKINS. And the farms are pretty well taken care of?

Mr. SHIPMAN. Yes.

Senator WATKINS. These Indians as a matter of fact are now managing their own affairs largely, aren't they?

Mr. SHIPMAN. I would say as to the smaller decisions, such as you would make on a farm or ranch, sure. They are capable of handling that sort of decision.

Senator WATKINS. You couldn't object to that part of the bill which would permit them to take the ownership to their lands and go on and manage them as they have been managing them for many years?

Mr. SHIPMAN. If that ownership were to include the disposition of the water rights and the timber, I don't think that would be advisable.

Senator WATKINS. Let us not talk about individual allotments. They don't have any individual allotments on timber and water, any more than the water that just goes with the land.

Mr. SHIPMAN. But I think where they get the land that way, if they had the right to sell it it would soon be gone. That seems to be the history of it.

Senator WATKINS. You are just making that as a generalization. You are overlooking the fact that these Indians have seen what has happened in the past to Indians who were not as well prepared as they are today. They have seen what has happened. Don't you think they have the judgment to decide whether they will sell or not sell?

Mr. SHIPMAN. I think that they will tell you that they are not ready. And that is my opinion.

Senator WATKINS. I assume that they would say they are not ready. But in 9 cases out of every 10 when they say they are not ready, it actually comes down to this question of paying taxes. They don't want to pay taxes. But at the same time, we all must realize that we have responsibilities to help pay for the things that we actually use.

These Indians are not treated any differently in the State of Montana than other citizens when it comes to the use of the public highways, are they? They can travel anywhere. And most of them own automobiles, don't they?

Mr. SHIPMAN. I wouldn't want to estimate how many of them own automobiles.

Senator WATKINS. Well, a large number of them own automobiles, don't they? They can travel anywhere in Montana or in the United States on the public highways?

Senator MURRAY. They could go down to Florida every winter, for instance.

Senator WATKINS. And some of them probably do. They have the money to do it, from what I have heard. Their children go to the public schools, and have for many years. Isn't that right?

Mr. SHIPMAN. In many cases.

Senator WATKINS. Speak up so that we can get the answers.

Mr. SHIPMAN. Yes, I think many of them go to the public schools.

Senator WATKINS. Well, in fact, they do not have any reservation or Indian schools by themselves at all, do they?

Mr. SHIPMAN. I don't believe there are any more now.

Senator WATKINS. It has been a long time since they had any Indian schools, as such, on the reservation.

Mr. SHIPMAN. I wouldn't know just when that time was.

Senator WATKINS. You think that is a good thing, don't you, to have them go to white schools?

Mr. SHIPMAN. I certainly do.

Senator WATKINS. With the idea of having them trained so that they can take part, as a part of the American citizenry, in the State of Montana or wherever they happen to be or wherever they happen to want to locate?

Mr. SHIPMAN. Yes.

Senator WATKINS. The whole objective should be to train them to integrate themselves with the white people, the other American citizens?

Mr. SHIPMAN. Yes, if they so wish.

Senator WATKINS. All right. They don't have to live with the white people if they don't want to.

You are not in favor of keeping the Indians segregated are you?

Mr. SHIPMAN. No.

Senator WATKINS. You are against segregation, aren't you?

Mr. SHIPMAN. Absolutely.

Senator WATKINS. As a matter of fact, on this reservation, the white people's land is more or less checkerboarded in with the Indian land, isn't it?

Mr. SHIPMAN. Yes, I believe it is.

Senator WATKINS. The reservation is sort of around the land owned by white people, isn't it? They have been living there together as neighbors and friends. Indian children have been going to white schools over the years. The Indian Bureau has been paying the tuition, has it not?

Mr. SHIPMAN. I believe so. I am not familiar with just exactly the arrangement, but I believe that is correct.

Senator WATKINS. You think that is a good thing don't you?

Mr. SHIPMAN. Yes, I am certainly not for segregated schools.

Senator WATKINS. Well, that is what it means, if we are going to confine them to a reservation.

Mr. SHIPMAN. I don't think that should necessarily be inferred. We are not confining them there. They can go, as you say, anywhere they wish.

Senator WATKINS. That is what I am trying to point out. The movement toward having full and complete disposition of their own lives, subject to the ordinary rules that we all have to obey so that we can live together as individuals, is open to them, or will be open to them if we give them full freedom. About the only thing they can't do now is dispose of their property, isn't it?

Mr. SHIPMAN. That is right. That seems to me the important thing, though.

Senator WATKINS. Most of the lands now, 90 percent of the lands, I am advised, under the Flathead Irrigation project, are non-Indian. Isn't that right?

Mr. SHIPMAN. I believe there are, a lot of them.

Senator WATKINS. You wouldn't dispute that figure, would you, that 90 percent is not owned by Indians?

Mr. SHIPMAN. I wouldn't know what the percentage is.

Senator WATKINS. They take their water out of the same canals and irrigation setups as the white people do.

Mr. SHIPMAN. I think that is right.

Senator WATKINS. And they are probably part of organizations set up to manage these irrigation affairs, aren't they?

Mr. SHIPMAN. I don't know about those details.

Senator WATKINS. You have never checked to see just how far this integration has gone, have you?

Mr. SHIPMAN. Well, there is still discrimination in many places.

Senator WATKINS. Oh, there may be some. We can't regulate everybody's lives. Some people will discriminate in spite of all the laws you can pass, but I am not in favor of discrimination, and I am not in favor of segregation of these Indians. I think they ought to become part of the communities where they live. And they ought to be given a helpful hand from the white people who live there, to help them get on their feet and become self-respecting Americans. It is distasteful to me to see anybody a ward of the Government, unless they are absolutely, in their own person, incapable of taking care of themselves. And then we have guardianship laws in every one of the States that I know anything about, to take care of those incompetents.

Their friends can come in and file petitions and have a guardian to help take care of them. If you have few Indians there, they can be taken care of as other incompetents in the State of Montana are taken care of, if they are in that category.

With respect to the health situation, do you know what it is on the reservation?

Mr. SHIPMAN. I think it is pretty good. Because they have a hospital there which I think is partially supported by the Federal Government, and I believe everything is pretty good there.

Senator WATKINS. That hospital is a private institution? At least it is a church institution, maintained by the Catholic people?

Mr. SHIPMAN. I believe so.

Senator WATKINS. And there would be no interference with that. That would go on just the same after the Indians are given the control of their own property—just the same as it is now.

Mr. SHIPMAN. I don't think that is the case. I think undoubtedly the Indians will have some statement on that.

Senator WATKINS. Well, they may have some statement.

But the hospital is not a Government hospital, is it?

Mr. SHIPMAN. It may have Federal support.

Senator WATKINS. It may have Federal support, but it may be supported from some other direction. The Indians have tribal funds, don't they?

Mr. SHIPMAN. Yes.

Senator WATKINS. And there wouldn't be any objection to the Government of the United States trying to get its various services under one tent, at least. Would you object to the public health organization of the United States taking over the functions now performed by the Indian Bureau, to insure that there wouldn't be so much duplication? You wouldn't object to that, would you?

Mr. SHIPMAN. No.

Senator WATKINS. We found in health, irrigation, they are working with the white people, handling their rights together.

What other objection do you feel there would be to having them fully integrated?

Mr. SHIPMAN. Well, I pointed out that there would be considerable discrimination if they were thrown on their own. I don't think that they can compete freely for jobs. I think there is considerable discrimination against Indians while they are competing with others for jobs.

Senator WATKINS. How do you explain that the 1,600 Indians off of the reservation can get jobs?

Mr. SHIPMAN. They are able to make it in spite of discrimination, I would say.

Senator WATKINS. Well, the probabilities are that these people who have property wouldn't need to go away for jobs, if they live on the reservation. They have their farms and businesses.

Mr. SHIPMAN. They have tribal funds. If their tribal funds are dissipated, then I think they wouldn't find themselves nearly as self-supporting as you have drawn the picture. It is these tribal funds and the money which they get from the sale of their timber and their income from their water rights which makes them self-supporting. And if they were to lose those, I am afraid they wouldn't be in any-

where near the fine condition they are in. That is the thing I would like to avoid. And it is for that reason that I have urged that Federal trusteeship be kept over those resources, which I don't believe they would know how to handle.

Senator WATKINS. Do you know what per capita payment these Indians get from the Federal Government?

Mr. SHIPMAN. No, I wouldn't know that.

Senator WATKINS. You haven't investigated that phase of it?

Mr. SHIPMAN. No.

Senator WATKINS. Now, have you gone into the sections of the bill which provide for the alternatives, so that the Indians can take it themselves and organize to take this tribal property, or whatever they have?

Mr. SHIPMAN. Only in a general way. Mr. Lazarus will present our point of view.

Senator WATKINS. Well, he has advised that it wouldn't be a good thing to do. Isn't that the fact?

Mr. SHIPMAN. Yes.

Senator WATKINS. And that is what you are relying on largely?

Mr. SHIPMAN. I am not a lawyer.

Senator WATKINS. You are relying on him?

Mr. SHIPMAN. As far as the legal aspects are concerned.

Senator WATKINS. We will get to him, because I understand he wants to testify, so I won't fire any more questions at you.

If you are giving his opinions here, we will ask him and get to the source.

I think, Mr. Shipman, that you maybe have taken in too much territory when you say most of the Indians don't want this type of bill.

Mr. SHIPMAN. I think it will become apparent from their testimony that the ones who live on the reservation want to keep the reservation intact, and it is those who have gone away—there might be some who would want to liquidate the reservation so that they could get their share.

Senator WATKINS. They have just as much interest in the reservation as those who are living in it?

Mr. SHIPMAN. Financially only, I would say.

Senator WATKINS. What other determinations should be made? Who, in other words, is going to make the determination as to what shall be done with the property owned by the 1,600 Indians who have become integrated and have gone out into white communities to live? Would you let the Indians on the reservation make it?

Mr. SHIPMAN. I think so. They are the ones who have seen fit to stay there, and feel it is their homeland. It has tremendous sentimental value, and they are very proud of their heritage there. I think that those are important questions to human beings, where they live and how they live.

Senator WATKINS. Well, is there anything in the bill that will require them to move?

Mr. SHIPMAN. Well, if someone else gets hold of the property, they will be required to move, I believe.

Senator WATKINS. You just don't have confidence in these Flathead Indians, do you?

Mr. SHIPMAN. Yes. I do have confidence in them.

Senator WATKINS. How much? How far would you go? You say you have confidence in them. I think I have more confidence in them by far than you have, because you don't think they can run their own affairs. I think they can, if they are given a chance.

Mr. SHIPMAN. I think they are just like I am. They would be competing with forces in the economy that would probably separate them from their property if they get out on their own without this trusteeship.

Senator WATKINS. Do you know of any white men who have made mistakes in disposing of their property, selling it for practically nothing?

Mr. SHIPMAN. Yes.

Senator WATKINS. Do you want us to take on the guardianship of all those people who have made mistakes in the past and all the incompetents who are now managing white property?

Mr. SHIPMAN. No, but I think this is a special problem which the Government has incurred under treaty and should live up to.

Senator WATKINS. The treaty, as I recall, would require them to be on the reservation and stay on the reservation, if you want to go back to it.

Mr. SHIPMAN. It just guarantees that they should be allowed to keep it as long as they want it. And that is what I am concerned about, that kind of trusteeship.

Senator WATKINS. Any Indian under this bill that wants his share can keep it as long as he lives. Nobody is going to force him to sell his property. It comes down to the question again of whether you have confidence in them or you don't.

Let me call your attention to section 5, page 3 of the bill:

Upon request of the tribe approved by a majority of the adult members thereof voting in a referendum called by the Secretary, the Secretary is authorized to transfer within 2 years from the date of this act to a corporation or other legal entity organized by the tribe in a form satisfactory to the Secretary title to all or any part of the tribal property, real and personal, or to transfer to one or more trustees designated by the tribe and approved by the Secretary title to all or any part of such property to be held in trust for management or liquidation purposes under such terms and conditions as may be specified by the tribe and approved by the Secretary.

Now, can you think of anything more democratic than allowing those people to have something to say about it, than by having a referendum? They are going to decide finally, in a referendum, which is going to be submitted to them. Now do you think a few individuals, 150 or 200 of them, who live on the reservation, should say to all the rest of the Indians, even some who live on the reservation, "You can't have your property. We are going to sit here as a group, and we are going to dominate this thing. We are going to dictate what you can do"?

Mr. SHIPMAN. I don't think that is the situation. I think there should be a majority vote of those living on the reservation. That is my opinion, anyway. I don't think this gives them the decision as to whether they should keep the reservation. This gives them two alternatives.

Senator WATKINS. I read you the alternatives.

Mr. SHIPMAN. They haven't had the alternative to maintain the status quo as it is at present. And I think it is advisable to leave things as they are at present as far as the trusteeship of the property is concerned. This would remove the trusteeship over the property, which I think they very much need.

Senator WATKINS. We have to go on with this treaty, under what you say, *ad infinitum*?

Mr. SHIPMAN. Until there is a mutual agreement to change it at least.

Senator WATKINS. That is what we are trying to find out. This bill submits a referendum, gives them a chance to vote. It seems to me what you are doing is saying that these people, the majority of them, cannot make a determination; that "We are not going to trust them to even make the determination whether they want it or don't want it." Now, we have consulted them. You complain about that. But they will be consulted again on this referendum. They will have full opportunity, during that period of time.

Mr. SHIPMAN. I don't think that anything in this bill provides for that.

Senator WATKINS. Well, I just read you the provision.

Mr. SHIPMAN. It doesn't provide for maintaining the status quo or a vote to keep things as they are now.

Senator WATKINS. There is one proposition I think you have overlooked. Do you think the United States has any rights whatever in the matter, the rest of the American people?

Mr. SHIPMAN. Well, I am an American citizen, a white citizen, and all I want to see is justice done to the Indian. And I think there have been too many instances in the past where we have overlooked their rights and dignities, and I just don't want to see any more of it happen. That is all.

Senator WATKINS. Do you want to look entirely to the past, or do you think we have made some progress in the past 25 years, and probably we will get these Indians some time to the point where they can take over the management of their own affairs?

Mr. SHIPMAN. I think probably some time they will.

Senator WATKINS. But the time never comes. It is always 15, 20, 25 or 30 years away. Isn't that right?

Mr. SHIPMAN. I think we are approaching this too rapidly, with too much haste.

Senator WATKINS. And the main point every time, as we got from one of the witnesses in another tribe, the other day, is this: They want all the benefits of the things we have, highways, schools, hospitals, everything that civilization furnishes, but they don't want to help pay their share of it. And it would be a very small amount, as a matter of fact, in many instances. But they don't want to take on the taxload. They don't want to pay taxes with the rest of the people in the communities.

Mr. SHIPMAN. I think we are overlooking the fact that the land all belonged to them once, the concession was that they would give us a large part of the land and keep this little remnant if they could be unmolested there as long as they wished to stay there. And if we now proceed to molest them or to force liquidation of their reservation, I feel that would be the wrong thing to do.

Senator WATKINS. Well, most of them vote on this Flathead Reservation, don't they? They accepted citizenship that was conferred as I recall in 1924.

Mr. SHIPMAN. Yes.

Senator WATKINS. Did they put any limitations on their acceptance and say, "We expect to be just second class citizens or citizens with special rights over and above all the rest"?

Do you advocate that they should have special rights over and above all the rest of the citizens?

Mr. SHIPMAN. I don't know what special rights you refer to.

Senator WATKINS. We are giving them their property. We are paying judgments. At their own request they ask for an Indian Commission to be set up, a Claims Commission to be set up, to determine their final rights against the United States. And most of them are prosecuting those rights. When they get through and accept citizenship, is there any reason why this guardianship, this ward status, should continue in the future? I want to get the thinking back of those who are opposing this sort of thing. You say we are violating a moral law. I thought the whole objective of the program for over 150 years was to get these people to become full-fledged citizens. And every time we thing we get them around to that point, somebody comes up and says, "No, you can't do it, because if you give these Indians their property, they will sell it all." We have never yet given it to all Indians. We gave it to some Indians. And I think an investigation was made many years ago, to determine whether they had the ability to take care of themselves.

But I hope our education, our civilization, has made some advances. I don't want to argue with you any longer, but I want to give you some of the thinking of the people who have sponsored this type of legislation. I can speak for one and I can speak for all that they are genuinely interested in the Indians. If it were not, I would not be chairman of this committee. This is one of those committees that never gets you anywhere politically. You only have trouble if you try to change the status of anybody, and particularly to get them on the tax rolls. Most people say, oh, they are just Indians. Let them go on as they are. I am sure the members of the committee are all of the same frame of mind. We want to help them, not hurt them. We want them to become fine citizens.

But if we haven't done any better after all these years, haven't done a good enough job to get them to the point where they can begin to look after their own affairs, then we ought to retire as guardian and let them get another. That is the way I feel about it.

Representative WESTLAND. Mr. Chairman, I just have one thing here that I think the witness might be interested in. He seems to be worried about the fact that if these Indians were given the lands, they would lose them or dispose of them or be cheated out of them or something of that sort. I think it should be called to his attention that on this reservation some 200,000 acres are now held by these Indians, either allotted or held in a restricted-fee patent, and it is my understanding that provided an Indian can prove that he is competent, at any time he could get complete fee title to that property and dispose of it.

And the fact apparently are that they still own 200,000 acres and that they have not disposed of them.

Mr. SHIPMAN. I wasn't speaking so much of small plots of land as I was of the bigger resources.

Representative WESTLAND. Small? Two hundred thousand acres is not a small plot of land in my book.

Mr. SHIPMAN. I think the resources that some people are interested in who I think are supporting withdrawal are some of these large resources such as waterpower, oil, timber. And when it comes to dealing with the operators in those fields, there is lots of pressure on them. I don't feel that they should be allowed to handle that without trusteeship.

Representative WESTLAND. Nevertheless, you will have to agree that there are 200,000 acres which they could have disposed of at any time they had wanted to, and that they haven't. Therefore, as much pressure as perhaps has been brought on them, they still retain ownership to that property.

Representative HARRISON. Mr. Shipman, several times, not only in your statement but in your testimony, you have mentioned the word "liquidation." Would you give us your definition of liquidation and just exactly what you mean by that?

Mr. SHIPMAN. The bill provides for the sale—

Representative HARRISON. I want your definition, not what the bill provides. You have used the term. You must have your own definition in mind. Would you give that?

Mr. SHIPMAN. Sale of the properties, so that anyone could bid on them.

Representative HARRISON. In other words, you mean by liquidation merely giving the Indians control over their own property. Is that right?

Mr. SHIPMAN. No. It provides for sale of the property by the Secretary under certain circumstances, from what I understand. And I am not a lawyer, but that seems to be what it provides.

Representative HARRISON. Of course, only with the permission of the Indians themselves; is that right?

Mr. SHIPMAN. No, I think that is one of the alternatives that is left to them if they don't choose to set up a corporation under State law.

Representative HARRISON. But you don't mean that under liquidation everything will be wiped out? You merely mean that these assets might be put in a more liquid form, but they still belong to the Indians and are their property to do with as they want?

Mr. SHIPMAN. They would be sold and the cash turned over to the Indians.

Representative HARRISON. So the Indians would have control of them, and it would not be according to the general usage of the word "liquidation" that they would be completely wiped out?

Mr. SHIPMAN. Not wiped out, but that they would be offered for sale.

Senator MURRAY. I would like to ask another question.

The Indians have an interest in what is known as the Kerr Dam there?

Mr. SHIPMAN. Yes.

Senator MURRAY. And in 1952 they received something like \$250,000 from that source, from the lease of that dam. Now, at the end of 50 years, I understand that the title to that reverts to the Indians. The lease is terminated, and the Indians assume complete ownership and title to that dam. Is that right?

Mr. SHIPMAN. It is the way I understand it, Senator, yes.

Senator MURRAY. Well, that is a pretty valuable asset, isn't it?

Mr. SHIPMAN. It surely is, yes.

Senator MURRAY. And if this bill is carried through, that would be disposed of?

Mr. SHIPMAN. I believe that would be what would happen.

Senator MURRAY. And that is true of their interest in the forest lands also. I understand they received something like \$551,000 in 1952, and if this bill went through, that would be liquidated, wouldn't it?

Mr. SHIPMAN. I believe that is what would happen.

Senator MURRAY. And if that is sold at some public sale, do you think that the Indians would be able to bid on it and bid that property in and hold title to it?

Mr. SHIPMAN. It is my opinion that they would lose control of it, that some of the larger operators would get control of it and the Indians would eventually lose it and lose the revenues.

Senator WATKINS. I don't think the bill, Senator, provides for a public sale.

Senator MURRAY. It just provides for the Department to dispose of the property, to sell it at private sale?

Senator WATKINS. Well, it authorizes the Department to sell it. But let's get to this question of public sale. Any time a man comes in, and it is his property that is being sold, he has the interest in it, and he can bid the value, whatever he has to take it at, and it is just the same, taking it from one pocket and putting it into another.

You can say they couldn't bid it in. Of course, they do. If it was valued at a million dollars, they could say "all right, one million dollars." It would go right into their pocket and back again. An owner is always permitted to bid in under circumstances of that kind. He doesn't have to have the cash to do it, either, because it is his property.

Senator MURRAY. But there is a suspicion generally in the minds of the people out there and the people generally that as a result of this bill being carried through, the Indians would be divested of their title and ownership in those lands, those timberlands, and those water rights, and as a result of that they won't be as well off as they are under the reservation.

Mr. SHIPMAN. That is right.

Senator MURRAY. But you nevertheless think it is a question that should be decided by the Indians, that they have a right to vote on it and determine whether or not they should give up those rights. And I think that we all agree on that, that these Indians ought to be able to determine for themselves whether or not they want this legislation, whether it would be in their interests to have it, and therefore they have a right to vote and determine that.

Mr. SHIPMAN. That is right, Senator.

Senator WATKINS. And you don't know that the Indians haven't put this to a vote, or not, all the Indians on the rolls?

Mr. SHIPMAN. No.

Senator WATKINS. You are just guessing at what the Indians might say about it if it were put to all the 4,000 Indians, or at least all those of adult age?

Mr. SHIPMAN. I don't believe there has been any vote. I have talked to the Indians about their opinion.

Senator WATKINS. How many Indians have you talked to, the Flat-heads?

Mr. SHIPMAN. I have talked to those that are down here. There are a good many down here. Mr. Walter McDonald, I am probably best acquainted with.

Senator WATKINS. How many all together? I have asked you for the number. You say all the Indians down here. That does not mean much to us. Some of them are so white we can't tell whether they are Indians or not.

Mr. SHIPMAN. I had dinner with Mr. McDonald and another gentleman the other night, and there are three of them staying in a room down there. I discussed it with them.

Senator WATKINS. There are three now. Let's see how many Indians. Let's call the roll now.

Mr. SHIPMAN. I haven't talked over the affair with the ones who are in opposition.

I understand there are some here in opposition.

Senator WATKINS. But you have actually talked to how many? What is your best estimate of the number you have talked to?

Mr. SHIPMAN. I don't know who you want to include.

Senator MURRAY. I mean the Flathead Indians.

Mr. SHIPMAN. Well, I hadn't thought of it in terms of numbers. I have talked to, I guess, five since I have been down here.

Senator WATKINS. And how many did you talk to before you came down here, Flathead Indians?

Mr. SHIPMAN. Well, my acquaintance is mostly with these same ones.

Senator WATKINS. You have talked to five Indians that you are sure about?

Mr. SHIPMAN. Well, they are representative leaders of the tribe.

Senator WATKINS. We are getting down to numbers now. It doesn't make any difference who they are. I am asking you the number.

Mr. SHIPMAN. I guess that is it.

Senator WATKINS. That is it.

Representative D'EWART. Mr. Chairman?

Senator WATKINS. Mr. D'Ewart.

Representative D'EWART. I don't believe the tribe would like to have the record stand as the witness has said, that title to the power site has passed from the Indians. It hasn't passed. It has always been in the tribe and is in the tribe today, and testimony to the contrary is wholly erroneous.

Mr. SHIPMAN. I don't think I have given any testimony to that effect that I know of.

Senator WATKINS. At least you didn't mean the Indians don't own it now?

Mr. SHIPMAN. There are certain facilities there which they are making payments on, that they will own at the end of 50 years. I believe it was the Senator who called attention to that.

Representative D'EWART. The irrigation system has certain facilities that are not paid for. The power site belonged to the tribe, and belongs to the tribe today.

Mr. SHIPMAN. I believe it was the power-generating facilities that were referred to also. It isn't the site. It is the facilities.

Representative D'EWART. You used the term "power site."

Senator WATKINS. It is leased for 50 years, the site, isn't it?

Mr. SHIPMAN. There is a contract to complete payment by the tribe, I believe, at the end of 50 years, at which time they will own all facilities and everything there.

Senator WATKINS. There is nothing in this bill that you can point out that would take away from them that right?

Mr. SHIPMAN. No, but the trusteeship would be removed.

Senator WATKINS. What I am thinking about is this: You are afraid the people of Montana, some of those slick fellows up there, are going to take something away from them?

Mr. SHIPMAN. That certainly is right.

Senator WATKINS. It wouldn't be any of the farmers you know of?

Mr. SHIPMAN. No. We are interested in the power sites.

Senator WATKINS. But you have put your finger on the power people and the oil men. Those you think are the ones that will do it?

Mr. SHIPMAN. I think so.

Senator WATKINS. Do you know that the Indians are petitioning, urging, the oil companies to come on their property?

Mr. SHIPMAN. Under Federal jurisdiction, however.

Senator WATKINS. Under Federal jurisdiction, but you do know that not only Indians yield to pressure. We have had pressure on people in the Government on these things, and you only have 1 man to pressure there, and with the Indians you would have 4,000 to pressure before you could get them to do anything with their oil lands.

Mr. SHIPMAN. If they were set up as individuals, they would be vulnerable, I believe.

Senator WATKINS. Now, the situation is such that, of course, it is fraught with a lot of difficulties, as we know. After over a hundred years of guardianship, it is difficult to bring about a separation completely. You let a man go for 150 years without using his legs and he couldn't use them at all. At least he would feel that way. We gradually let him go along, so that he can take part in civilized affairs and take his part of the burden and also get the benefits that come from society, and some time, some where, there has to be a termination of that guardianship, in the interest of the Indian, not in the interest of the United States but in the interest of the Indian.

That is the objective of this bill.

Unless you have further questions, I think we will have to take a recess at this time, because we have got to be back at 2:30.

We will recess until 2:30.

Mr. SHIPMAN. Am I to understand I am still on the witness stand?

Senator WATKINS. No, I think you are excused.

(Whereupon, at 12:40 p. m., a recess was taken until 2:30 p. m., this same day.)

AFTERNOON SESSION

The hearing was resumed at 2:30 p. m.

Senator WATKINS. The committee will resume session.

We will now proceed with the regular order. We will call three departmental witnesses; Mr. Lee, Associate Commissioner, Mr. Fickinger, area director, and Mr. Stone, superintendent of the reservation.

I think we will hear from Mr. Lee first.

STATEMENTS OF H. REX LEE, ASSOCIATE COMMISSIONER, BUREAU OF INDIAN AFFAIRS; PAUL L. FICKINGER, AREA DIRECTOR, BILLINGS, MONT.; FORREST R. STONE, RESERVATION SUPERINTENDENT, DIXON, MONT.; AND LEWIS SIGLER, PROGRAM COUNSEL, BUREAU OF INDIAN AFFAIRS

Mr. LEE. Mr. Chairman and members of the committee, my name is Rex Lee, Associate Commissioner of the Bureau of Indian Affairs. I have with me, on my right, Mr. Paul Fickinger, Area Director, covering the Montana area; on my left, Mr. Forrest Stone, Superintendent of the reservation, and next to him Mr. Lewis Sigler, Program Counsel, of the Bureau of Indian Affairs.

In response to House Concurrent Resolution 108 of the 83d Congress, 1st session, the Department of the Interior submitted to the House and Senate a report on January 4, 1954. This report enclosed a proposed bill which would provide for a termination of Federal supervision over the affairs of the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

As a result of this report, S. 2750 and H. R. 7319 were introduced.

The departmental report included some detailed statistics on the Flathead Reservation and also a section-by-section analysis of the bill. I assume that our report, the official report of the Department, plus those enclosures, will be made a part of the record.

I think it might be well if, before we start discussing the bill itself, we were to have our local representatives give you a background picture of the reservation, its people, and its resources.

And with your permission, I would like to have Mr. Forrest Stone, the man immediately in charge of the reservation, proceed with giving you that background information.

Senator WATKINS. I think that would be helpful.

Mr. Stone, if you will give us your full name and your address for the record before you begin your statement, we will appreciate it.

Mr. STONE. Mr. Chairman, my name is Forrest R. Stone, Dixon, Mont. My position is that of Superintendent of the Flathead Indian Reservation. My entire experience has been in Indian Field Service work, most of which has been in administrative work at the field level.

I think in speaking of the history of the people and their progress we need a starting point, and I would like, for the purposes of what I have to say, not to create any controversies of opinion as to the treaty of 1855, but to start with that treaty, and one of the specific purposes that the Indians and the Government had in mind in setting aside this large territory for the occupancy of the Flathead people. This was the matter of providing a place that afforded an opportunity for them

to become adjusted to the accepted pattern of civilization. They didn't have an easy problem in that respect. They were one of several groups and the tribes were confronted with internal problems of integration.

During the years that followed they not only mastered that relationship with other tribal members but we find them particularly acceptable to the non-Indians; and as the years move forward we have a situation where many of the old pioneer families of the West identified their fortunes with the Flathead tribe, adding their blood to the blood of the Flatheads, making their contribution for a pretty strong group of people as a result thereof.

The Flatheads, in turn, I think, make very definite contributions to the non-Indian family tree. They were never a closely governed group under tribal leadership, and at such times when they spoke, under the leadership of one chief, it was for specific purposes. They were put into the occupancy of a country of great wealth. And we find them responding in unusual fashion to the challenges of civilization, both in their cultural development and in their retention of assets.

There is no apparent cause for saying today that such planning was wrong or unproductive. I think it has been very productive of some very good results, and you will observe that for yourselves today in the Flathead representatives and their testimony.

There has been a growing sentiment on the part of many of us—and I am frank to say that I have shared that opinion as I have become familiar with the Flathead affairs—that the time has arrived when they will need to consider some revisions in their present form of tribal government and the management of their tribal and individually owned possessions.

As to how radical those changes are going to be, I am unable to prophesy. I want to say also that some effort was made in that direction by the Government and the tribes themselves through the Reorganization Act of 1934.

It should be pointed out that this legislation, as applied to tribes such as the Flatheads, with their large assets, has proved not wholly adequate to meet the management needs of their great resources or the great development and progress of their people. Neither the instrument itself nor the treaty in any way stopped or deterred the progress of a great tribe of Indians. And that progress went steadily forward.

I am convinced that in the present picture that we have today, some legislation, and some very radical changes, are going to be necessary to create a more equitable handling of tribal assets.

We no longer are so greatly concerned with their social progress. I think they have achieved that. They have fought hard for it. But the building up on the reservation of a little government within a government is obviously something that doesn't fit the needs of fully 50 percent of the tribe who do not live within the reservation boundaries and have no voice in the election of the tribal representatives serving as the directors of the corporation in which they have an interest.

I want to make it very clear that any criticism that I make of the 1934 act has nothing to do with the individual officers of the tribal government.

I have found them, past and present, a group of very honest, conscientious people. When you meet them here today, I think that you will gain that same impression. It is the system under which we are now working that must be reviewed, and both the tribe and the Government have become involved in these needed adjustments.

The tribal leaders are embarrassed by the demands of their own people in the same way that the Government is embarrassed by the demands of others who expect a greater contribution from the Federal service than we are able to give them.

I would like to comment, just a minute, on what I view as inequities. In the first place, the tribal government has, through the force of circumstances and the reduction of Government appropriations, been placed in a position where they have been taking on a great deal of responsibility in connection with the administration of community services, law and order, education, health, and other things.

Senator WATKINS. You are referring now to the tribal council?

Mr. STONE. Yes. That benefit doesn't reach the Indian living off the reservation. In a good many cases it doesn't reach to any great extent some of the people who live within the reservation boundaries, but those who do not benefit are required to pay their pro rata share of this cost out of funds which belong to all members on the roll.

They do all participate in dividend distributions from capital assets, so called per capita payments.

Senator WATKINS. You mean those off as well as on the reservation?

Mr. STONE. Yes. So that we have a situation where the tribal budget is steadily increasing as the Government funds and Government budget are decreased. And as of the present time, we have a tribal budget that has expanded itself to about \$150,000 a year, compared to the \$5,000 that it was originally.

I don't mean by this that all of these costs should be assumed by the tribe. I think perhaps much of that should lie with the State, county, and local governments. The pressure is always upon them, however, even as it is upon us, not only by their own people but by local agencies of Government whose claims arise from cooperative programs with the town and counties.

Not even in general terms does the Flathead constitution compel them to meet such pyramiding demands. It is done as a matter of need as they see it and due to the fact that the Government no longer furnishes such services.

Senator WATKINS. Will you outline to the committee what services come under this \$150,000 budget of the tribal council?

Mr. STONE. Education—I think Mr. Fickinger will give you the correct statement for the record, but I believe that the tribe contributes about \$10,000 of that.

Senator WATKINS. The balance of it being paid by the Federal appropriations to the State of Montana school districts?

Mr. STONE. Yes. The item of \$10,000 is for care of Indian children in educational institutions.

Other contributions are made to health, which is through the hospitals—

Senator WATKINS. While we are on education, let's get this cleared up. As I understand it, the Indian children go to the State schools in that area?

Mr. STONE. That is right.

Senator WATKINS. Who pays their tuition?

Mr. STONE. That is paid under the Johnson-O'Malley Act. The Government pays that to the State.

Senator WATKINS. By direct appropriation?

Mr. STONE. Yes.

Senator WATKINS. During the last year, how much did that amount to?

Mr. STONE. I believe during the current year about \$36,000.

Senator WATKINS. And that covers the tuition paid by the United States for the education of Indian children of the primary grades, grammar grades, and high schools?

Mr. STONE. Yes; within the reservation area.

Senator WATKINS. And that is only within the reservation area?

Mr. STONE. That is right.

Senator WATKINS. You don't know of any other tuition being paid by the Government for Indian children who live off the reservation and are members of this Flathead Tribe?

Mr. STONE. No.

Senator WATKINS. While I am on that, I would like to ask Mr. Lee: Is there any Federal contribution for the education of the Flathead Indians who are not living on the reservation? I mean, as Indians.

Mr. LEE. I think there are a few who are attending boarding schools throughout the country.

Senator WATKINS. Do you have any idea how many there would be?

Mr. LEE. No, sir; I do not have the figure.

Senator WATKINS. Mr. Fickinger, do you know how much money is being paid out for nonreservation Indians, Flathead Indians, and their children?

Mr. FICKINGER. There is no money being paid out direct, Mr. Chairman, except that there are a few Flathead Indian children attending some of our nonreservation boarding schools, and we do have the breakdown of the number who are actually attending some of the boarding schools.

Senator WATKINS. Do you have it now?

Mr. FICKINGER. I have it with me; yes, sir.

There are a total of 4 attending Chemawa, in Oregon, 16 attending the Pierre Indian School, in South Dakota, and 6 attending the Flandreau boarding school in South Dakota.

Senator WATKINS. That is all?

Mr. FICKINGER. That is correct, Senator.

Senator WATKINS. Twenty-six all together.

Do you know whether there are orphan children?

Mr. FICKINGER. Some of them are, Mr. Chairman. Some of them are attending for vocational reasons, special vocational training reasons. It is our opinion that most of them could be taken care of in local public schools in the State, and other provisions made for boarding home care for those who do need that kind of service.

Senator WATKINS. Are they all off-reservation Indians?

Mr. FICKINGER. No; most of these come from homes of Indians who reside on the reservation.

Senator WATKINS. Then we may say that there are substantially no Indian children receiving Federal aid for education who live off the reservation?

Mr. FICKINGER. I think that that could be very safely concluded; yes, sir.

Senator WATKINS. In other words, these Indians who left the reservation are taking care of their own children's education, through the taxes paid and the contributions made in the communities where they live?

Mr. FICKINGER. I believe essentially so; yes, sir.

Senator WATKINS. It is a parochial school that you have on the reservation itself?

Mr. FICKINGER. There is a parochial school; yes, sir. It is called the Ursuline Mission School, in which there are a number of Indian children enrolled. But the Federal Government is not financing the cost of any of those children. The tribe is financing the cost of about 32 of the children.

Senator WATKINS. Let's get that cleared up while we are on that parochial school matter. There was a statement made that possibly the Government was interested in financing that school. What is the fact?

Mr. FICKINGER. That is not the case, sir. There are no Federal funds going into that school.

Mr. STONE. That is the tribal government, Mr. Chairman. The tribal government contributes approximately \$7,500 to that.

Senator WATKINS. And, of course, whatever arrangement they have there would not be upset by any legislation such as proposed here? In other words, they could continue on with that if they so desired. It appears to have been a good arrangement. I don't see why they shouldn't continue if they want to do it.

You don't have any Indian schools at all on the reservation now, do you?

Mr. FICKINGER. No, sir; no Federal schools.

Senator WATKINS. How long has it been since you had them?

Mr. FICKINGER. As far as I know, we never have had any.

Senator WATKINS. How long have you been acquainted with the reservation?

Mr. FICKINGER. I went to Billings July 1, 1946, as area director and for 13 years prior to that I served in several responsible capacities in the Washington office of the Bureau of Indian Affairs. My last assignment before going to Billings was as chief administrative and budget officer for the Bureau. I have a total service with the Bureau of approximately 23 years, in both the field and Washington. I am quite familiar with all of the reservations.

Senator WATKINS. You could say now safely that the Government has never had a school there?

Mr. FICKINGER. So far as I know there has never been any Federal day school or boarding school on the reservation.

Senator WATKINS. Can you give us that figure, Mr. Stone, as to the percentage of Indian children of school age who attend school?

Mr. STONE. Enrolled in public schools, 498; enrolled in Federal boarding vocational school, 26; enrolled in mission schools, 89; enrolled in State orphanage, Twin Bridges, 19; enrolled in State vocational school for girls, 2; not enrolled, 55; total school census, 689.

Senator WATKINS. So you have accounted for them all.

Mr. STONE. That is right.

Senator WATKINS. Well, I would say that is a fairly good record. And as the superintendent of their activities, you have had to check to see if they are making progress?

Mr. STONE. Yes, sir.

Senator WATKINS. What is your observation?

Mr. STONE. I would say they are, definitely. I don't believe they would want to go back to a Government boarding school.

Senator WATKINS. Has there been any advantage in having them in the schools with the white children?

Mr. STONE. Unquestionably there is. That has become our fixed policy.

Senator WATKINS. What has been your experience, Mr. Fickinger, on that?

Mr. FICKINGER. I think very definitely there is a distinct advantage in the Indian children attending the public schools, and we have been urging and encouraging such attendance in every way. We have found definitely over the years that the rate of integration is far more rapid where the Indian children have an opportunity to attend the public schools and mix with the children of other races on the playground, in the classes, and socially.

Senator WATKINS. Did the Indians themselves complain of any discrimination by the teachers or the white children in these schools?

Mr. FICKINGER. There is from time to time some individual complaint. But on the whole, I have found that the Indian children are happier about attending public schools. They have a sense of becoming a part of a community. They are happier than when they attend a separate school for Indians.

I recognize that that might not hold true in some sections of the country, but up in Montana, Wyoming, and the Northern Plains country, I think that is quite definitely true.

Senator WATKINS. There doesn't seem to be any great amount of race prejudice in those areas.

Mr. FICKINGER. No, sir. I would say that there is a very small amount of it. There is bound to be some. Frequently, of course, the people bring that on themselves.

Senator WATKINS. Is there anything further that you would like to contribute on this matter of education?

I would like to take up the various categories. Maybe I could get what we want by asking questions rather than to leave you to just generalize on it.

Mr. STONE, have you any comment to add further on the school situation?

Mr. STONE. No; I think not.

Senator WATKINS. You know the purpose of this proposed legislation, and the provisions of the bill, I take it, you are fairly well acquainted with?

Mr. STONE. Yes.

Senator WATKINS. Do you see anything in the proposed legislation that would in any wise change for the worst the school program, the education of these Flathead Indian children?

Mr. STONE. No; I do not.

Senator WATKINS. If there is anything there, we would like to know, because we would like to have the information from the people who work in the field with these Indians.

How about you, Mr. Fickinger?

Mr. FICKINGER. No, sir; I can think of absolutely nothing. In fact, I think there might be some further advantage as a result of it.

Senator WATKINS. Mr. Stone, being on the ground, can probably tell us what health facilities are available to take care of illness and to carry on a program of prevention of illness and the general health program of the Indians, as it now exists.

Mr. STONE. Current expenditures of the Government, Senator, are \$30,460. That is made up of 2 contract doctors, \$11,730, and for outside hospitalization, service and medical supplies, \$13,730.

Senator WATKINS. Outside? Do you mean off the reservation?

Mr. STONE. Emergency operations, some of which are reservation, and some who live on the reservation, that require outside hospitalization or treatment.

Senator WATKINS. You don't have a hospital on the reservation?

Mr. STONE. Yes. That is the St. Ignatius Hospital, which takes care of all reservation Indians, and is under contract with the tribe for such service paid for from tribal funds.

Senator WATKINS. That is not a Government-owned hospital, is it?

Mr. STONE. No, sir. That is owned by the Catholic Church.

Senator WATKINS. But it is actually located on the reservation and on land, I assume, that has been conveyed or given under grant or lease to the Catholic Church?

Mr. STONE. That is correct; yes.

Senator WATKINS. So they have a perfect legal right to be there, and the tribal council, if I get this right, have entered into a contract with the hospital to take care of these cases?

Mr. STONE. That is correct.

Senator WATKINS. And that is paid for by tribal funds?

Mr. STONE. Yes, sir.

The third item of governmental expenditure is our contribution to public health district No. 2. That is \$5,000 a year, under a State and county contract for public health work within the two counties of Lake and Sanders.

Senator WATKINS. That is with a health unit of the State of Montana?

Mr. STONE. Yes, and is organized under the State law, in which our contribution is \$5,000, to a total budget of about \$30,000, and renders a service confined wholly to public health and sanitation. It is a pro rata share representing our share in general terms on account of nontaxable property within the 2 counties.

Senator WATKINS. In addition to paying the \$5,000, are these Indians charged fees, regular fees, for the time which they spend in the hospital?

Mr. STONE. No.

Senator WATKINS. That takes care of all expenses?

Mr. STONE. The tribal contribution on paying for hospitalization amounts to \$50,000 a year.

Senator WATKINS. You said they put in \$5,000.

Mr. STONE. This referred to the government contribution to the health district. The Government and tribal government breakdown would indicate that the Government contributes \$30,460 and the tribe contributes \$50,000, to the maintenance of the health services.

Senator WATKINS. The one where you spoke of two doctors and some nurses—

Mr. STONE. That is under the Government, two contract doctors, part time.

Senator WATKINS. That is a clinic? Or a hospital?

Mr. STONE. No; that is the doctors' salaries.

Senator WATKINS. Does the Government maintain a building where they operate?

Mr. STONE. No; they operate in the hospital.

Senator WATKINS. I don't mean the actual surgical operation. I am talking about the contract for their work.

Mr. STONE. That is through their own offices.

Senator WATKINS. Is that service satisfactory, the overall health service given?

Mr. STONE. It is not based on need, Senator. That is an arrangement that the tribe has, that takes care of any of their people who go to the hospital for hospitalization.

Senator WATKINS. What I am trying to learn and I think the committee is interested in is whether that service is adequate for the needs of the tribe.

Mr. STONE. I feel that it is.

Senator WATKINS. And that is being operated by themselves largely?

Mr. STONE. The hospitalization is entirely paid for from tribal funds; yes.

Senator WATKINS. They prepare their own agreements with the hospital, there, and the others?

Mr. STONE. Yes; that is approved by us.

Senator WATKINS. They make the recommendation, do they not? They actually make the negotiations?

Mr. STONE. Yes.

Senator WATKINS. And give everything but the final approval?

Mr. STONE. That is correct.

Senator WATKINS. And on the whole, have you been able to agree with their recommendations, the contracts they made?

Mr. STONE. Oh, yes. We have not had any serious points of disagreement. This is governed by their constitution, and they have a right to make such contracts, and we are not disposed to disapprove of their actions when it comes within their authority to take such action.

Senator WATKINS. Well, as a representative of the United States Government, do you have very much to do about it? They have taken care of it, and you have approved it?

Mr. STONE. That is correct.

Senator WATKINS. Now, are they capable of making these contracts and arrangements for their health?

Mr. STONE. I would say they are.

Senator WATKINS. To the extent at least that you have coincided with their judgment and have approved it?

Mr. STONE. That is right.

Senator WATKINS. If not, of course, we would like to know that. We would rather know it now than later on.

Well, now, let's go on to their forests. Give us the acreage, please. Tell us about the forest land.

Mr. FICKINGER. Mr. Chairman, may I break in here?

Senator WATKINS. Yes.

Mr. FICKINGER. We have some maps and some data that I think the committee should have before it when we discuss some of this material.

Senator WATKINS. We would be very glad to have it, if it would help us understand it.

I notice you have furnished an exhibit here, designated exhibit 1 to exhibit 8.

Mr. FICKINGER. I think, Mr. Chairman, if you will refer to exhibit 4, as we move along on this discussion, it may be helpful.

Senator WATKINS. All right.

Mr. FICKINGER. You have before you a map which outlines the Flathead Reservation, as established by the treaty of 1855. The reservation lies within the boundaries of this red area. And the first inch or half inch as the case may be, just inside the red boundary, represents the forested area of the reservation. At the present time, or in the very near future, it will amount to about 500,000 acres. It is that lighter colored area.

These forested areas are bounded immediately by the Cabinet National Forest on the west, the Lolo National Forest on the southwest. The Cabinet and the Lolo area I believe now are considered one and the same.

On the east, you have the Flathead National Forests, and to the southeast the Missoula National Forests. And they immediately adjoin the reservation forests.

Moving on, then, from the forested lands, you will note a series of light-colored areas toward the center. Those represent the tribal farming and grazing lands and the trust allotted lands.

Then you will note a large lake there in the northeast corner, which is the Flathead Lake, and coming out of that lake is the Flathead River, following down through the center of the reservation.

And it is on this river that the rather valuable power sites are located, one of which is already developed and in operation. There are three other potentials, one of which is at the present time being investigated by the Montana Power Co. under an agreement with the tribe whereby they are permitted to go in and do some investigation to see about the feasibility of a power site and development there.

Farther south you will find a large light area, white area, somewhat square in character, and that is the Bison range.

You perhaps have heard of that. It consists of about 20,000 acres, and was set aside under two laws. The first set up some 12,000 acres and later enlarged to 20,000 acres. It is operated by the Fish and Wildlife Service and was bought and paid for by the United States Government. The tribe was paid for that land.

The irrigation land lies east of the Flathead River. The black area which you see on the inside of the boundaries is the non-Indian owned land, and you can well see that the tribe, the Flathead Indians, are pretty well intermixed with the non-Indians in that area, and they have been living among them and with them for a good many years.

There are a number of towns on the reservation, towns of Arlee, St. Ignatius, Polson, and a good many other towns, where Indians and non-Indians alike reside, and have for 50 years or more. They are mixing daily. They go to the same stores, churches, schools, and generally live as an integrated community.

Representative D'EWART. Before you leave that, could I ask how current this map is?

Mr. FICKINGER. This is a map that was made in 1928 originally. However, the data has been brought up to date as of 1937.

Mr. STONE. The tribal areas have not materially changed.

Mr. FICKINGER. There has been some change in the allotted areas. It is the best map we had. I am sorry we didn't have anything better to bring, but at least it will give you a general picture of the reservation.

Now, the reservation itself, of course, is composed of forest and grazing lands, some barren and waste lands, dry-farming and irrigated lands. The total area of tribal lands, as of now or in the very near future—and I will explain what I mean about that—is approximately 500,000, of which about 384,000 is forested area.

Then we have our allotted trust lands, of which 18,618 acres is Indian-owned land under the irrigation project.

Representative D'EWART. Is title in those cases there in the Indians?

Mr. FICKINGER. Title is in the United States in trust for the Indian.

Senator WATKINS. You have some allotments where they have sold, where they had a fee title to the property? Can you indicate how much of that there is left in the ownership of the Indians?

Mr. FICKINGER. How much of the fee title land is still in the ownership of the Indians?

Senator WATKINS. Yes. We had a lot of those fees bills before the Congress. As I recall, we passed on quite a number of them.

If you can't explain it at the moment, supply it a little later.

Make a note of it.

Mr. FICKINGER. Of the total of the land that was originally allotted in trust there still remains in trust allotments about 144,000 acres.

Senator WATKINS. Is that in the possession of the allottee?

Mr. FICKINGER. Yes, sir.

Senator WATKINS. Has he or she been farming it?

Mr. FICKINGER. Well, some of it is being farmed by the allottee and some is being leased out to others.

We can give you some of those figures, sir, if you wish them.

Senator WATKINS. First I would like you to get finished with the forests. I am going to take up these allotted lands in turn.

Mr. FICKINGER. The type of timber that we find in the forests of the Flathead Indians is about 80 percent ponderosa pine, and the remaining 20 percent is basically fir and larch. There is, of course, some spruce there. This timber is now and has for several years been cut at an accelerated rate, running from 20,000 to 30,000 million board-feet a year. And it has been returning to the tribe from leases

on stumpage some five to six hundred thousand dollars a year in the past few years.

The forests are managed on a sustained yield cutting program over a 60-year cycle. But, as I say, because of the war and special demands, there was this demand, and the rate of cutting was accelerated. It is going to have to drop back to the sustained yield cutting ratio very soon, which will be a minimum, probably, of about 15 million board feet a year.

Senator WATKINS. Who made the determination as to the rate at which the timber would be harvested?

Mr. FICKINGER. That was done by a very careful and thorough study by foresters, and silviculturists of the Federal Government.

Senator WATKINS. Did the Indian tribal council have any part in making the decision finally?

Mr. FICKINGER. I believe not, sir. This was set a number of years ago. But it was done on the basis of a specialized study by silviculturists.

Senator WATKINS. This forest land is Indian land, is it not?

Mr. FICKINGER. Yes, sir.

Senator WATKINS. And it is supposed to be under the control of the tribal council?

Mr. FICKINGER. Under the law, the Bureau of Indian Affairs is required to operate and maintain and manage these timbered areas on a sustained-yield basis.

Senator WATKINS. I understand that. But do you seek the advice or counsel of the Indian tribal council on policies with reference to the operation of these forests?

Mr. FICKINGER. I think it is safe to say that the tribal council is kept pretty well informed on it.

Senator WATKINS. Well, that is not what I asked you. You may tell them what you are doing, but I want to know if you seek their advice.

Mr. FICKINGER. Well, I hardly know how to answer that. Seeking their advice in terms of the technical management of their forests? I would probably have to answer "No."

Senator WATKINS. Do you have any Indian employees in the forests?

Mr. FICKINGER. Yes, we do.

Senator WATKINS. How about the supervisors?

Mr. STONE. The supervisor is not of Indian blood, but two of his assistants are of Indian blood and have worked in forestry for many years. We do require from the council approval of timber sales, the granting of grazing privileges, and also the stumpage and control of Christmas tree harvesting.

The council in turn contributes \$5,000 a year for emergency cooperative work with the Government in forest-fire suppression. And I would say the association between the tribal council and the Government is very, very close in the administration of the tribal timber and the timber on the allotted lands where it fits into the tribal resources.

Senator WATKINS. The forest lands we have been talking about, Mr Fickinger, are the lands which are not allotted?

Mr. FICKINGER. Some of them are allotted, Mr. Chairman. Under the act of 1908 there were a few allotments made up in the timbered area, and then in 1920 additional allotments were made to individuals who had not been allotted previously, or who had been born since the original allotment. And many of the allotments at that time, in 1920, were made in the timbered area.

Recently the tribe has worked out a plan, in which we were very happy to work with them, whereby they have made available tribal funds for the purpose of purchasing those timber allotments wherever it is possible or wherever the individual allottee is willing to sell them, with the idea in mind of consolidating these timber holdings into a solid block for easier management, and to insure that they are not going to be broken up by a lot of patents in fee perhaps, and make the management extremely difficult. After all, there is a very definite public interest in those timbered areas. The entire Flathead Valley is dependent to a great extent on that timbered area from the standpoint of the watershed, and it is extremely important to the public generally.

There is one other factor involved, and that is that by law the first cutting of timber belongs to the tribe and not to the original allottee. And that first cycle of cutting will be completed, I believe, in 1987.

Senator WATKINS. Then they are still harvesting virgin timber?

Mr. FICKINGER. That is right.

Senator WATKINS. And you have not gotten around to the second growth, then?

Mr. FICKINGER. We have not gotten around to the second cycle. The sustained-yield cutting program has been established on a 60-year cycle.

We have estimated—and I intended to bring that up a little later on, but we might as well mention it now—on a 60-year-cycle basis, a potential timber cut of in excess of 1 billion board feet. So the tribe does have a very valuable asset in the timber. And we have estimated that timber over the 60-year period, plus the public and other interests, at about \$40 million.

Senator WATKINS. Now, in addition to the timber on the forests, what else do you do? What else do you get from these forested lands?

Mr. FICKINGER. There is developing a pretty good industry in Christmas trees.

Senator WATKINS. That is still a part of timber?

Mr. FICKINGER. That is right. Yes, sir.

Senator WATKINS. I had reference to grazing. Do you have any grazing lands?

Mr. FICKINGER. Yes, there are grazing lands, Mr. Chairman, and some pretty good grazing lands, which are managed in range units normally as a good bit of the land in the West is handled. The tribe has a total of about 37,590 acres of grazing land, in addition to what grazing can be done in the timbered area. And in the lower areas of the timber, of course, it is possible to do a good bit of grazing.

Senator WATKINS. Who manages the grazing?

Mr. FICKINGER. I would like to refer that to the superintendent, if I may, if we may.

Mr. STONE. The grazing is managed by the Forestry and Grazing Division of our office, but the management plans are set up in cooperation with the approval of the tribal council.

Operating on those grazing areas there are seven livestock associations, composed of members of the tribe.

Senator WATKINS. All members? Or are there whites in the organizations as well?

Mr. STONE. They are all members, or have intermarried.

Senator WATKINS. Then, seven associations are all Indians, so to speak?

Mr. STONE. Yes.

Representative WESTLAND. Mr. Chairman, could I interrupt here a minute?

Senator WATKINS. At any time the members of the committee may interrupt. I was just trying to go to the points we were interested in, thinking we might get to it a little quicker.

Representative WESTLAND. You mentioned 37,000 acres of grazing land.

Mr. FICKINGER. In tribal ownership.

Representative WESTLAND. In tribal ownership. Then this figure of 54,000 acres of grazing land includes some other; is that right?

Mr. STONE. That is accounted for by the individual allotments within the tribal area.

Representative WESTLAND. In other words, there would be about 16,000 acres of allotted lands and about 37,000 acres of tribal lands; is that correct?

Mr. STONE. That is the figure we have here; yes.

Mr. FICKINGER. I think I understand what you have in mind.

Representative WESTLAND. The figures don't jibe.

Mr. FICKINGER. Yes. The range units do comprise both tribal and allotted lands, as on most of our reservations.

Senator WATKINS. Have you covered all you think we should know about the grazing?

Mr. FICKINGER. I believe so.

Mr. STONE. The 1920 allotment act reserved to the tribe the timber and gave to the allottees the surface rights, and it has made rather hopeless the effort of administration.

The purchase program allocated nearly \$800,000, all together, in acquiring that land back into tribal ownership so as to consolidate the tribal holdings.

Representative WESTLAND. Suppose you had a party who had allotted lands in this forested area, and he came to you and asked for a fee patent on it. What would your attitude be on that?

Mr. STONE. When we initiated the present tribal land purchase program, we stipulated by agreement with the tribe, inasmuch as they were putting out this large sum of tribal money and wanted to keep out competition with land purchasers, that we would attempt to hold up the granting of patents or approving supervised sales of the 1920 allotments until they had presented their purchase offers to the landowners; that under no circumstances would that period extend beyond 3 years. One year of that has passed. We have made no commitments over and above that period. And our attitude at that point would be just the same as if it were not interwoven with the tribal interests.

Representative WESTLAND. In other words, at the end of 3 years you would probably grant this patent fee to the applicant?

Mr. STONE. Yes. And we are already doing this in some cases where the tribe has released the Government from the agreement, from the 3-year waiting period.

Senator WATKINS. That is done in full harmony with the tribal council?

Mr. STONE. Yes.

Senator WATKINS. How about oil and minerals on the forest lands? Is there any development of that kind?

Mr. STONE. We haven't discovered any yet, Senator. There is one mine operating on the reservation, under one lease, but it isn't active. Aside from that, there is no oil or mining activity.

Senator WATKINS. Well, there never has been any thorough exploration for oil or other minerals.

Mr. STONE. I don't think so. I don't have any record of there ever having been.

Senator WATKINS. We don't have any existing works or anything of that kind to complicate the situation, or outstanding leases, except possibly this one.

Mr. STONE. That is right.

Mr. FICKINGER. Mr. Chairman, I think the committee might be interested in knowing that in this purchase program by the tribe of these individual timbered allotments there was a very careful study of what the values of those allotments should be, taking into consideration the uncut timber and in some cases the fact that in some of them the timber had been cut over. A very careful formula was developed by our own foresters, in cooperation with the foresters of the National Forest Service, and that was very carefully explored and gone over with the members of the tribal council, so that we all reached an agreement on that formula, and it is on that basis that these allotments are now being purchased and the allottees being paid for them.

Representative WESTLAND. You said that the first cut belonged to the tribe?

Mr. FICKINGER. That is right.

Representative WESTLAND. Then if I am an allottee, and I say I want the money from that first cut myself, and I come to you and ask for a fee patent and then sell the timber on it to some timber logging outfit, then I would get the value of the first cut, would I not?

Mr. FICKINGER. No, sir.

Representative WESTLAND. All right. Tell me about that.

Mr. FICKINGER. It is a good question.

Under the 1920 act, as I say, the first cut of the timber from allotments made under that act belongs to the tribe. There have been instances where individuals have taken the initiative and said, "We are going to take that cut," and they have authorized somebody to go in and make that first cutting. We have had to get an injunction against them and have had several court cases.

We have two cases pending now on that very issue.

Senator WATKINS. Well, now, we have covered the forests.

Let's get to the agricultural part of the reservation.

Now, if I understand this map correctly, the alienated lands are the lands owned by the white people within this center ring?

Mr. FICKINGER. No, the lands belonging to the non-Indians are the black portion of that center.

Senator WATKINS. That is in the center. Then, of course, there are some Indian allotments interspersed?

Mr. FICKINGER. That is correct.

Senator WATKINS. And the trust allotments are on the border of that dark area?

Mr. FICKINGER. Not necessarily on the border. They are scattered all through it. These little light-colored tracts scattered through this black.

Senator WATKINS. I notice some of those. But all around the border you find them, if I read this legend correctly.

Mr. FICKINGER. That is your forested area, sir.

Senator WATKINS. What is the red?

Mr. FICKINGER. The red is outside of the reservation. The reason we colored it red was so as to define everything inside of the red border, as reservation.

Senator WATKINS. On the inside, with this rectangle around it?

Mr. FICKINGER. That is right. The red is actually national forest lands.

We do have, then, the allotted trust lands, which belong to the individual Indians.

And you will note from exhibit 4, the total number of acres allotted.

But in the original trust allotments there is a total of 351,891 acres actually allotted to Indians. And there have been patents issued to a portion of that land, and a portion of it has been also sold to the tribe, so that the remaining amount of trust-allotted land still in Indian ownership is approximately 144,000 acres.

It is changing from day to day. Actually, it probably at this moment does not amount to 144,000. It may be more, because we have not completed all of that timbered purchase.

But when we have completed that timbered purchase, it will leave approximately 144,000 acres of trust-allotted land, in Indian ownership.

Senator WATKINS. What about the dead allotments?

Mr. FICKINGER. Those are allotments that are in heirship status.

Senator WATKINS. There seems to be more of those than there are of the others.

Mr. FICKINGER. There is a sizable amount of that.

Senator WATKINS. Do you have any program for cleaning up those heirship lands?

Mr. FICKINGER. That is one of our big problems. There is no question about it. And it is a big problem on every reservation. Some of it is being cleaned up. I don't know that we are making any more headway than we are slipping back.

Senator WATKINS. You mean they are dying as fast as you clean them up?

Mr. FICKINGER. To some extent that may be true, sir.

Representative D'EWART. As I remember, when I visited the reservation a few years ago, you had a very good agent that was experienced in land titles and was doing quite a job in cleaning up some of these fractionated heirships and making trades. He was really making progress. In fact, he was an outstanding example of progress being made with regard to heirship, as I recall.

Mr. FICKINGER. Some of that is going on, as rapidly as there is any demand for it.

Of course, some of it is being sold. Some of it is being advertised for sale and is being purchased, which does clean up the heirship problem.

Senator WATKINS. Now we get to the cultivated lands, the farming lands. Under the legend there, "Trust allotments," do you have much farming land?

Mr. FICKINGER. Yes. There is a great deal of farming land within the reservation. Under the 1904 act amended by a series of acts, allotments were authorized to be made to Indians and also authorized was the opening of remaining lands for homestead entry.

Senator WATKINS. That was for any citizen?

Mr. FICKINGER. That is right, yes, sir. Then each year it seemed there would be some piece of legislation that would reserve a given plot or a given acreage for some other purpose, such as missions of various types. Three Catholic missions, I believe, were authorized in one of the pieces of legislation, and such lands as other missions might wish.

Then the 1908 act authorized the irrigation project, and set forth certain requirements, certain principles that were to be followed.

Senator WATKINS. That is the Indian Reclamation Act?

Mr. FICKINGER. Yes, sir.

Senator WATKINS. Who built it?

Mr. FICKINGER. I believe the Bureau of Reclamation did the original construction and it was then turned over to the Indian Service. But it includes both Indian and non-Indian lands, and did from the very beginning. These several acts stipulate and specify that certain waters shall be available to those lands, and it applied both to the white and to the Indian lands.

Senator WATKINS. Did it require any repayment from the beneficiaries?

Mr. FICKINGER. Yes. In the early days, I believe, there were a certain few areas that had a paid-up water right. But for the most part, repayment contracts are required.

Senator WATKINS. Both Indians and whites?

Mr. FICKINGER. Well, the Indians, of course, are deferred; the construction charges are deferred on their lands, pursuant to the 1932 act.

Senator WATKINS. How long were they deferred?

Mr. FICKINGER. So long as in Indian ownership. It becomes a lien against the land if the land ever goes out of Indian ownership.

Representative D'EWART. Mr. Chairman, I think it should be brought out here that some of these charges are carried by power earnings.

Mr. FICKINGER. On the Flathead, since the 1948 act, the net power revenues from the power project on the reservation are applied against a liquidation of the power and irrigation construction obligations, to the United States.

Senator WATKINS. Both white and Indian?

Mr. FICKINGER. On the white lands. And since the Indians are not required to pay construction charges under the 1932 Act so long as the land remains in Indian ownership, those net power revenues are

applied against any delinquent O. and M. assessments that may have accrued against the Indian land and current O. and M. assessments.

Senator WATKINS. But none of it against the principal?

Mr. FICKINGER. None of it against the construction charges on Indian land at the moment.

Senator WATKINS. It occurs to me that that would be a very good persuader, something which would be rather persuasive in compelling Indian ownership of these lands. As long as it is in the hands of Indians the charges wouldn't have to be paid. Because if the would-be purchaser had to pay for the water rights, a white purchaser would be taking on considerable of an obligation.

Mr. FICKINGER. Up to now the annual net power revenues have been taking care of the annual construction assessments.

Senator WATKINS. For the whites?

Mr. FICKINGER. On the white land. The same would apply on Indian land if it goes out of Indian ownership. Those net power revenues then would begin to apply against that land, as soon as it goes out of Indian ownership.

Senator WATKINS. There would still be some persuasiveness in the situation to continue Indian ownership, wouldn't you think?

Mr. FICKINGER. I think that that is going to perhaps become more evident as time goes on, because as of the fifth payment we have just about been able to meet, from the net power revenues, the annual construction charges. But, effective with the sixth payment, I am afraid that the net power revenues are not going to be enough to meet the annual construction charges. Now, that is presumptive. We don't know yet just what it is going to be.

Representative D'EWART. I would like to make a brief comment here that part of the trouble with these net power earnings is that the Bureau of Reclamation in building Hungry Horse Dam, drove an awful hard bargain with the Indians for the use of this power, and the result is that they haven't got quite the earnings they planned on.

Senator WATKINS. You mean to say that the Department of Interior would outrade another department?

Representative D'EWART. My impression is that they did this time.

Mr. FICKINGER. I think there is another factor to it, and that is that the project has lost two or three pretty good power accounts.

The Mountain States Power Co. was buying power from the project, and I believe they have gone over to Bonneville.

Representative D'EWART. There is another thing that is very interesting here, Mr. Chairman, on this reservation.

It is what is known as secretarial water rights. The Hudson Bay people came in here as the first white men, and the missionaries followed them, and they established a small irrigation project, and the water rights, some of them, date back to that time, before Montana was a State. And when the State was set up, they issued these Indians certain water rights from the Secretary of the Interior, and they are now known as secretarial water rights, the only secretarial water rights that I know of. That is just a little history.

Senator WATKINS. That is interesting.

I thought I had heard of every kind of water right there was in the world, but that is a new one.

Well, we are grateful for the information.

We covered the matter of population in this area.

I notice that the national forests appear on the outside except in the area of the Flathead Lake. Are those national forests there?

Mr. FICKINGER. I should have said it is covered on three sides, when I made my original statement.

Senator WATKINS. It is almost covered there. The lake is apparently rather narrow. Now many people, Indians, and whites, live in this area, with this dark land, the Indian trust land, and so on.

Mr. FICKINGER. There are about 26,000 people or a ratio of 13 to 1.

Senator WATKINS. Whites?

Mr. FICKINGER. Thirteen non-Indians to one Indian, as I recall.

Senator WATKINS. And you have named the number of cities and towns. Who owns the title to the lands within the cities and towns?

Mr. FICKINGER. These pieces of legislation that I have referred to also reserve certain lands or set aside certain lands for towns and town lots, and also provided for the surveying into town sites.

Senator WATKINS. Well, now, after you get the town site, are white men permitted to buy any?

Mr. FICKINGER. Oh, yes. That is right. It is patented land. There are a few villa sites, to which the Indians have some ownership but they are around the lake shore.

Senator WATKINS. Do any of the Indians live in the cities or towns?

Mr. FICKINGER. Oh, yes. Yes, indeed, sir.

Senator WATKINS. They are still counted as reservation Indians?

Mr. FICKINGER. That is right. They are within the exterior boundaries of the reservation.

Senator WATKINS. Within the exterior boundaries?

Mr. FICKINGER. That is right, sir.

Senator WATKINS. The 1,600 that have been mentioned living off the reservation don't live in this area at all, then?

Mr. FICKINGER. No, sir. Many of them live in other States, out on the coast, Washington, Oregon, and some of them live in Arkansas. They are pretty well scattered in States outside of Montana. There are of course some who live in other towns in the State of Montana. We have some in Billings, who live there and are just the same as any other citizen in the town. They work there.

I would like to just make a brief observation here with reference to the Flathead people.

It has been my pleasure to work fairly closely with them for the last 8 years, and I find them to be a very fine group of people. I am very proud, frankly, to be able to claim many of them as friends. They are a competent group as a whole. They are industrious and have, I think, done a very good job of becoming a part of various communities. They can go any place, most of them, and be accepted in any community. They are good, clean people. And as I say, I am very proud of the progress they have made. I am proud that the Indian Service has had a part in helping them along in this program.

Certainly, however, no organization, the Bureau of Indian Affairs or any other organization, could do that kind of a job alone. The people themselves must have a sense of wanting to do those things, and I think that the Flathead people have that.

They are a good people, and they are very nice to work with.

Senator WATKINS. That indicates, of course, that a large part of the holdings in the center along the river are owned by white people, non-Indians. And that has existed for a long period of time, hasn't it?

Mr. FICKINGER. Well, you see, many non-Indians moved on to the reservation pursuant to these various acts and homesteaded there. It is true also that some lands have been sold by some members of the Flathead Tribe after they received patents in fee to their allotments. There have been about 124,795 acres of the 1908 allotments, trust allotments—that is also in exhibit 4—patented to individual Indians.

Now, that doesn't mean that all of that acreage has gone out of Indian ownership. As a matter of fact, it hasn't all gone out. How much hasn't, I can't tell you at the moment, but some of it is still in Indian ownership, though it is in a fee-patent ownership. And of the 1920 allotments about 1,639 acres have gone into fee-patent status.

There has also been transferred to the tribe about 81,437 acres, which includes these timber allotments that the tribe is now buying.

Thus a total of about 207,891 acres of the original allotments has gone out of individual trust allotment status.

Representative D'EWART. Mr. Chairman, could I ask a question or two?

From time to time I have had questions come across my desk as to beach ownership, ownership below the surface of the lake, and the right to build docks and dams, and so forth.

Mr. FICKINGER. I am not sure that I am too competent to give you a complete answer on that; however, the act of March 3, 1911 (36 Stat. L. P. 1066) did reserve an easement of 100 linear feet back from a contour of elevation 9 feet above high-water mark of the year 1909 of Flathead Lake, to remain in the Government for purposes connected with the development of waterpower.

Representative D'EWART. As I remember, I had some questions at one time in regard to the location of a sawmill on the lakeshore and whether the allotment that they got from the Indians to locate their mill on went to the water level or whether it went across the beach or not.

Can you tell me about that matter?

Mr. FICKINGER. I suspect that the eminent counsel for the Flathead Tribe, when he gets on the stand, will probably be able to answer your question, Congressman D'EWART.

Representative D'EWART. Well, it isn't important to this discussion.

Mr. LEE. We would be glad to supply an answer for your information, if you like, Congressman.

Representative D'EWART. If you will, because I don't think it enters into this discussion here.

Senator WATKINS. If you can, I would like to get an idea of the general economic situation as to those, first, living on the reservation, and then those living off the reservation. I mean outside of the area, as well.

Mr. FICKINGER. I think the superintendent might be in a better position to discuss that.

Senator WATKINS. I think it ought to be in the record as to just what the situation is.

Mr. STONE. I haven't a record of the people who live off the reservation. They get per capita payments amounting to, this year, \$200, and last year \$150. I would rather think that the average would be about \$150. Of those living on the reservation, the cross section is very similar to any other rural community. In fact, the welfare load, as far as the Flatheads are concerned, is not in excess of the welfare load in any rural community of Montana, where Indian populations do not reside. That was given us by the area director of welfare last month in a meeting that we had with representatives of the three counties.

Senator WATKINS. In other words, they are doing about as well as their white neighbors?

Mr. STONE. Yes.

Senator WATKINS. What businesses do they engage in, if any, within the reservation area?

Mr. STONE. Farming. We have some in mechanical trades, wage earners, Government workers, tribal workers. The usual vocations that would follow any small town or rural community settlement.

Senator WATKINS. Now, with respect to the categories of Indians, I notice on the fullblood Indians we have 259 that live on the reservation and 33 that live away from the reservation, a total of 292. Of the halfblood, but less than fullblood, there are a total of 1,247; quarterbloods, one-fourth but less than one-half, 1,295; less than one-quarter, 1,372.

Incidentally, they have adopted some white people there, seven. That makes a total of 4,213.

I imagine from those statistics that the old idea of an Indian reservation being populated by Indians that are easily distinguishable as Indians does not prevail.

Mr. STONE. That is the impression that I have. And I would like to add a word, Senator, as to the fullblood group, which is pretty much in the thinking of many people, including ourselves.

As you have stated, the breakdown of this indicates that 259 are living on the reservation and 33 are living away from the reservation, but only 36 of those living on the reservation are in some category of welfare. It is not a bad record. They are by no means an improvident group of fullbloods.

I feel with any withdrawal of tribal or Federal services, there must be some consideration as to the special needs of the older fullblood people, through church organizations, traders, and others. But there, people have always been helpful and will no doubt continue such interest.

Senator WATKINS. There are very few who do not understand the English language, are there?

Mr. STONE. That is right.

Senator WATKINS. How about the Indians of fullblood? Are they comparable to the other Indians in property holdings, activities in agriculture, the cattle and sheep industries?

Mr. STONE. I think so. I think we have a fair cross section, particularly those of Indian blood of more than half. You will have some of them testify here before your committee.

Senator WATKINS. What is the housing situation among the Indians on the reservation?

Mr. STONE. Fair. It is not the best. The tribe has been concerned about that.

Senator WATKINS. They have all advanced from the teepee stage, haven't they?

Mr. STONE. That is right.

Senator WATKINS. Do you have paved highways there through the reservation?

Mr. STONE. Yes.

Senator WATKINS. I assume you have high schools and other State schools all through the reservation?

Mr. STONE. Yes; public schools.

Senator WATKINS. Some dairies, too?

Mr. STONE. Not too much.

Senator WATKINS. Do the whites dairy?

Mr. STONE. Oh, yes.

Senator WATKINS. What particular line of activity do the majority of the Indians engage in?

Mr. STONE. Farming and stockraising. They have some 6,000 head of cattle and a number of sheep.

Senator WATKINS. What about the matter of law and order?

Mr. STONE. Law and order is administered by the tribal government. I don't think it is any worse than it is in other localities. It is a heavy responsibility for the tribe.

Senator WATKINS. Rather expensive?

Mr. STONE. Yes, it is.

Senator WATKINS. How much do you pay out on that?

Mr. FICKINGER. Approximately \$15,000 is included in their tribal budget for law and order, Mr. Chairman.

Senator WATKINS. Where do they attempt to enforce law and order?

Mr. FICKINGER. On the reservation.

Senator WATKINS. That is on the reservation range, the forest area? Or are they on the individual allotments?

Mr. FICKINGER. On any of the trust lands.

Senator WATKINS. Even though it is checkerboarded in with the white lands?

Mr. FICKINGER. Yes.

Senator WATKINS. Do they ever attempt to enforce their regulations, whatever they are, in the cities and towns?

Mr. FICKINGER. They really wouldn't have any legal authority unless they have secured a commission from the county or State authorities.

Mr. STONE. They have a cooperative arrangement, in which they have deputies stationed in these various towns to assist the counties and towns, and their salaries are supplemented by the council in amounts ranging from \$50 to \$65 a month.

Senator WATKINS. What happened after the passage of the act last summer giving to the States enforcement of law and order?

Mr. FICKINGER. The State of Montana has not done anything about it yet, because I think it is generally understood that some action by the State legislature will be necessary, and the State legislature does not meet until next January.

Senator WATKINS. Mr. Grorud advises me that Montana was not included.

Mr. FICKINGER. Not specifically mentioned but it is included in the overall group.

Representative D'EWART. Mr. Chairman, I have a statement here from the county attorney regarding law enforcement. Perhaps you would like to have a paragraph or two out of it:

With respect to the additional annual financial burden that we may expect, I feel that there will be no appreciable increase whatsoever. I have talked this matter over with our sheriff and he informed me that there are no Indian law enforcement officers living in Lake County whatsoever. The Lake County law enforcement departments and the State of Montana highway patrol have the 100-percent burden of enforcing the laws, with relation to Indian, or otherwise, on that portion of the Flathead Indian Reservation within Lake County.

We receive no reimbursement for the board of Indian prisoners, although, with respect to crimes, such as traffic violations, we are forced to care for many Indian persons.

For all practical purposes, Lake County has had virtually all of the investigation and prosecution burden with relation to Indian people for many years past, and, of course, will be required to continue to carry this burden in the future. I, therefore, feel that we will not be faced with any additional annual financial load, and the passage of the bills will tend to clarify a confusing question of jurisdiction over the Indians, which has hampered law enforcement considerably in the area.

Mr. STONE. I would like to offer a correction to one statement in that letter.

I don't know what he meant, but the tribe is paying part of the salaries of the marshals and deputies in all three of those towns that are located within the county and the full time salary of a tribal enforcement officer at Elmo.

Representative D'EWART. This is signed by J. F. Turnage, county attorney, Lake County, Mont.

Senator WATKINS. Mr. Stone, and also the other witnesses, may I call your attention now to some eight exhibits attached here together in mimeographed form, given me by representatives of the Bureau.

Those have been prepared by the Indian Bureau?

Mr. FICKINGER. Yes, sir.

Senator WATKINS. And they do represent the matters I indicated as taken from the books and records of the Indian Bureau?

Mr. FICKINGER. That is correct, sir.

Senator WATKINS. I suggest that these all be included in the record, because they will be factual information we will be interested in.

(The documents referred to are as follows:)

EXHIBIT 1

Population data—Flathead

Total population.....	4, 213
Male.....	2, 073
Female.....	2, 140
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Breakdown by degree of Indian blood:	
Full blood (7 percent).....	1, 292
½ but less than full blood (30 percent).....	1, 247
¼ but less than ½ (31 percent).....	1, 295
Less than ¼ (32 percent).....	1, 372
White (adopted).....	7
Total.....	4, 213
<hr/>	
Members residing off reservation.....	1, 651
Shifting population (on and off reservation).....	458

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Population data—Flathead—Continued

Members residing on reservation.....	2, 104
Total.....	4, 213
Members unable to speak the English language.....	28
Members unable to read and write.....	55
Breakdown by families:	
Total number of families.....	957
Families residing off reservation.....	375
Families shifting residence.....	104
Families residing on reservation.....	478

¹ 259 live on the reservation and 33 live away from the reservation.

EXHIBIT 2

Welfare—Flathead, 1952—Categorical aids

Type of service	Number of families ^{1 2}	Amount
Aid to dependent children.....	40	\$36, 031
Old-age assistance.....	76	40, 908
Aid to needy blind.....	5	2, 469
Aid to disabled.....	10	4, 958
Total.....	131	84, 366

¹ Of the above only 26 individuals are fullbloods.

² 210 individuals.

General relief, tribe-county agreement

5 families (15 individuals).....	¹ \$2, 796. 92
County funds.....	1, 348. 46
Tribal funds.....	1, 448. 46
State hospital for mental patients.....	² 7
Boulder State hospital, mentally deficient.....	² 3

¹ If Indian lands of the Flathead Reservation were placed on the tax rolls of the respective counties, the tax income for poor (health included) would be approximately \$11,413 (exclusive of tax on income from timber and other tribal assets and personal property tax).

² State expense except patients' share of income from tribal assets is paid to institutions.

EXHIBIT 3

Education—Flathead, 1952—School census, 6-18 years, inclusive, parents residing on reservation

¼ or more degree of Indian blood.....	689
Enrolled in public schools.....	¹ 498
Enrolled in Federal boarding vocational school.....	² 26
Enrolled in mission schools.....	³ 89
Enrolled in State orphanage—Twin Bridges.....	⁴ 19
Enrolled in State vocational school for girls.....	⁵ 2
Total enrolled.....	634
Not enrolled in school.....	55
Total school census.....	689

¹ Federal contribution in 1952 through contract between State and Bureau of Indian Affairs to Lake, Missoula and Sanders Counties for assistance in cost of education amounting to \$36,504. If Indian lands of the Flathead Reservation were placed on the tax rolls of the respective counties the tax income for education purposes (exclusive of tax on timber income and personal property tax) would be approximately \$74,772 or \$38,268 in excess of present Federal contribution for education purposes. One explanation is that many Indians no longer residing on the reservation nor in the State of Montana still own trust and tax exempt land on the reservation.

² These children could and should attend public schools at home.

³ Tribal Council contributes \$6,480 of tribal money to Ursuline Mission at St. Ignatius on behalf of 32 children members of the tribe. Tribal funds belonging to all of the members of the tribe should not be used to benefit only a few. Instead, the per capita income from these children's share of tribal assets should probably be used if the children insist on attending the mission school and the mission insists on a charge.

⁴ \$10 monthly charges paid from per capita income from children's share of tribal assets.

⁵ Currently paid from Federal funds

EXHIBIT 4

LAND RESOURCES OF FLATHEAD RESERVATION

The Flathead Reservation was originally allotted in 1908. Additional allotment made in 1920 (mostly in the forest area).

Acreage of present Flathead Reservation (approximately).....	644,000
Tribal (trust).....	500,000
Forest.....	384,330
Grazing.....	37,590
Barren and waste.....	78,080
Allotted (trust).....	144,000
Irrigated (assessed).....	18,610
Dry farming.....	40,355
Grazing and timbered.....	85,035
Total acres allotted.....	351,891
1908 allotments (acres).....	228,434
1920 allotments (acres).....	123,457
Total acres removed from trust allotted status.....	126,434
1908 allotments (acres) fee patents.....	124,795
1920 allotments (acres) fee patents.....	1,639
Sold or otherwise conveyed to tribe.....	¹ 81,457
Total acres remaining in trust allotted status.....	144,000

¹ By law, first cutting of timber on forest allotments belongs to tribe. In order to block out the tribal forest holdings the tribe is now completing, at a cost of nearly \$800,000, the purchase of most of the scattered timber allotments.

Irrigation project

The Flathead irrigation project was authorized in 1908. Today the lands included in the project are approximately 18 percent Indian and 82 percent non-Indian owned.

Ultimate irrigable acreage.....	138,195
Indian owned.....	24,103
Non-Indian owned.....	114,092
Present assessed acreage.....	108,580
Indian owned.....	18,610
Non-Indian owned.....	89,970

The Bureau of Indian Affairs has recently completed a redesignation study of the project which discloses some small necessary adjustments in acreages.

Electric power

The irrigation project operates an electric power distribution system, started originally from a block of 15,000 kilowatts, from the Montana Power Co.'s Kerr Dam for irrigation pumping purposes. Additional blocks of power have been purchased from Montana Power Co. under contract for distribution to residents largely within the boundaries of the reservation. By special legislation, the water users of the irrigation project are permitted to apply the net power revenues to payment of their power and irrigation construction costs to the United States Government. In the case of the Indian irrigation landowners, their share of net power revenues are credited to their delinquent and current irrigation operation and maintenance charges.

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Number of power customers, 1952 :

Rural.....	2, 263
Urban.....	1, 733
Industrial.....	715
Total.....	4, 711

EXHIBIT 5

TAXABLE VALUE AND POTENTIAL TAX REVENUE RESTRICTED INDIAN PROPERTY— FLATHEAD 1951—VALUES AND LEVIES

In 1951 Billings area office completed a detailed study of Indian real trust property, not carried on tax rolls of the State. In cooperation with the respective county commissioners, comparable values were established and the yardsticks used in determining taxes on non-Indian lands were applied to Indian trust lands. The following data reflects the potential tax income if these lands were assessed, tabulated by the four counties involved on the Flathead Reservation and further itemized by purposes as reflected on tax duplicates :

Item	Sanders	Lake	Missoula	FlatLead	Total
General ¹	\$8, 075	\$9, 965	\$2, 752	\$589	\$21, 381
Roads and bridges.....	6, 750	10, 871	1, 768	261	19, 650
Poor (health included).....	4, 823	5, 073	1, 180	337	11, 413
Bond (interest and sinking).....	2, 049		157		2, 206
Fair.....	723	689	177	25	1, 614
School (all).....	27, 259	36, 300	9, 505	1, 708	74, 772
State.....	3, 617	5, 435	1, 474	251	10, 777
Airport.....		1, 450	393	15	1, 858
Weeds.....		797		10	807
Library.....			197	36	233
Total.....	53, 296	70, 580	17, 603	3, 232	144, 711

¹ County commissioners, county clerk, county treasurer, county auditor, State examiner, county assessor, district court, sheriff, county attorney, justice courts, coroner, elections, board of health, care of prisoners, county superintendent of schools, public administrator, county agency and farm bureau, home demonstration agent, other miscellaneous expense.

Other potential tax income annually to the counties and State include the following :

Personal property (estimate) (nontrust and currently taxable).....	\$30, 000
Tax on personal income.....	(¹)
Tax on income from timber sales.....	(¹)
Tax on income from power sites.....	(¹)
Tax on income from other enterprises.....	(¹)

¹ Undetermined.

In the event the timbered area was purchased by the United States Government for addition to the national forests, the amount indicated above as potential tax income from land would be reduced correspondingly and in lieu thereof it is assumed the regular formula of 25 percent of the stumpage sales annually would apply and 10 percent to be used for maintenance and construction of roads and trails in the timbered area.

EXHIBIT 6

Flathead financial statement (tribal)—Income and balances

Balance (cash) on hand June 30, 1953.....	\$1, 011, 453
Estimated income, fiscal 1954.....	833, 000
Timber sales.....	600, 000
Christmas tree sales.....	8, 000
Kerr Dam payment.....	200, 000
Miscellaneous income.....	25, 000
Total cash available, fiscal year 1954 (estimated).....	1, 844, 453

FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS 857

Flathead financial statement (tribal)—Income and balances—Continued

Tribal Government.....	\$27,900
Equipment	2,500
Council secretary (salary).....	4,450
Council and committees (per diem).....	9,000
Oil and gas for council members.....	4,500
Auto upkeep.....	700
Supplies and unforeseen needs.....	2,800
Fuel for tribal office.....	1,625
Electricity for tribal office.....	600
Communications	225
Unemployment and social security.....	1,500
Tribal resources management.....	34,910
Fire suppression.....	5,000
Leasing	7,830
Land clerk.....	4,450
Lease clerk.....	3,380
Credit operations.....	10,220
Clerk-typist.....	3,380
Clerk-stenographer.....	3,460
Livestock agent.....	3,380
Miscellaneous cooperation.....	9,360
Clerk-typist.....	3,180
Clerk-typist.....	3,180
Irrigation labor.....	3,000
Salary increases.....	1,500
Annual leave pay.....	1,700
Tribal community program.....	84,110
Welfare and relief.....	9,500
Hot school lunches.....	2,000
Direct relief.....	3,000
Burial expenses.....	4,500
Education.....	7,560
Ursuline Mission.....	6,480
Home of Good Shepherd.....	1,080
Hospitalization (Holy Family Hospital).....	50,000
Law and order.....	17,050
Judges.....	1,000
Enforcement.....	9,550
Feed of prisoners.....	1,500
Unforeseen needs.....	5,000
Tribal construction and maintenance.....	3,000

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Flathead financial statement (tribal)—Income and balances—Continued

Tribal attorney contracts.....	\$15,000	
Fees (annual).....	10,000	
Expenses (estimated annual).....	5,000	
Acquisition timbered allotments.....	300,000	
Per capita payment (\$200 per capita).....	804,000	
Total expenditure, budget for fiscal year 1954.....		\$1,268,920
Balance estimated available July 1, 1954.....		575,533

EXHIBIT 7

Financial statement, Flathead (Federal funds), fiscal year 1954

General administration: Salary and expenses, superintendent and his staff.....		\$21,803
Health, education, and welfare.....		76,770
Health.....	\$30,460	
Contracts with doctors.....	11,730	
Outside hospitalization.....	13,730	
Public health district contract.....	5,000	
Education.....	43,650	
Salary and expenses.....	5,650	
Portion of State education contract.....	38,000	
Welfare (foster home care).....	2,660	
Resources management.....		86,228
Forest and range management.....	¹ 47,592	
Salary and expenses of management.....	38,000	
Fire suppression.....	9,592	
Credit (salary and expenses).....	5,026	
Roads and trails (maintenance).....	² 22,500	
Management of Indian trust property.....	3,560	
Buildings and utilities (maintenance).....	7,550	
Construction (roads and trails).....		4,800
Total Federal funds.....		189,601

¹ By law a fee of 10 percent of timber stumpage sales is deposited to miscellaneous receipts account in the Treasury of the United States. For the fiscal year 1953 this amounted to \$72,669.

² Contract agreements with Missoula Lake and Sanders Counties have recently been executed whereby the counties have taken over the cost of maintenance of all Indian service roads on the Flathead Reservation excepting the logging roads and trails in the forest area. In return the Indian Bureau has put the roads in good condition and is now essentially out of the road business on the Flathead Reservation except in the forest areas as indicated. The mileage thus released to the counties totals approximately 120 miles, leaving approximately 287 miles of forest trails and logging roads still with the Bureau of Indian Affairs. These remaining 287 miles are primarily a management responsibility, for limited use and connected with land ownership.

EXHIBIT 8
Capital assets—Tribal

Type of property	Estimated value	Annual income
Timber (approximately 1 billion board feet) ¹	\$40,000,000	\$649,886
Power sites (1 developed—3 potential) ²	30,000,000	200,000
Hot springs (bath development) ³	500,000	8,500
Grazing lands (37,590 acres) ⁴	187,950	5,640
Blue Bay Lodge (on Flathead Lake) ⁵	150,000	3,000
Loans and accrued interest receivable (cash) ⁶	264,587	7,000
Loans receivable (cattle—720 head) ⁷	46,800
Total.....	71,149,337	874,026

¹ Approximately 1 billion board feet of merchantable timber available over a cutting cycle of 60 years which allows for a minimum annual cut of 15 million board feet. Approximately 80 percent of the timber in ponderosa pine and 20 percent in fir and larch. Stumpage on pine at \$25 per thousand and \$8 per thousand on fir and larch. A weighted average is \$20 which should provide a gross income of \$300,000 per year. Because of war needs the rate of cut has been accelerated over the past number of years but will be dropped back shortly to fit the sustained yield pattern.

The valuation of \$40 million includes not only the timber value but also such factors as watershed, recreation, and other public values. Attention must be called to the public interest in this area and the possible desirability of the Federal Government acquiring title for conservation measures and protection of the life and existence of the entire Flathead Valley.

² One power site (Kerr Dam) has been developed by the Montana Power Co. Three other potential dam sites are available. Studies are currently under way by Montana Power Co. to determine feasibility of one of these potentials. The value of all four sites if they all prove feasible has been estimated at \$30 million. According to testimony presented the Indian Affairs Subcommittee during its hearing at the Flathead Agency, October 16, 1953, in connection with H. Con. Res. 108, the potential power development on the Flathead could reach 2,360 million kilowatt-hours annually.

³ The Flathead tribes own some mineral hot springs located at Hot Springs, Mont., on the reservation. They have constructed a modern bathhouse and developed the springs. Are operating the establishment as a health resort.

⁴ Tribally owned grazing lands, leased generally at a reduced rate to members of the tribes (about 15 cents per acre per year).

⁵ A camp development, 177½ wooded acres on the shores of Flathead Lake consisting of a main lodge building, mess hall, and a series of log cabins, bathhouses, and water systems. Current lease provides for upkeep by tenants.

⁶ Tribal funds loaned to individual members of the tribes at 3 percent interest. Figures as of June 30, 1953.

⁷ Tribally owned cattle loaned to individual members of the tribes on a repayment in kind basis. Dollar value computed at \$65 per head. Figures as of June 30, 1953.

Senator WATKINS. I notice you have an exhibit on the matter of taxes: "Taxable value and potential tax revenue restricted Indian property—Flathead 1951—values and levies."

By that, you are projecting the situation as to a new law in effect and the possible taxation which would take place under it?

Mr. FICKINGER. Mr. Chairman, in 1951, we completed a study which was rather detailed and covered all of the counties in the State in which there was tax-exempt Indian land. We followed the same criteria used by the counties in computing assessments on non-Indian land of comparable types.

I incorporated that data in an exhibit here for the information of the committee, so that you might see what the four counties concerned in the reservation could anticipate in the way of tax revenues from this trust allotted tribal land in the event it were to go on the tax rolls.

We also have broken it down by counties into the various items that normally appear on a tax duplicate. You will notice from glancing through the data that the total for the real estate only is estimated at roughly \$145,000 a year. If I might take a minute, let us look, for example, at the item of schools. Under the State education contract the amount of money that goes to these counties—

Senator WATKINS. You mean that one for Indian tuition in State schools?

Mr. FICKINGER. That is right, sir. If I remember correctly, our figure for these counties that are involved in the Flathead Reservation that is included in the contract amounts was \$36,000 in 1952, which would be the year comparable to this table. Yet the income by virtue of the lands going on the tax rolls of these respective counties tentatively at least would amount to \$74,772.

That runs somewhat similarly down the line on other activities. It depends, of course, on how the counties fix their tax levies for the different items. It means that the Indian lands will be sharing in the cost of county government and county services, special services that are provided all citizens who need those types of services and who are screened and declared eligible to receive special consideration from the county. The Indians would share in those services.

Senator WATKINS. With respect to the item for schools you say you are now paying \$36,000 for tuition. That tuition charge is apparently not based on what it actually costs to maintain the school buildings and to provide many other services than strictly tuition.

Mr. FICKINGER. Before we can come in with any financial assistance we consider the fact that the Indian children in the State participate in the State-wide distribution of income from oil, gas and other leases on State-owned lands which are distributed on child per capita based on a census of all children, not just non-Indians.

Senator WATKINS. The school districts and counties gladly include the Indians when it comes to making the county census.

Mr. FICKINGER. That is right, sir. The counties and school districts set levies for school purposes and the State provides help from the equalization fund. We come in and try to help those districts that need help. Where there is a large amount of nontaxable Indian land in the district we assist financially to help maintain a school system that is adequate to meet the educational needs of all of the children in the county. In the four counties that are affected by the Flathead Reservation our contribution in 1952 was \$36,000.

The amount to be realized through taxes on Indian land for relief would be \$11,413, when actually our expenditures, both tribal and Federal, on behalf of relief at the moment amount to only \$2,000 or \$3,000.

So, there need not be too much concern on the part of local counties, at least in this situation, about any special heavy loads under normal circumstances. It is true that more money than that is going in, but it is going in not on an eligibility basis. For example, the \$50,000,

for health that the tribe is paying to the Holy Family Hospital is for all members of the tribe, regardless of whether they can afford to pay the hospital bill themselves or not. When it goes under a county setup, anyone who is able to pay is probably going to be required to pay, because the county will pay only for those that they determine to be eligible and not able to pay for themselves.

We are coming to that in the Indian Service also as soon as the schedules can be developed. We believe in that philosophy, frankly, and we think it is sound.

Senator WATKINS. That where they are able to pay they should pay.

Mr. FICKINGER. That is right, sir. We are coming to that very rapidly.

Senator WATKINS. With respect to the liquor law, what has happened since the act was passed?

Mr. FICKINGER. The Flathead Tribe I believe have taken no action yet to vote either for or against allowing liquor on the Indian reservation, either the sale, introduction, or possession. Consequently, as of now the status remains as it was before the act was passed, except that they can get liquor off the reservation, that is, on patented lands. They have always pretty much been able to get liquor on the Flathead Reservation, I think, in the towns of Arlee, Ronan, and others. I think it has not been too much a problem up at Flathead. I don't know what the attitude of the tribe is going to be with reference to local option. I think that they have been engaged in some discussion of that but as yet no decision.

Senator WATKINS. Has there been any increasing drunkenness among Indians since the act was passed?

Mr. STONE. I don't believe there has been any great increase, Senator. There was some, I think, immediately following the act, but not in any serious proportions.

Senator WATKINS. I note on exhibit 6 you have the Flathead financial statement. That is the tribal council statement.

Mr. FICKINGER. That is the statement of tribal funds, the income and the budget for this year.

Senator WATKINS. Is the cash on hand, cash in the Treasury of the United States?

Mr. FICKINGER. It includes both cash in the Treasury and in their local treasury.

Senator WATKINS. Do they keep their tribal cash in a bank in the locality?

Mr. FICKINGER. No, sir. It is kept in the superintendent's accounts at the Agency at Flathead.

Senator WATKINS. All of the checks are drawn on the Treasury of the United States?

Mr. FICKINGER. It is what we call an individual Indian money account, to the credit of the tribe, but it is handled locally at the Agency and is maintained in the banks out there, not in the Treasury of the United States here in Washington.

Senator WATKINS. That is what I was trying to get at. Can you tell us just how much gratuity money is going to this tribe at the present time from the United States?

Mr. FICKINGER. Yes, sir. In exhibit 7 there is a financial statement with reference to the Federal funds. There is a total of \$189,601

in the budget for the Flathead Reservation this fiscal year, of which, as you will note, \$21,000 is for general administration, \$76,770 for health, education, and welfare, and \$86,228 for resources management, and then \$4,800 for the construction of roads, trails, and bridges.

If I might, sir, I will take a minute to explain both the tribal budget and the Federal budget.

Senator WATKINS. That would be very interesting and helpful. Although I have had all of this placed in the record, still I think it would be well to explain it.

Mr. FICKINGER. Yes, sir. In general the items are broken down into different categories, as you can note. The basic item that is of concern to the local counties in the event of the enactment of the pending bill would be those items that cover special services, such as health, education, and welfare. In the case of the Federal amounts, the Federal contribution, we have a total of \$76,770 currently provided for that type of service, of which \$30,460 is for health activities. Mr. Stone explained that the \$11,730 item is for contracts with two local doctors for medical services, clinical and otherwise, to individual Indians who need that help.

Senator WATKINS. Is that on the insurance idea? You pay them that much to take care of them?

Mr. FICKINGER. Yes, sir, that is right. We pay them on a contract basis, and then they have to take care of the patients. They agree to that.

Senator WATKINS. There are so many families, and they agree to take care of them no matter what happens?

Mr. FICKINGER. There is no special number of families indicated.

Senator WATKINS. They get this money even though they don't have a patient?

Mr. FICKINGER. That is right. It is on a contract basis. Then we provide \$13,730 for what we call outside hospitalization. The word "outside" is a misnomer at Flathead for the simple reason that we do not operate any Federal hospital of our own. On some reservations we do operate hospitals, but this is for hospitalization of patients in hospitals other than Indian Service operated hospitals.

Then, as was explained, the \$5,000 is the Indian Service contribution to the public health district, of which we are quite proud, frankly, because it is the second district health unit that has been established in the State of Montana. The first one included Rosebud and Big Horn Counties, which comprise the Crow and Cheyenne Reservations.

Of that \$30,000 for health, in the very near future those expenditures will probably be reduced because we are going to be looking to those individuals who can afford to pay for their hospitalization and for their medical services to do so. We are going to expect them to pay for them.

Senator WATKINS. Whether this bill is passed or not?

Mr. FICKINGER. Yes, sir, that is right. That is our policy. So that amount will normally be reduced, and certainly if these go over to the counties I know that the counties are going to expect that same thing, because the individuals will be screened by welfare workers to determine whether or not they are able to pay or whether they will be eligible for treatment at county expense.

In the case of education we have one employee to follow up on education matters.

However, the \$38,000 that is set up there for the State education contract would, of course, be taken over and handled entirely from the tax income, as I have explained previously.

Then our welfare item, \$2,660, is relatively minor, of course, and it provides boarding home care for a number of youngsters. Ultimately, of course—and in some instances already—it is to be paid by the individuals themselves from their per capita income of the tribal assets. We see nothing wrong with that kind of arrangement.

With reference to the resources management budget, those are all management activities which would no longer constitute an expense against the Federal Government if the supervisory responsibilities for the trust property were removed.

However, I would like to call your attention to one little point here. You will note that I have a footnote after "Forest and Range Management" in which we explain the total of \$47,592. That is for foresters, range experts, supervisors, and workers out on the reservation doing the actual range management. By law we are required to assess a 10-percent fee against the timber stumpage sales. That amount is deposited in the miscellaneous receipts of the United States Treasury. In 1953 that recovery, so to speak, amounted to \$72,000-plus. Yet we spent only \$47,000. Thus that activity is self-supporting. When the management of the property goes out from under Government supervision, the property itself will continue to pay the cost of management, just as any other corporation pays for the management of its own assets.

Senator WATKINS. So actually they are not getting the full \$189,601 as a gratuity.

Mr. FICKINGER. That is right.

Senator WATKINS. On the forest deal they are actually paying in more than they get.

Mr. FICKINGER. That is right.

Senator WATKINS. But there is a substantial gratuity even at that from the Federal Government.

Mr. FICKINGER. Yes, there is, but even so, most of it, as you can note, is with reference to the management of the trust property, which would be handled by the property itself, just as in the case of patented lands where fees for land transactions and things of that kind are collected from the owner.

Under the tribal budget, of course, we have essentially the same type of items.

Senator WATKINS. I will ask Congressman D'Ewart to take over. This is very interesting, and I am sorry I have to leave.

(Representative D'Ewart assumed the chair.)

Mr. FICKINGER. I think it is important to comment just briefly on some of the tribal expenditures. Under "Tribal Government" you will note on Exhibit 6 an expenditure of \$27,900, or a budget item of \$27,900. That essentially is to cover the cost of tribal government.

Then under "Tribal resources management" we have an item of \$34,910, which covers property and which is a legitimate expense against any corporation that has property for the management of such property.

Next we have the tribal community program, of \$84,110, of which \$9,500 is spent by the tribe for what we call welfare and relief. Of that amount, \$2,000 is for a hot lunch program for school children. Generally it was intended by the tribal council that that would serve the needs of those Indian children who are less than one-fourth degree of Indian blood, because the Federal Government does not provide any payments for that group of children.

About the middle of last year we instituted a program in connection with our State contract that we would no longer pay for school lunches for those Indian children whose parents were financially able to pay for those lunches themselves, and there has been cut off of the rolls a number of Indian children who fall in that category, placed there through the application of the same criteria that are used for the non-Indian children in a given area.

The tribal council, however, has picked up those children that we dropped off and has included them for hot lunches at tribal expense.

Representative D'EWART. Let me ask a question here. These children, however, have a right to those surplus products that are made available to the school-lunch program, regardless of the group that they fall in.

Mr. FICKINGER. That is correct, sir, under the agricultural commodities program.

Representative D'EWART. That item is quite a little larger this year than heretofore, and I believe there is going to be an effort to channel as much of that surplus product as we can into the school-lunch program.

Mr. FICKINGER. I believe the counties figure it costs them in cash about 20 or 25 cents a meal to provide a free lunch program for children, but, of course, the counties pay only for those whose parents are unable to pay the cost themselves. Yet, in the past, we have been paying for all Indian children regardless of their financial ability to pay for their own. We have adopted the program and philosophy that we are trying to fit them to the general pattern and that we should be paying only for those who are not able to pay themselves, the same as the non-Indian groups are doing.

Under direct relief the tribe has a contract with the counties whereby the county pays half for direct relief and the tribe pays half. The tribe has set up \$3,000 in its current budget to meet its half of that direct relief expense.

Burial expenses, \$4,500. It is my understanding that this is an amount the tribal council has set up to allow \$100 per case where an individual dies. It is \$100 to the family to help to cover the burial expenses. I believe that there is no checking or no particular requirements, except membership in the tribe. In other words, whether or not it is needed is not a factor.

Under education we have a total of \$7,560, of which \$6,480 goes to the Ursuline Mission on behalf of the 32 Indian children that the tribe has assumed to provide this assistance to, and \$1,080 for several Indian youngsters in the Home of the Good Shepherd.

There is then the hospitalization item of \$50,000, which is under a contract with the Holy Family Hospital and is available for any member of the tribe, as I understand it, who is in need of hospitalization and who goes to the Holy Family Hospital.

Under law and order the amount is \$15,050. I believe that probably needs no comment, because under this bill, if it became law, the tax levies assumedly would take care of that expense.

The other items under the tribal budget are not particularly involved in connection with any such transfer to counties. There is an item of \$300,000 in their budget this year for the purchase of these timbered allotment. It will take probably a little more than that to complete all of those purchases. And they have \$804,000 of their tribal income for the \$200 per capita payment that was made in January, which went to every member of the tribe.

Frankly, the Flathead people are not an improvident group of people. There has been some fear expressed from time to time through the area and by people who apparently were not familiar with the facts that the Federal Government was trying to dump a group of people on to the counties and the State, but let us look for just a minute at Exhibit No. 8, which is an assets statement of the tribe. The estimated value of the timber holdings of the tribe run about \$40 million. There is an estimate on the power sites of something like \$30 million. If you recall, Mr. Chairman, at the hearings at Flathead there was considerable discussion of the power sites, and there was an estimate made in the record at that time of what potential values there might be with reference to power sites and power development on the Flathead Reservation. It is a rather valuable asset of the tribe.

The tribe has a hot springs bath development which is valued at approximately \$500,000. They have some grazing lands, 37,590 acres, totaling about \$187,950 in value, and the Blue Bay Lodge on Flathead Lake, about \$150,000. Then they have outstanding loans receivable of about \$264,000, including interest; and some cattle which are receivable, about 720 head, totaling at \$65 a head about \$46,800.

So, they have potential assets of about \$71 million.

There are about 1,000 families of the Flathead Tribe both on and off the reservation, which would mean roughly about \$71,000 per family share of the value of the tribal assets. I think it should be recognized, if they were to decide that they wanted to sell their assets and convert them to cash, that they probably could not realize the full value of the assets in a quick sale; but on a long-term basis the assets are probably there.

So, again I say that the Flathead people are not an improvident people. In fact, they have some very valuable assets, and they are making some pretty good use of them.

Representative D'EWART. I note loans receivable, cattle, 720 head, and no annual income is shown.

Mr. FICKINGFR. Those are repayment cattle, to be paid back in kind, but the tribe has agreed to repay its cattle obligation to the United States Government at the rate of \$65 per head, so we have used that same figure in computing the cash value.

These figures can of course be open to question, they can be disputed, because it is pretty difficult, without a very detailed survey, to arrive at a true evaluation of those properties. Certainly these figures can be off a percentage either way.

Representative D'EWART. I have just been advised that the tribe, under its treaty, has exclusive rights to take fish on all streams running through and bordering on the reservation.

Mr. FICKINGER. I did not list that. Frankly, I did not know how to evaluate that. It is an asset, however.

Representative D'EWART. This annual income is not net, however.

Mr. FICKINGER. Yes, sir, those are net annual incomes—\$649,000 for timber, \$200,000 for the Kerr Dam payment, \$8,500 on the hot springs, \$5,600 for grazing lands, Blue Bay Lodge rental, which I believe has a rental rate this year of \$3,000, and then the annual interest on the loans receivable, about \$7,000.

Representative D'EWART. Mr. Westland, have you some questions?

Representative WESTLAND. Mr. Chairman, I have a couple of questions I would like to ask.

Mr. Fickinger, this morning we had some rather substantial charges made. One of them was that there have been no adequate consultations with the Indians of the Flathead Reservation. On the other hand, the Department says that it did interview some of these people. I would like to have a word from you as to just what took place. Will you give us your version of what consultations were had and what meetings were held, and things of that nature?

Mr. FICKINGER. May I defer that to Superintendent Stone?

Representative WESTLAND. Very well.

Mr. STONE. I was anxious to comment on that, Mr. Chairman, because it does affect our position of responsibility not only to the Indian people but to the central office. I went to the Flathead on June 25, 1952. There was a report landed on my desk shortly thereafter outlining a visit during the latter part of June before my arrival by the division program director, in which he had met with the tribal council and other people of the Flathead Tribe, particularly the employees, in the interest of programing for withdrawal. That was a program that was discussed at this time with the chairman of the tribal council and other employees in the tribe, as the chairman will remember and corroborate.

I found in the file of the Flathead Agency other references to this plant which had come to the tribe's attention and which had caused them considerable concern. Following this initiation of the discussion, the reservation was visited by the associate commissioner, who discussed it at some length with various people of the agency staff and the tribal staff as to the withdrawal plan and adjustment plan. That in turn was followed in late August with a general meeting attended by the Commissioner himself, who discussed the entire program with the Flathead Indians in Montana. Discussions of the programing continued throughout the fall with the tribal council. There was no definite action taken because none had been requested until the passage of Resolution 108, when we were directed in the field to go into some active planning work with the tribal council.

On September 11, 1953, at the first discussion, the bill was generally outlined to the tribal council by the superintendent at the Flathead Agency.

On October 7, 1953, the area director conducted a full discussion of the proposed bill, paragraph by paragraph, with the tribal council and general public of the Flathead Agency.

On October 16, 1953, a general meeting on the bill was held at the Flathead Agency, attended by the tribal council, Indian and non-

Indian public, a congressional subcommittee, and the Commissioner of Indian Affairs and members of his staff.

On November 14, 1953, the tribal council called a meeting at Flathead Agency with the Flathead people to discuss the draft bill. The meeting was attended by about 130 adults. The tribal council voted unanimously against endorsement of the draft bill, declaring the terms of such a bill not acceptable at the time.

On December 14, Area Director Fickinger and I met representatives of the Flathead Tribe and other Montana Indian representatives in a full panel discussion in Great Falls, Montana.

On January 4, 1954, the Superintendent discussed the draft bill with the newly elected and organized tribal council of the Flathead Agency.

In addition to that, there were over 1,400 copies of the first draft of the bill mailed out to members of the tribe, fully advising them of the program. That brought many responses, as your records show, particularly from the nonresident group. The resident group made their feelings known in the meetings here referred to.

I want to say further that I think that the council itself is to be very highly complimented on the effort that they have made to alert the people to this adjustment program plan. They have been tireless in their efforts, meeting days and nights. There have been hundreds of individual conferences that they have held, and I would be very much surprised if from any of those gentlemen would come the charge that the Government or the tribe has failed to keep the people of the Flathead Tribe fully advised.

Again, in fairness to them, I have never known them to close their doors to those who did not agree with them. They discuss at great length their views before open meetings of the tribal council. Everything has been pretty fully brought out in the open in that way.

Federal policy calls for that kind of a cooperative working relationship between the tribe and the Government, and I am proud that we have it. I do not feel that the Government, through Mr. Fickinger and myself, have kept anything from the council and other tribal leaders and I appreciate the confidence they have shown in us in discussing the whole problem. I think you will find them testifying on a very high level of thinking and reasoning. I feel we are fortunate to have that kind of group with which to work, and that only carries out the cooperative attitude they have shown toward the Government through all the years of their history.

Representative WESTLAND. Thank you, Mr. Stone. I have added up approximately nine meetings that were held either with the council or with members of the tribe, starting in June and continuing through January of 1954.

Mr. STONE. Yes.

Representative WESTLAND. It seems that there were nine, and at one of them which you said was held in October both Indians and non-Indians attended. Could you tell me approximately how many Indians attended that meeting?

Mr. STONE. I think between 200 and 300 would be my estimate. You refer to the meeting at which members of the House committee attended.

Representative WESTLAND. You mentioned that the general public attended. About 200 or 300 Indians attended that meeting. This morning there was another statement made that some persons have managed to confuse some of these Indians. I would like to ask you or Mr. Fickinger, either, if you know of anyone who has tried to confuse these Indians as to the purposes and ramifications of this legislation.

Mr. STONE. I have not observed that locally.

Representative WESTLAND. Do you have anything to add to that, Mr. Fickinger?

Mr. FICKINGER. Mr. Congressman, I have not the least idea to what they refer. Certainly in our position there never has been any attempt to confuse the issue in any way. We have tried to lay out to the Indian people just what the provisions of the bill are and what is involved in it.

I might make one further comment on that and supplement some of the things that Mr. Stone has said. For the past several years we have been working in this direction, and we have had meetings with the tribal council. I have personally met with the council on a number of occasions, on which I have called their attention to the fact that this day is inevitable and that they should be doing some thinking about it. It is true that we did not have any draft of a bill at that time to lay before them to consider, but certainly the idea has been before them for some time.

Representative WESTLAND. Mr. Stone, I believe you said that a new council was formed this year and that you met with them on January 4.

Mr. STONE. Yes.

Representative WESTLAND. Is that the same council that voted unanimously against this legislation, or have they taken a vote?

Mr. STONE. I do not recall any specific vote taken by the new council. I believe that the new council, as soon as the elections were over, and it took office, set about immediately to a fuller consideration of the entire matter.

Representative WESTLAND. In other words, the statement that the tribal council members voted unanimously against endorsement of the proposed bill would refer to the previous council; is that correct?

Mr. STONE. The previous council. I have had nothing to indicate that the new council has changed that position.

Representative WESTLAND. I take it that the new council was elected in the usual due form and procedure.

Mr. STONE. Yes, and regularly so, Mr. Westland.

Representative WESTLAND. I would like to ask one further question. The statement was made in the Department of the Interior report that the general meeting called for the purpose of discussing the preliminary draft was attended by only 130 adult Flathead Indians, 130 out of some 4,000 Indians, and that they voted on this measure or expressed themselves. I would like you to tell me why such a small number would attend a meeting of that nature which involved certainly a very important subject to them. Was it a lack of interest? Was it because they were not informed? Just what reason, in your opinion, was there for that small attendance?

Mr. STONE. Congressman, I don't consider that a small attendance.

Representative WESTLAND. I do. Out of 4,000 people, 130 seems to me to be a very small number to consider a subject like that.

Mr. STONE. It was 130 adults and heads of families, to start with. They are in a rural community where they all have their work or their business to attend to. It was a subject that at the time probably did not seem critically near to them; that is, they did not know whether or not anything was going to happen or not. On the face of it, considering the total enrollment, that is a small number. However, cutting that in half to the 2,100 who actually live in the community, and lessening that by many of the tribal members who take very little interest in tribal affairs, plus these other elements, I would not have regarded it personally as too small a showing of interest.

Representative WESTLAND. Was this meeting held after the 1,400 circulars had been sent out or prior to that, Mr. Stone?

Mr. STONE. After.

Representative WESTLAND. It was held afterwards?

Mr. STONE. Yes.

Representative WESTLAND. In other words, you might say 1,400 families had been advised of this pending legislation?

Mr. STONE. Congressman, most of the circulars were sent out to those living off the reservation. The local people were advised principally through other channels. Several hundred circulars were circulated within the reservation it is true, but not the number that was sent to those who live off the reservation, for the reason that these people had no other means of getting the information correctly, except through some form of written communication.

Representative WESTLAND. From what I have gathered, there is about an equal number who live on the reservation and who live off.

Mr. STONE. Yes.

Representative WESTLAND. What was your reason for not sending out as much notice to those on the reservation as to those off the reservation?

Mr. STONE. Local people were advised in general meetings and by their council representatives. We did send many of those circulars out to people on the reservation, and they had access to the information in every community.

Representative WESTLAND. Do you believe that the Indians living on the reservation were fully advised of this pending legislation?

Mr. STONE. I do, yes.

Representative WESTLAND. That is all, Mr. Chairman.

Representative D'EWART. Mr. Shuford?

Representative SHUFORD. No questions.

Mr. FICKINGER. May I read hurriedly a telegram that I received from the Governor of the State of Montana, for the record, Mr. Chairman?

Representative D'EWART. Proceed.

Mr. FICKINGER. This is a telegram from Gov. J. Hugo Aronson, Governor of the State of Montana, and it reads as follows:

PAUL L. FICKINGER,
*Director, Billings Area Office, Bureau of Indian Affairs,
Care of Department of Interior:*

H. R. 7319 and S. 2750 are commendable in ultimate aim of granting full citizenship rights and privileges to Indians. However, suggest adequate safeguards to protect elderly full blood Indians. Also believe Federal Government should

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participate during transition period in financial impact on State and county government due to increase in welfare, public roads, education, employment, health, law enforcement, housing, and other services. Indian treaty rights should be fully explored. Suggest careful consideration of these and other problems emphasized in November report of Governors Interstate Indian Council. Because this measure would set a precedent for similar legislation affecting other tribes, think it imperative extreme care and caution be exercised in drafting its provisions.

J. HUGO ARONSON,
Governor of Montana.

Representative D'EWART. I have just been handed a telegram, which I will make a part of the record, addressed to the Honorable Hugh Butler, chairman. The telegram reads:

HON. HUGH BUTLER,
*Chairman, Senate Committee on Interior and Insular Affairs,
Washington, D. C.:*

The undersigned enrolled members of the Confederated Salish and Kootenai Tribes, Flathead Reservation, Mont., want a positive and complete liquidation of Flathead Reservation as presented by invited delegates Vera Voorhus Anatisia Wiewada. Please include this telegram in record of hearing 25 and 26 instant.

Laura C. Noel, Francis W. Clairmont, Alice E. Cowan, Hattei Hastings,
Mary Rose Clairmont, Olive T. Clairmont, Ernest K. Clairmont,
Geraldine L. Fulkerson, Carman Dupius.

*To the Committee of Interior and Insular Affairs, Hon. William H. Harrison,
Chairman, Washington, D. C.:*

There is submitted herewith an amended copy of the rough draft of the proposed bill, dated September 14, 1953, as submitted to individual members of the Confederated Salish and Kootenai Tribes for discussion.

PETITION FOR LIQUIDATION OF THE FLATHEAD INDIAN RESERVATION

This petition is for the purpose of expediting and bringing to conclusion the legislation to liquidate the Flathead Reservation, Mont.

And to assure the members of the Confederated Salish and Kootenai Tribes that such legislation complies with the provisions of the treaty of July 16, 1855, between the Confederated Salish and Kootenai Tribes and the United States of America:

In order that the constitutional, tribal and individual rights of any individual member of the said tribe is not impaired or discriminated against, or diminished by unfair interpretation of law or treaty, and/or lien of any sort;

And particularly to provide that all deferred and delinquent operation and maintenance charges for irrigation. The trust states irrigated allotments be canceled and that patents in fee simple issue for same free of all liens and incumbrance. (Authorized by the act of July 1, 1932, p. 369, 47 Stat. 564).

The petitioners herein are enrolled members of the Confederated Salish and Kootenai Tribes.

It is the prayer of this petition that the proposed bill be passed as amended herein by your humble petitioners who have signed herein.

Gwendolyn Roullin, 2351 Durant Avenue, Oakland, Calif.; John B. Roullin, 2351 Durant Avenue, Oakland, Calif.; Henry W. McLeod, 7215 Holly Street, Oakland 3, Calif.; Eva May Ollard, 1086 Post Street, San Francisco, Calif.; Andrew D. Stinger, 240 Darland, San Francisco, Calif.

*To the Committee of the Interior and Insular Affairs, Hon. William H. Harrison,
Chairman, Washington, D. C.*

GENTLEMEN: There is submitted an amended copy of the rough draft of the proposed bill dated September 14, 1953, as submitted to individual members of the Confederated Salish and Kootenai Tribes for discussion.

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FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS 871

And to assure the members of the Confederated Salish and Kootenai Tribes that such legislation complies with the provisions of the Treaty of July 16, 1855, between the Confederated Salish and Kootenai Tribes and the United States of America :

In order that the constitutional, tribal and individual rights of any individual member of the said tribe is not impaired or discriminated against, or, diminished by unfair interpretation of law or treaty, and, or lien of any sort ;

And particularly to provide that all deferred and delinquent operation and maintenance charges for irrigation on trust status irrigated allotments be canceled and that patents in fee simple issue for the same free of all liens and incumbrances. (Authorized by the act of July 1, 1932, ch. 369, 47 Stat. 564).

The petitioners herein are enrolled members of the confederated Salish and Kootenai tribes.

It is the prayer of this petition that the proposed bill be passed as amended herein by your humble petitioners who have signed herein :

Melvin Luke Campbell, 5479 Broadway, West Linn, Oreg.; Louise Knoll Campbell, West Linn, Oreg.; Clara Louise Courville Countryman, 615 East Hereford, Gladstone, Oreg.; Della Courville Zander, 515 Bliter, Salem, Oreg.; Glenn Lewis Campbell, 1533 Southeast 21st Avenue, Portland, Oreg.; Clara L. Courville, 615 East Hereford, Gladstone, Oreg.; Ernest J. Courville, 615 East Hereford Street, Gladstone, Oreg.; Alphonse Courville, 470 West Gloucester Street, Gladstone, Oreg.; Clara Elizabeth Courville, 470 West Gloucester, Gladstone, Oreg.; Alvin E. Courville, 235 West Clockamas, Gladstone, Oreg.; Charles T. Zander, 235 West Clockamas, Gladstone, Oreg.; Leona Zander Osbourne, 515 Bliler, Salem, Oreg.; Albert R. Zander, Prineville, Oreg.; Victoria G. White, 1016 Southeast Pine, Portland, Oreg.; Matilda C. Robinson, 952 Sutter Street, San Francisco, Calif.; William White, 1016 Southeast Pine, Portland, Oreg.; Eleanor Vallee Mitchell, 807 Southeast Morrison, Portland, Oreg.; Samuel H. Barber, 1633 Northeast Alberta, Portland, Oreg.; Arthur J. Barber, 1633 Northeast Alberta Street, Portland, Oreg.; Bernard W. White, 8514 Northeast Humboldt, Portland, Oreg.; Albert C. Courville, Route 1, Box 53F, Clackamas, Oreg.; Lucy Ashley, Courville, Clackamas, Oreg.; Wilmer G. White, 4006 Southeast 72d, Portland, Oreg.; Agnes Ballard, Philomah, Oreg.; Mrs. Margaret Wrono, 16023 Northeast 26th Avenue, Seattle, Wash.; Clarence V. Edwards, 4643 Luther, Riverside, Calif.; Sadie Knoll Morigeau, 338 South Fourth, Courvallis, Oreg.; Clinton R. Lucier Campbell, 1586 Waller Street, San Francisco, Calif.

(Off the record.)

Representative D'EWART. The committee will stand adjourned until tomorrow morning at 10 o'clock in this committee room, and the first witness will be Mr. Lee in explanation of the bill, followed by Mr. McNichols.

(Whereupon, at 4:50 p. m., the hearing recessed until 10 a. m. the following day.)

TERMINATION OF FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS

FRIDAY, FEBRUARY 26, 1954

UNITED STATES SENATE, HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS OF THE UNITED STATES SENATE; AND
SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

The committees met at 10 a. m., pursuant to recess, in room 318, Senate Office Building, Hon. E. Y. Berry (chairman of the House subcommittee) presiding.

Present: Senator Watkins, Representatives Berry, D'Ewart, and Aspinall.

Present also: Senator Mansfield; Albert A. Grorud, member of the professional staff of the Senate Committee on Interior and Insular Affairs.

Representative BERRY. The committee hearing will come to order.

Because of the fact that there were some who could not hear yesterday, we want to take levels on these microphones, because certainly we want everybody to hear everything that is said and done.

Can you people all hear me back there now? Is there anyone who can't?

Can you people back there hear everything that I say now?

Fine.

We just want to be sure that everyone hears everything that is said.

Now, when the committee recessed yesterday afternoon, Rex Lee, Associate Commissioner, was on the stand.

If you will take the stand, Mr. Lee, and complete your statement, we will appreciate it. I wonder if you would test that microphone before you start?

STATEMENTS OF H. REX LEE, ASSOCIATE COMMISSIONER, BUREAU OF INDIAN AFFAIRS; PAUL L. FICKINGER, AREA DIRECTOR, BILLINGS, MONT.; FORREST R. STONE, RESERVATION SUPERINTENDENT, DIXON, MONT.; AND LEWIS SIGLER, PROGRAM COUNSEL, BUREAU OF INDIAN AFFAIRS—Resumed

Mr. LEE. The microphone seems to be O. K.

Representative D'EWARR. Mr. Chairman, we had finished with the economic conditions and physical conditions of the tribe and had reached the point where the member of the Department was going to explain the provisions of the bill. I believe that is the next step in the testimony before this committee.

Representative BERRY. Mr. Lee, you may proceed.

Mr. LEE. My name is Rex Lee, Associate Commissioner of the Bureau of Indian Affairs. I have with me, on my left, Mr. Lewis Sigler, program counsel for the Bureau of Indian Affairs.

As Mr. D'Ewart has indicated to you, we were about to get into a general discussion of the provisions of the bill.

In our January 4 report, that has been submitted for the record, the Department gave a section by section analysis of the proposed bill. This morning I intend to touch merely on some of the major provisions of the bill. If you have questions, we will go into more detail. But in order to save time we will not go into a detailed discussion of all of the provisions of the bill.

The first major provision is for the closing of the tribal rolls: This is done as a basis for creating individual interests in tribal property. The major responsibility is given to the tribe to prepare such a roll within a given period of time. Any person that is aggrieved by the inclusion or exclusion of his name from the roll may file an appeal with the Secretary within a given period of time.

The proposed bill also provides that a representative of the Secretary might make an appeal in behalf of any individual that they think is aggrieved.

Now, the termination of the Federal trust over tribal property is handled in such a way that the tribe has several choices of what to do with its property.

First of all, the tribe may incorporate under State law, or it may choose any other type of legal entity under State law to handle its property. They might also choose a trustee for either management or liquidation purposes.

I would like to emphasize that, although there has been a lot of talk about liquidation on all of these 108 bills that the Department has proposed, we have tried to make it clear that the intention of these bills is not liquidation, unless the Indians themselves choose to liquidate. And I believe there is ample room for the tribe to take other courses of action if it wishes to do so.

On the other hand, we think that this is a decision that should rest with the Indians that are affected. And this proposed bill provides that their final decision on tribal property shall be determined by a referendum of all the tribal members that are on the final roll.

Now, if the tribe does not exercise any of the options that I have mentioned, the Secretary will transfer title to a trustee of his choice for liquidation purposes within a 3-year period.

Representative D'EWART. Mr. Chairman, before we leave the tribal rolls:

What is the present status of the Flathead tribal roll?

Mr. LEE. It is my understanding that the tribal roll is in fairly good shape. As you know, they have per capita payments there, and they try to keep them current, and it is my understanding that the existing roll is in good shape. There may be some appeals that are pending, but by and large it is in good shape.

Now, on this provision of the Secretary choosing a trustee for liquidation purposes, the Department would like to suggest an amendment, the same amendment we have suggested on the other bills, to provide

an additional chance for the tribe to change its mind after the trustee has been appointed.

Representative D'EWART. Mr. Chairman, might I ask one more question about this tribal roll, before we leave that?

On pages 2 and 3 of the bill, the sentence reads that the Secretary shall review such appeals with reference to the rolls, and his decision thereon shall be final and conclusive.

Why is not that left to the courts instead of to the Secretary?

Mr. LEE. Well, there are two reasons why we have suggested that the Secretary's decision be final. I think historically that authority has rested with the Secretary. He has usually had that authority as a matter of practice.

The second reason is that the court appeal procedure would take considerable time. We are not suggesting that it shouldn't be a court procedure, if the Congress decides that that is the thing they want. We have simply tried to follow a historical pattern, and also to do it in a manner whereby we could get fairly quick action on the roll.

Representative D'EWART. Yours, then, is mainly historical, and getting early action?

Mr. LEE. That is correct.

Representative D'EWART. You feel that going to the courts would delay having a roll established for a long time, and might even delay making per capita payments in the meantime, if it was appealed to the courts?

Mr. LEE. That is correct. It could tie up the assets of the tribe for an indefinite period.

I had just started to talk about this amendment to the provision whereby the Secretary would appoint a trustee for liquidation purposes. We would like to suggest an amendment. On page 4 of the Senate bill, line 13, change the period to a colon and add:

Provided further, That the trust agreement shall provide that at any time before the sale of tribal property by the trustees, the tribe may notify the trustees that it elects to retain such property, and to transfer title thereto to a corporation, other legal entity, or trustee, in accordance with the provisions of subsection (a) of this section, and that the trustee shall transfer title to such property in accordance with the notices from the tribe if it is approved by the Secretary.

As I explained, that is simply an added proviso so that the tribe, if it changes its mind prior to actual liquidation by the trustee, can choose the management type of approach rather than liquidation.

Now, in regard to the termination of the Federal trust, over individual property, all trust patents are converted into fee patents by operation of law 2 years after the date of the act. During the 2-year period, the Secretary may help solve the heirship problem by partitioning or if that is not practicable by selling the land on request of any owner of an undivided interest. That proviso is simply a service function that we are proposing be provided to the holders of heirship land, in case they want to take advantage of it. If they do not take advantage of it, of course, the title will go over into fee simple, and they will have to go to the courts to settle their estates.

Estate probate laws are made applicable to estates created 6 months after the date of the act. The Federal property used for the admin-

istration of Indian affairs may be disposed of by gift to a member or members of the tribe or to a public or nonprofit organization for public purposes when Indians will participate. We think it is desirable to have this leeway in disposing of our agency property, because in many instances the buildings have been used for public purposes, and we do not wish to disrupt any of the public functions in the community or throw an unnecessary burden on the community.

Senator WATKINS. I wonder if you misspoke yourself when you said it could be given to any person, Mr. Lee?

Mr. LEE. I think I said any individual Indian. I think in this particular instance we have a few Indians that have actually resided on Federal land, and we would like the opportunity of examining their case to determine whether or not it might not be the equitable thing to do to let them have the property for continued residence.

Senator WATKINS. You mean they have built a home on land that belongs to the Federal Government, and it is land that has been used in connection with the Indian reservation?

Mr. LEE. That is correct.

Again, I would like to say that we would have to examine each one of these cases very carefully and try and do the equitable thing. It is my understanding that we have a few individuals on this reservation who have lived for a good many years on Federal property. We don't want to work a hardship on any individual by this bill, if we can possibly help it. We think the Federal Government should be generous in its final closeout.

Senator WATKINS. The only thing there would be the land on which these buildings were placed.

Mr. LEE. I am not sure in this particular case. It is my understanding, and I will be glad to submit for the record at a later date the exact facts in the case, that there are some buildings on Federal land that are being occupied by Indians. Now, I am not exactly sure of the ownership of the buildings. I would be glad to submit for the record before you mark up this bill, a complete statement on what the individual problem is on this reservation.

Senator WATKINS. I would think that there would have to be some extenuating circumstances before a provision of that kind ought to be adopted, because I don't think any individual should be made a gift, unless there are circumstances there that would indicate that he made an investment which would be lost otherwise.

Mr. LEE. I agree with you that it would have to be in unusual circumstances. It is my understanding that there are 1 or 2 unusual circumstances on this reservation. I would be glad to submit for the record those circumstances, if you would like.

Senator WATKINS. I am sure the committee would be glad to get that information.

Mr. LEE. We would be very glad to do that.

(The statement referred to follows:)

There is a total of 49 families involved in this group, 48 of which have homes and reside on lands adjacent to and within the lines of the townsite of St. Ignatius, Mont. There are 34 acres of this land and is described as follows:

E/2 SW/4 NE/4 SE/4, SE/4 NE/4 SE/4, that part N&W of HW in NE/4 SE/4 SE/4, and E/2 SE/4 SE/4 SE/4, also the SW/4 SW/4 SE/4 and W/2 SW/4 SE/4, all in sec. 14, T. 18 N., R. 20 W., approximately 34 acres.

One more family comes under this classification and this family is located on Revais Creek on a Government withdrawal described as the N/2 NE/4, sec. 32, T.

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18 N., R. 22. In bringing this tract of land, however, under the protection of section 8 of the bill it is not assumed that over 5 acres would be included as a homesite for this particular family, which would cause the total acreage to be listed as follows:

	<i>Acres</i>
St. Ignatius.....	34
Revais Creek.....	5
Total	39

In regard to the character of this land you are advised that for the purposes of this report we need to consider it as restricted land administered by and reserved by the Government for administrative purposes. The question as to its actual Federal or tribal ownership has not been fully resolved.

In regard to the character of the people occupying these 49 homes, and as to the character of the homes they occupy, I wish to advise that all the families are members of the Flathead Tribe, and that a possible 50 percent have not been continuous or longtime dwellers of the particular houses they occupy. Others have lived there for two generations, and there is a history that a number of these houses were built by Indians prior to the allotment of the reservation. Obviously this group settled around the mission. Some of the houses in later days have been built by rehabilitation or relief funds, and none of the buildings are carried on Government property records. Perhaps all of the buildings represent a low unit value and for the most part are 1- and 2-room structures. None of them are modern. The families residing in these various homes are entirely wage earners or belong to some welfare category.

The purpose of injecting the provision in the proposed legislation was due to the fact that the Government had withdrawn these lands for administrative sites, and over the years had allowed these families to occupy the land as homesites.

Since there appears to be some question as to whether these lands actually belong to the tribe or to the Federal Government, this determination will have to be made. If the land belongs to the Federal Government, then, as stated in the hearing, the case of each individual Indian family will have to be considered on its merits; that is, the length of time the Indians have lived on the property, the improvements made, if any, any assurances that may have been given them of continued occupancy, etc.

Mr. LEE. Now, the State is given the right to tax Indian lands after the Federal trust is terminated, on the same basis that other lands in the State are taxed.

I might say, on that particular provision, that the Assistant Secretary brought out to this committee, in his appearance before the committee at the beginning of these bills, that the Solicitor had issued an opinion that in some instances there might be a question of constitutionality of that particular provision. We have reviewed it informally in the case of the Flatheads, and we do not think it is a problem on the reservations.

Indian owned lands within the Flathead Indian irrigation project are made subject to assessment and collections for reimbursable construction costs chargeable against such lands. Authority is provided for the Secretary to make adjustments in unpaid operation and maintenance assessments against Indian-owned lands within the project in cases where such assessments are determined to be inequitable.

I think you pointed out yesterday, Senator Watkins, in regard to the Indian-owned lands, that the mere fact that they did not have to pay construction charges would be quite an incentive to hold on to the lands. I would like to specifically point out to you that this proposal would terminate that exemption, and that the Indians would have to start paying construction charges on their lands.

The rights of minors and incompetents will be protected by the appointment of guardians through local courts or by a more informal procedure if assets involved are not large. We are dealing with a reservation here where the tribal interest is very substantial, as was pointed out yesterday, and I would assume that in most cases we would go through the courts for the appointment of legal guardians. We feel that, by and large, we can protect the interests of the incompetent, the aged, or the children by this procedure.

The use of tribal funds will be authorized for purposes approved by the tribe and the Secretary. We have that authorization in our current appropriation act. We put in the proviso here to make it permanent during this interval for termination, to make it absolutely sure that we can use tribal moneys, or that the tribe can use their moneys, to make studies or make other expenditures that are necessary during this period of termination.

The final major provision is that when Federal restrictions have been removed from all the property of the tribe and its members, a proclamation will be published in the Federal Register, and thereafter the Indians will have the same status under State and Federal laws as other citizens.

We have one other minor amendment that I would like to submit.

Representative D'EWART. Mr. Chairman, before you leave section 6, with regard to the fractionated heirship, on the bottom of page 5, paragraph (c) (1):

Upon request of any of the owners, partition the land and issue to each owner a patent or deed for his individual share that shall become unrestricted two years from the date of this Act—

I notice there is no provision in there, in either case, for either the tribe or the corporation that might be set up to acquire these fractionated ownerships on a preference basis.

Mr. LEE. The tribe or the corporation or any other Indian group would have the right to bid on that property or make an offer on that property. There is not a preference right.

Representative D'EWART. Not before a sale?

Mr. LEE. There is a preference right for the heirs.

Representative D'EWART. They are given a right before the sale or purchase?

Mr. LEE. That is right. But you are correct in pointing out that we do not have a preference right for the tribe or the corporate or legal entity that might represent the tribe to acquire this property.

Representative D'EWART. Would there be any objection to such an amendment?

Mr. LEE. I see no particular reason for any objection to that. I think it is simply a matter of determining whether or not the heirs would get the maximum value of their lands. Certainly if the Indians would like an amendment to that effect, it is my personal opinion that you should give it to them. It is not provided in this bill, however.

Senator WATKINS. The tribe could have the next preference anyhow.

Mr. LEE. I would like to simply make this observation. We do have a little bit of a problem on these preference rights in terms of knocking down the value of the sale.

Mr. TUNISON (George M. Tunison, attorney for Flathead Indian Tribes). Might I have the opportunity at this time to interrupt, in view of the remark of the Commissioner, as to the effect if the tribe would like a certain amendment?

As counsel for the tribe, I would like to say that we are opposed to this bill from start to finish. We are not offering any amendments.

Senator WATKINS. Your statement will make that clear, and you will have full opportunity, Mr. Tunison, to state your position afterwards. We can't take it all at once.

Mr. LEE. My remark was addressed to the fact that you are dealing with property rights of individual tribal members. It is my opinion that their desires should be respected in this particular question. Because I feel that when you are dealing with the property rights of Indians, they should have a voice in that type of thing. I was saying, before I was interrupted, that sometimes preference rights do depress the price that is bid on properties. I am not sure that it would be too big a factor here, and, as I say, personally, I would see no objection to that.

Senator WATKINS. The preference could be given to give the ones that had the preference right to take it in at the highest bid.

Mr. LEE. That is correct.

Senator WATKINS. Then there isn't any reason why the price should be depressed.

Mr. LEE. I would like to refer back to the amendment that the Department would like to offer. On page 11 of the Senate bill, section 18, line 6, after the word "lien," we would like to insert—

easement (including the permanent easement to the United States created by subsection (b) of section 5 of the act of May 25, 1948 (62 Stat. 269)).

This amendment is simply to make doubly sure that the easement that was purchased by the Federal Government for irrigation and wildlife purchases back in 1948 is fully protected. The Federal Government purchased certain easement rights there at a cost of, I think, around \$400,000.

Representative D'EWART. Would this include the Bison range?

Mr. LEE. I think not, Congressman. This is an easement primarily for the irrigation works and the wildlife refuges that have been created in connection with those works. Again, I would like to state that those easements have been paid for by the United States.

Mr. CHAIRMAN. I think that concludes the testimony of the departmental witnesses, unless you have further questions.

Representative D'EWART. I think we ought to have a little background on Hill 57 from the Department witnesses.

Senator WATKINS. I think, before we excuse the Department witnesses, we ought to have a statement on the background of the notorious Hill 57 that was mentioned by the opening witness in this hearing.

Mr. LEE. We would be glad to give you a statement on that. I would like to call Mr. Paul Fickinger, our area director, who has responsibility for that area. I think he is most acquainted with the particular problem.

Senator WATKINS. Is Mr. Fickinger here?

Can you enlighten us, give us some of the background of Hill 57 and the Indian problem that is connected with that location?

Mr. FICKINGER. Mr. Chairman, I became acquainted with the Hill 57 problem, as it is called, within a matter of a year or two after I came into the Indian Service. I was sent up to Great Falls for the express purpose of looking into the matter.

The things that I found there were not too pretty at the time, I will grant you. It developed, however, that Hill 57 is populated by a group of people who, to some extent at least, had been invited there by the Great Falls community, people living in Great Falls, to do certain types of work. They did serve a constructive purpose to those people. I found that the children in the schools were segregated into a separate school by themselves. I discussed the matter at that time with the chamber of commerce and other representatives in Great Falls.

We pointed out at that time that, after all, these people were not the responsibility of the Federal Government, had never been the responsibility of the Federal Government, and were the responsibility of the local community itself, and that the people of Great Falls should do something about those people, helping them, through various means that they employ in assisting other people less fortunate than themselves.

Many of these people are actually employed. Some of them are employed in the smelter works, and others in various other types of work including working in the homes of residents of Great Falls. And I have followed that development periodically, just out of interest, and I have seen some of the shacks that they have built on Hill 57 improved quite materially—several having been enlarged and stuccoed. All of the homes are not as those pictured in the exhibit presented to you yesterday. These people have had to depend largely on themselves and as such have literally lifted themselves by their own bootstraps.

It is possible that there may be a family or two from the Rocky Boy Reservation, who have moved and have settled around Hill 57 because of proximity to their work.

The land known as Hill 57, I believe, is owned by Cascade County and it is my recollection that the County has sold, in some instances, the lots to the individuals who have built homes there.

The individuals living on Hill 57, however, generally have no status as Indians for whom the Federal Government would have responsibility. I believe it can safely be said also that some are not citizens of this country, coming from Canada.

Now Hill 57 is not necessarily completely tied in with this so-called landless group of Montana, that was mentioned yesterday although I suspect most of the occupants associate themselves with the group. There is a group in Montana that call themselves the landless Indians of Montana, and by that they are referring to the fact that they were not allotted by the United States Government. And I believe, Mr. Chairman, that it goes back to the thing that was mentioned yesterday, and involves a group of people that were involved in the so-called Riel Rebellion. A certain group of the individuals involved there were not, according to history, loyal to the United States, and consequently were not allotted. They did flee to Canada and as I understand for many years made their home in Canada.

There was another band of the same tribe, so to speak, the Chippewa-Cree, under the leadership of Rocky Boy, that were loyal to the United States, and the United States Government did set up a reservation for them known as the Rocky Boy Reservation near Box Elder, Mont.

The State of Montana does have a problem in the continuous interchange and communication across the border of Canada with some of the Cree and Chippewa Indians. We have many instances of some of them coming across the border to enter the Indian Service hospitals, trying to secure certain types of services that are provided to the Indians on Montana reservations. It has been a problem. It has been a problem for the Indian Service, and it has been a problem for the State of Montana.

I think that the situation on Hill 57, going back to that again, however, should not be considered in any light as an illustration of what will happen to any group of Indians under any withdrawal program covered or provided for under Concurrent Resolution No. 108.

I think it should be pointed out that probably most of those people who live on Hill 57 have never had any land to start with. And they have moved in, as I said, to the vicinity of Great Falls for the purpose of securing work. And many of them are actually working and have been working for years. Let's keep that in mind.

With any group, you will always find a few who either do not have any desire to work or can find some other way of making a living. Most every town and city has its "shack" area. It is not improbable that some people want to live that way. Even the city of Washington, D. C., is not immune.

I do not think that the situation at Great Falls should be held up as an example of failure of the Federal Government to take care of a group of people of that nature, for the simple reason that, if nothing else, those people have never been considered as wards of the Government nor any responsibility of the Federal Government. If responsibility lies anywhere, where it is with the local communities, the same as for non-Indians.

Representative D'EWART. Mr. Chairman, might I inquire as to the education of the children that belong to these families?

Mr. FICKINGER. These children are being educated in the schools of Great Falls. They are no longer segregated.

Representative BERRY. Does the same situation that exists on Hill 57 exist in any of the other cities of Montana?

Mr. FICKINGER. Not to the extent that it does in Great Falls, because there is not as much of a concentration. There are instances of Indian families attaching themselves to the outskirts of other towns such as Havre, Helena, and similar communities, but this is no different than non-Indians. Even Billings, my own hometown, has its area of shacks and poor homes; a few Negroes, Mexicans, Indians, and whites live there. On the other hand, members of all these same races live also in the more modern parts of the city. There is nothing peculiar about that kind of a situation.

But I would say that generally in the State of Montana the situation as it relates in that respect to the towns and cities in Montana is certainly no worse, and I think far better, than the situation you will find in many other towns throughout the United States.

Representative BERRY. Actually, this is the only town that has a Hill 57?

Mr. FICKINGER. So far as I know; yes, sir.

Senator WATKINS. May I ask you, Mr. Fickinger: Do you have a roll of the Indians that are living at Hill 57?

Mr. FICKINGER. Mr. Chairman, we have never considered this group as the responsibility of the Federal Government. Consequently, to my knowledge, we have not prepared a roll. I believe the landless Indian group has prepared a membership list of their members and I believe one of the groups—there are two—has incorporated. It is further my understanding that these groups have filed claims against the United States Government under the provisions of the Claims Commission Act. As to the nature of their claims, I am not informed.

Again I say we have never considered this group as any responsibility of the Federal Government, and consequently we have not gone into it to the extent of getting a membership roll. I am not sure just how we would go about it because I don't know how those people can even prove a degree of Indian blood. I feel sure that many of them are not descendants of individuals who are on other rolls. That, of course, is one way in which we are able to follow the bloodline.

Representative ASPINALL. Mr. Chairman, would you yield to me for a question?

Senator WATKINS. Yes.

Representative ASPINALL. Would there be any way in which the Indian service could take jurisdiction over that particular group of Indians unless Congress authorized them to do so?

Mr. FICKINGER. Thank you, Congressman, for your question. There is no way in which we can take responsibility for them unless Congress so authorizes. And I believe that that matter has been presented to the Congress by the Indians themselves and also by resolutions from various sources, urging that the Congress do recognize them as an Indian group. But, so far as the Bureau of Indian Affairs is concerned, we have no present legal authority to recognize them in any way as a group of Indians.

Senator WATKINS. The only authority you have, of course, is the authority given you by acts of Congress?

Mr. FICKINGER. That is correct.

Senator WATKINS. Do you know whether or not any of these Indians or people claiming to be Indians living at Hill 57 ever had any allotments given to them in fee?

Mr. FICKINGER. No, sir; I do not, Senator. I do not know that any of them have ever secured a patent in fee. It is my belief that none of them have ever been allotted. It is possible that some of them may have been allotted, but I have no knowledge that such is a fact.

Senator WATKINS. You mentioned that some of them came from the Rocky Boy Reservation. What was the situation with respect to them?

Mr. FICKINGER. The Rocky Boy Reservation has not been allotted. It is entirely a tribally owned reservation. It has not been allotted, and consequently the individual Indians own an undivided interest in the total assets of the reservation.

Now, most of the Rocky Boy Indians do go out and do seasonal work around the country. A few of them are establishing themselves in farming and the cattle business. The reservation resources are entirely inadequate to permit the making of a reasonable living by all of the members of that particular tribe. Consequently, it is essential that some families be relocated under the relocation program of the Bureau of Indian Affairs, and many of them have been permanently relocated. I think we need to go further, however, and point out that not all the members of the Rocky Boy Reservation have a desire to become stockmen and farmers, any more than all people in any other community might want to be stockmen and farmers. Yet that is the type of resource available to the Rocky Boy Indians on their reservation.

Representative D'EWART. Will the chairman yield?

As a matter of fact, we are planning to make available to them some of the irrigation tracts under a new type of project, as I recollect.

Mr. FICKINGER. Part of the Rocky Boy Reservation is included in the irrigation development of the Marias River; yes, sir.

Senator WATKINS. As I remember, some of the Indians at Hill 57 were said to have come from Turtle Mountain.

Mr. FICKINGER. In North Dakota. Yes, sir.

Senator WATKINS. Do you know anything about that claim?

Mr. FICKINGER. No, sir; I have no knowledge of it, sir.

Senator WATKINS. Do you know of any Indians at Hill 57 who have come to the Indian Bureau and claimed to be on any Indian roll anywhere in the United States?

Mr. FICKINGER. They have not come to us on it, and I do not know of any such instances. But, as I say, it is possible that there may be some Indians from the Rocky Boy Reservation who may have settled on Hill 57 for the purpose of being available to work. And, as I have previously stated, some of those people on Hill 57 work in the smelters and have steady, reliable employment in the smelter works at Great Falls. I know that to be a fact.

Senator WATKINS. Do you know whether or not they draw the same pay for the same type of work as a white man would draw for that work?

Mr. FICKINGER. I do not know that, but I would have to assume that they probably do, because I believe that the smelter works are fairly well unionized, and I do not believe that they employ outside of the union. Consequently, they would have to belong to the union in order to be employed there.

Senator WATKINS. The witness yesterday, Mr. Shipman, I think, made the general claim that these Indians in Hill 57 were an example of those who had had their lands, their property, given to them and then had disposed of it, and that was used as an example of what would happen to the other Indians.

Would you care to make any comment on that statement? We have not found any so far from your testimony that had actually had land or had property disbursed to them if they actually ever had any claim for any.

Mr. FICKINGER. The only comment that I can make, Mr. Chairman, is that I would have to, I think, dispute the gentleman's testimony with reference to that, from just the same generalized basis. To my

knowledge, there are none of the Indians on Hill 57 who fall in the category of individuals who have had allotments and who have gotten a patent in fee thereto, and have sold them. Now, I do not mean to say categorically that that might not be the case, because it is possible that there may be an Indian or two living on Hill 57 who actually has had an allotment and has sold it. But I cannot say that from actual knowledge at the moment.

Senator WATKINS. The Indian Bureau would know about Indians who were on the rolls, if they were at Hill 57, would they not, ordinarily?

Mr. FICKINGER. Not necessarily, Senator. Yes, if there was any particular reason to check on them, we would do so. But when they sell their land, when they get a patent to their land and they leave the reservation, they are, in essence, the same as any other citizen. We do not attempt to follow them all over the United States. And that is exactly what we would have to do if we attempted to keep track of them. Indian people do live in all parts of the United States. We have Indian people from Montana who live in Washington, Oregon, Nevada, New York, Chicago, all over the country. And we certainly do not attempt to follow them around in that manner.

Senator WATKINS. As a matter of fact, the Indians who live on reservations are free to come and go as they please.

Mr. FICKINGER. That is absolutely correct; yes, sir.

Senator WATKINS. Without any control or supervision of the Indian Bureau?

Mr. FICKINGER. The Indian Bureau has no supervision or control over the personal body of an Indian.

Senator WATKINS. Do you have any figures on how many Indians in the Flathead Reservation have taken advantage of the opportunity to vote at the general elections held in Montana?

Mr. FICKINGER. No, sir; I haven't. I am sure that the precinct reports of the last election will undoubtedly give a pretty good picture of that, at least those communities where the voting precinct, the voting place itself, is right in the Indian community. But I have never checked on that, sir.

Senator WATKINS. Would you have general knowledge as to whether the Indian in Montana, in your area that you are in charge of, do take advantage of the right of the ordinary American citizen to vote at the general election?

Mr. FICKINGER. Mr. Chairman, it is my belief that the Indians generally do take quite an interest in that, and they do vote. I would say that the Indians of Montana are interested in citizenship and do exercise their rights of franchise.

Senator WATKINS. I remember at least one Indian who has been a candidate for Federal office.

Mr. FICKINGER. That is correct. But not only that, Mr. Chairman, quite a number of Indians in the State of Montana are elected to public office. We have a representative in the State legislature from Glacier County, which is on the Blackfeet Reservation. We have another one from the Blackfeet Reservation. He doesn't live there right now, but he is also in the State legislature. We could go right down the line, county officials and State officials, elected as well as appointed officials. And I would say that in general the Indian

people have been participating in the political, county and State, government affairs in the State of Montana. We are rather proud of that, Mr. Chairman, as a Federal Bureau, because we think that that is "making progress".

Senator WATKINS. What I was trying to get at was to determine whether they have really accepted citizenship since the act was passed, giving them full citizenship.

Mr. FICKINGER. I would say they had, yes, sir.

Senator WATKINS. You have heard no protest from them about being made citizens of the country with the right to vote and participate in the functions of government if they should be elected?

Mr. FICKINGER. I have heard no such protests, no, sir.

Senator WATKINS. And, as an official in the Indian Bureau, you would likely know about it if there had been any objections to becoming an American citizen with the right to vote?

Mr. FICKINGER. I suspect that I would, yes, sir. I suspect that the Members of Congress would also.

Senator WATKINS. Since I have been here, and I have been chairman of the Indian Committees twice, I have never heard any objection by an Indian about being an American citizen except in two or three cases.

We had 2 or 3 Indians from the Mohawk Reservation in New York, who objected to being American citizens, who said they wouldn't accept American citizenship, wouldn't register for the draft, wouldn't have anything to do with this country and didn't want anything to do with this country. But I think only two took that stand. There may have been others in that same reservation.

Mr. FICKINGER. Mr. Chairman, I think the record is pretty clear in Montana with respect to that. During the various wars that we have had, the Indian boys have volunteered in heavy strength to serve in the Armed Forces. Those who have been drafted have offered no objections to being drafted. I think that in general we could certainly say that the Indians of Montana are proud to be citizens of the United States.

Senator WATKINS. Any further questions?

Representative D'EWART. I have 1 or 2 more on the bill.

Mr. LEE. I don't believe you have covered section 14, page 9:

Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

I would like to have you enlarge on that section and explain just exactly what it means.

Mr. LEE. I commented briefly on it, Congressman, to the effect that what we were trying to do by this section was to place Indians on exactly the same basis as any other citizens.

Representative D'EWART. How does it fit into Public Law 280?

Mr. LEE. Public Law 280? In this particular area, the State has not assumed jurisdiction. However, the minute this proclamation was made, these Indians would be subject to State law, the same as any other citizens.

Representative D'EWART. There would be no need, then, of Public Law 280 being established by State action?

Mr. LEE. That is correct.

Representative D'EWART. Under Public Law 280, some say that it requires State consent. Since that is required in 280, would this provision set aside that provision in that law?

Mr. LEE. In regard to these particular Indians, it would. These Indians would be on exactly the same basis as you or any other citizen of Montana in relation to State law or any other law. That is, this is supposed to be an overall section that simply removes any special status that the Indian might have as an Indian in regard to the various special laws that have been passed for Indians.

Representative D'EWART. Mr. Sigler, would you like to enlarge on that, since it is a legal technical question?

Mr. SIGLER. I think you are referring to the fact that when Public Law 280 was approved, the President recommended that it be amended to require Indian consent before it is extended to further States. Was that your point?

Representative D'EWART. No, I had special concern as to its relationship to the State. We would like that point clear.

Mr. SIGLER. This bill does not contemplate that the State would have to enact any legislation. It is possible that if the State laws are so framed that they would exclude a territory, such as the Flathead Reservation, an amendment to the State law might be required. But so far as the Federal Government is concerned, this section would terminate the special Federal laws that are applicable to Indians, and then it will be up to the States to make their laws, if they are not already that way, fit all of their citizens, not just a part of them.

Representative D'EWART. The legislation says that in the absence of consent being given to future action to retain jurisdiction, it is to retain exclusive jurisdiction until the entitlement to such land is extinguished.

Mr. SIGLER. Is that in the bill, Congressman, or in the report?

Representative D'EWART. That is in the report.

Effect of the disclaimer of jurisdiction over Indian land within the borders of these States—in the absence of consent being given for future action to assume jurisdiction—is to retain exclusive Federal jurisdiction until Indian title in such lands is extinguished; such States could, under the bill as reported, proceed to amendment of their respective organic laws by proper amending procedure.

(3) Give consent to all other States to acquire jurisdiction over criminal offenses or civil causes of action at such time and in such manner as by affirmative legislative action such States may elect to acquire jurisdiction.

Now, it seems to me that legislation is in the statute, and here we have in section 14 another measure by which civil and criminal jurisdiction is established in the States. And my question goes to the matter of which prevails.

Mr. SIGLER. You are quite right. The provision in the bill before the committee now is a different approach than the one you have just read there. It does not require State legislation or State consent. As a matter of fact, if I recall Public Law 280 correctly, the law does not actually require the consent. But I am not sure of that. But in any event, Congressman, may I make this suggestion? This proposal is designed to terminate the special Federal trust relationship

to Indians. And it will leave the Indians, then, in exactly the same status as non-Indians so far as law enforcement is concerned.

Then it may be that the State will need to amend its laws in order to make them adequate in view of the Federal change. I can't say.

Senator WATKINS. The report referred to seemed to go on the theory that until the property rights had been conveyed to the Indians, consent would be necessary. But after that takes place, then consent would not be necessary.

Mr. SIGLER. Yes. That is an important point. Public Law 280 deals with civil and criminal jurisdiction over Indians who are living on reservations, reservations that are still held in a trust status. Public Law 280 does not give the State complete jurisdiction. There are some qualifications on what the State laws may do.

Representative D'EWART. Let me quote this section 6. It isn't quite clear to me.

Notwithstanding the provisions of any enabling act for the admission of a State, consent of the United States is hereby given to the people of any State to amend, where necessary, their constitution or existing statutes as the case may be to remove any legal impediment to the assumption of civil and criminal jurisdiction according to the provisions of the Act: *Provided*, That the provisions of this Act shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes as the case may be.

Now, your position is that section 6 would be for all practical purposes repealed if this new election goes into effect?

Mr. SIGLER. It would be made inapplicable to Montana, or to this Flathead Reservation. It would not be repealed in general terms.

I would like to make one point. I am afraid I didn't make this clear, Congressman D'Ewart. Public Law 280 is designed to cover jurisdiction over trust property or offenses committed on trust property by Indians. This bill that you have before you is designed to terminate the trust status of all property, and therefore make the civil and criminal laws of the State applicable. You are quite right, however, that the approach here is not the same approach as the one you just read, in that the applicability of the Federal laws is not made contingent upon future State legislation.

Representative D'EWART. I would appreciate it, Mr. Sigler, if you would examine that enabling act to see if Indian title in the land is not a phrase used there and does not affect this legislation.

Mr. SIGLER. I shall be glad to do that and submit to you a memo.

Mr. LEE. I would like to point out, Congressman D'Ewart, that this also affects the services that Indians can now claim as Indians. That is, it is all embracing.

Senator WATKINS. In other words, what the legislation attempts to do is to give the Indians complete freedom, as any other citizen would have, over the management of their affairs. There would be no restrictions on Indians as Indians. They would have exactly the same laws applying to them as apply to white people or any other non-Indian citizen?

Mr. LEE. That is correct.

Representative D'EWART. I have a question in regard to section 17, page 11:

Nothing in this Act shall affect any claim heretofore filed against the United States by the tribe.

Would that affect any future claim? Does that mean future claims?

Mr. SIGLER. It does not by words cover future claims. And that is a matter of perhaps defective draftsmanship.

The questions were raised after the bills were prepared, and there is no intention to affect future claims as well as past claims.

Representative D'EWART. How does that affect this sentence of section 11:

All Acts or parts of Acts inconsistent with this Act are hereby repealed insofar as they affect the tribe or its members.

Does this future claim have anything to do with the repeal of these acts?

Mr. SIGLER. I don't believe so. Are you perhaps referring to the fact that the jurisdictional act under which Indians may now sue may be repealed by the general repealer?

Representative D'EWART. I call your attention to this language in section 20, page 11:

All Acts or parts of Acts inconsistent with this Act are hereby repealed insofar as they affect the tribe or its members.

Now, it seems to me that possibly that sentence in section 20 might affect the filing of claims.

Mr. SIGLER. I think it might, if we do not put in future claims in section 16.

Representative D'EWART. You think that would correct the situation?

Mr. SIGLER. Yes. There is the period between the last date for filing claims under the Indian Claims Commission Act and the present time. It is possible that some claim based on mismanagement or violation of statute or treaty might arise. And there is no intention to cut off that kind of claim. I think a reference to future claims would be advisable.

Representative D'EWART. That is all, Mr. Chairman.

Senator WATKINS. Did you have in mind claims which had arisen prior to the possibility of this becoming a law? If this bill should become a law, then the Indians are in the same status as ordinary American citizens, and from that point on I would say they would have exactly the same rights to go against the Government that any other citizen would have.

Mr. SIGLER. That is correct. We are talking about the interim period between the last date for filing claims under the Indian Claims Commission Act, and the date of the proclamation under this bill.

During that period, it is possible that some claim may have arisen, and there is no desire to cut those off.

Senator WATKINS. I think we can take care of that by amendment then, and make that absolutely clear, that there isn't any intention to cut off those claims. But after they do become citizens, any claims that may arise after that time will not arise because they happen to be a tribe, because they will no longer be a tribe. They will be just ordinary American citizens.

Mr. SIGLER. One qualification, Senator Watkins. The bill does not say that the Indian tribe would cease to exist as a tribe.

Senator WATKINS. Well, it would cease to exist as a governmental unit.

Mr. SIGLER. Yes, as a sovereign or semisovereignty, with powers to legislate as it does now, the tribe would cease to exist; but as a cultural group, or as a tribe, they could continue on indefinitely. And the significant point, in my judgment, is that once the Federal trust has terminated, all Federal services are stopped. And there is no longer any occasion for a claim arising.

Senator WATKINS. But it does not affect, of course, the right of these people to organize as a tribe and to have the same kind of an organization as any other group, and white group, could have. We have some Irish groups, some Scottish groups; all kinds of organizations of a nonprofit, or profit, character that they want to organize under the laws of the United States.

Mr. SIGLER. That is quite right. And we have regarded that as a very significant problem and a very significant feature of this bill. The Indian tribe is not abolished as a tribe. It can continue on. It can hold its property in tribal or communal ownership if it wishes to do so. The only thing that this bill does is to terminate the Federal trust and to make it clear that the tribe must exist as a tribe under normal State law.

Senator WATKINS. State and Federal law?

Mr. SIGLER. State and Federal law, without any special provisions regulating Indian affairs.

Senator WATKINS. They can call themselves the Flatheads, or the Blackfeet, or whatever tribe they want to call themselves, and have their own organizations. But they cannot govern in a civil and a criminal capacity any of their members?

Mr. SIGLER. That is right.

Senator WATKINS. And their property, if they want to take it and organize themselves under State law into a tribe and call it a tribe, they can do that, and take the title to their tribal property, that which belongs to the entire group?

Mr. SIGLER. Yes, sir. I would like to suggest, also, that one of the reasons, one of the principal reasons, why this bill provides that the tribe must organize in the form of a corporation or a trust in order to take title to their property is the fact that without that type of an organization the legal status of the tribe and the practical operation of the tribe would be in considerable confusion and doubt.

It is possible that if the property were conveyed to the tribe as a tribe, not organized in a corporate form, the property might be tied up in all of the redtape applicable to tenants in common. We are not sure how the tribe would function.

And our suggestion in this bill that the tribe organize under State law is to give it an accepted form of organization, so that they can govern their property, manage it, and convey it and lease it, in the simplest possible way.

Senator WATKINS. I just wanted to bring that out and make it clear, as to the purpose of this section.

We have with us this morning Senator Mansfield of Montana.

We are glad to have you, Senator.

Mr. Fickinger can move up to the table, and you can go ahead and ask these gentlemen any questions you would like.

Would you like to make a statement later?

Senator MANSFIELD. I would like to, Mr. Chairman. But I dislike it in a way because so many of the Flatheads and the Crows, from

my State, have come back here a distance of 3,000 miles, and I would like to defer to them if I could be assured that at some future date the Montana congressional delegation would have an opportunity to appear before this joint committee on this particular question.

Senator WATKINS. We can give you that assurance. We will be glad to do it.

Senator MANSFIELD. Fine.

Senator WATKINS. These gentlemen are here. We wanted to have them as a group, because they operate the organizational machinery of the Indian Bureau with reference to these people.

Now, you can ask any one of them, or all three, questions, if you like.

Senator MANSFIELD. I would like to ask Mr. Fickinger a question, or rather I will make a statement on his comment on Hill 57. I was raised in Great Falls, and I remember that before the First World War, Hill 57 was an abominable eyesore as far as both the Indians, and the city of Great Falls, and inside the State of Montana and the United States were concerned.

I believe you gave the impression that a good many of these Indians were from Canada or had gone to Canada during a period of rebellion and had then come back. I think it ought also to be brought back that a good many of these Indians, the Chippewas, came west from Wisconsin, that they are a landless group, that despite the fact that they have no lands of their own they are entitled to consideration as is every other American Indian. And I am only hopeful that in the bill which finally comes out, the treaty rights of the Indians are protected fully. Because when the United States entered into the Hell Gate Treaty of 1855 or 1856, we incurred a solemn obligation.

As I look at this bill, section 14 (a) would nullify that particular treaty.

Is that correct, Mr. Lee?

Mr. LEE. Senator, I would like to make a general statement on the treaty provisions.

In drafting these bills, we had our legal staff review the treaties involved with all of the tribes that were affected.

I might say at this point that the Commissioner felt very strongly that we should put nothing in any of these bills or make any proposal that would violate any Indian treaty. And he specifically gave his entire staff that instruction.

Our legal staff believes that the treaty is not violated by the provisions of this bill. However, I would like to say, as I did on the Kalmath bill the other day, that if anyone wants to point out any particular provision of any treaty or agreement that they think is violated by this bill, we will be glad to give the matter another review and submit to the committee a complete statement on the matter.

Senator MANSFIELD. Then, Mr. Lee, this committee and the Congress can be assured that as far as the Hells Gate Treaty of 1855 affecting the Flathead Indians is concerned, it will not be violated in any way, shape, or form, but will be fully lived up to by the Government of the United States?

Mr. LEE. I don't think that we can give you that assurance. That is, it will depend on the action the committee takes. But, again, I would like to say that in drafting this bill, we do not feel this treaty

has been violated. And we would be glad to review any treaty provisions that are pointed out as violations of this bill, and submit to the committee a report on those provisions.

Again, let me say something about these treaties.

We had a limited amount of time to work on these 108 bills. These treaties are very complicated. In many instances there are a number of treaties. I don't think that is the case on this reservation, but in others there were. Some of these treaties have been modified by subsequent acts of Congress, by allotment acts and other acts. And we have made, as I say, an overall study of the question. We have tried to draft these bills so that they would not violate these treaties.

But, again, we would be glad to review any particular section or item that is pointed out that is thought to break a treaty, and to make our recommendations to the committee.

Senator WATKINS. I think at this moment—if the Senator will yield for a moment—we face a very peculiar situation in dealing with Indian tribes. Originally, the United States Government was proceeding on the theory that the Indians were independent nations, and that is why we had treaties with them.

Senator MANSFIELD. That is correct.

Senator WATKINS. As the years have gone by, that concept has largely disappeared, and particularly when we passed the act making them full-fledged citizens of the United States. I think that at that time the idea that they were to be considered as citizens of a foreign government with whom we would have treaty relationships, almost completely disappeared.

Now, in that transition, the Indians themselves have had a part. We passed the act. As I understand, we do not permit dual citizenship in the United States. They have become citizens of the United States. So that Congress can do what it has always done, probably with a little stronger position to back it. That is, the Congress has considered that it has the right to modify treaties. It has taken property in the past. That is true in the Ute case. They took a lot of property and set it up for grazing districts and for public use. And then later the Government paid for that through the Court of Claims decision. That is a rather famous case.

The concept has gradually changed. In that evolution we have now arrived at the point, I think, where most of the Indians who are on the roll are not Indians at all. Most of them have more white blood in them than they have Indian blood. We only have, as I remember, 279 or 379 full-blooded Indians on this reservation in this tribe, and yet we have 4,000 members. And most of them are more white than they are Indian. So if we went on with that sort of thing, that we would regard them as citizens within a State, we would have an ever-increasing and expanding group of people, spread all over the United States, who would be citizens of an Indian country and owe some allegiance to it, and yet at the same time owe allegiance to the United States. And we could never accept the concept of dual citizens.

Senator MANSFIELD. Mr. Chairman, as you know better than I do, when we entered into a treaty with a sovereign nation, we entered into a treaty with an equal. And I have never gone on the theory that the Indian is a second-class citizen of this country. As a matter of fact,

I think we have treated the Indian pretty badly down through the years.

Senator WATKINS. I will agree with you on that.

Senator MANSFIELD. And I think we ought to be very careful on any legislation and consider first their welfare. Because the Indian as a citizen has been outstanding. And I know in my State of Montana, on the basis of race—I don't like to use that comparison—there were more Indians in proportion volunteering for the armed services than any other particular group.

Mr. Chairman, if I may, I would like to read a telegram from the Honorable J. Hugo Aronson.

Senator WATKINS. Would you make that as a part of your regular statement and finish the questioning of these people. We are going to give you a chance to read telegrams and all that sort of thing, Senator.

Senator MANSFIELD. O. K.

Now, getting back to the treaty, Mr. Lee: On page 9, section 14 (a), beginning at line 17, I am quoting:

Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe. * * *

Now, doesn't that mean that the treaties entered into between the United States and these particular tribes, and in this instance the Hell Gate Treaty, would be rendered null and void?

Senator WATKINS. I think maybe you ought to direct that to the counsel, Senator Mansfield. Mr. Lee is a very able man, but I don't know whether he can pass on the legal phases.

Senator MANSFIELD. I made a mistake. I didn't know the lawyer's name, though.

Mr. SIGLER. In answer to your question, Senator, the section makes inapplicable the statutes of the United States that are specifically applicable to Indians. It does not say treaties.

Senator MANSFIELD. It excludes treaties, in your opinion?

Mr. SIGLER. Yes.

Senator MANSFIELD. That is all, Mr. Chairman.

Mr. LEE. Mr. Chairman, I would like to make one more observation on this treaty matter while Senator Mansfield is here, I am not a lawyer. It has been my observation, however, in the past month or so, in working on these bills, that there is a great difference of opinion among lawyers on interpretation of treaties.

Senator MANSFIELD. Are you talking to us who have been discussing the Bricker amendment?

Mr. LEE. And again I would like to emphasize that the Bureau and the Department have tried to draft a bill that does not violate treaties. We want you to call to our attention any violations that you know of.

I think, whether or not the Congress ever abrogates any treaty rights, is their concern. But we have tried to be very careful. And, again, the only thing I can say is that we will try our best to give you a legal opinion from the Department on any point that is in controversy.

At this time, we know of no violations of treaty.

Senator WATKINS. I think the observation is appropriate at this time that the Supreme Court has held, and it has been assumed generally in this country, that the Congress can repudiate any treaty entered into with any nation at any time or place if it so desires.

Congress may have the full power to do that. It may have to respond in damages after it repudiates a treaty. But it can do so.

I call attention to the fact that the Senate, at least, passed a resolution urging the President of the United States to repudiate the Italian peace treaty, the one entered into at the end of World War II, so far as the military limitations were concerned. And we have repudiated that treaty. We are not put in a position, simply because we enter into a contract with some foreign nation, that we can't avail ourselves of the right to repudiate that contract and respond in the international courts, or wherever the matter can be taken up, to pay whatever damages we may have caused the other party by failure to go through with the contract.

In other words, Congress is supreme in this field. That goes for the treaties with Great Britain, with France, or any other nation in the world. So Indians are not in a separate class. I mentioned the fact that the Congress has repeatedly, in effect, repudiated Indian treaties over the years. They have done a lot of things I don't like, and I agree with Senator Mansfield that the Indians have had pretty shabby treatment. I would like to give them better treatment. It was Mr. Curtis, Vice President of the United States, who, under the broad definition of the Indian, was an Indian who I think brought about citizenship for the Indians in this country. It was an Indian-inspired move.

Senator MANSFIELD. Mr. Chairman, may I say that we used to have a Member in the House, Bill Stigler, from Oklahoma, who was one of the ablest Members ever to serve in that body. So we have had a few good Indians here, and I hope we get a few more.

Senator WATKINS. We have a few Senators in the Senate who have told me they have Indian blood. Under the broad definition here, it doesn't seem to make much difference how small the proportion of Indian blood is. If you have any, you can claim to be Indian. They claim to be Indian.

Representative BERRY. Might I just add, Mr. Chairman, that the committee is to get a brief on this treaty question, so far as the treaty of 1857 is concerned. And I would ask that Senator Mansfield be furnished with a copy of the treaty as applicable to this bill.

I would like to ask the Senator if it is not true that the action of recognized Indians is a matter of congressional legislation. Is that not correct?

Senator MANSFIELD. That is correct.

Representative BERRY. Did you ever introduce a bill that would recognize these Indians on Hill 57 as wards of the Federal Government?

Senator MANSFIELD. No, I must say to my colleague from South Dakota, that I have not. But I have taken up the matter with the Indian Bureau, and, as was brought out so ably by Mr. Lee and Mr. Fickinger, they were unable to do anything.

Representative BERRY. They would be unable, wouldn't they, unless Congress authorized it?

Senator MANSFIELD. That is correct.

Representative BERRY. I was just wondering why there had never been any bill introduced or put through Congress to help these Indians, to put them in better shape or to recognize them as wards of the Government, if they were actually wards.

Senator MANSFIELD. Well, I think that Mr. Fickinger has raised a question there. I didn't know about the Cree group being in this Canadian category. But if that is so, then there is a delicate question as far as that particular group is concerned. But the folks from the Rocky Boy, and the Chippewas from Wisconsin, would, in my opinion—I am no expert—fall into a different category, and as American or United States Indians, I would believe they would be entitled to the consideration which other Indians have received.

After all, when you get right down to the basic fundamental fact, it was the white man who took away all of the United States from the American Indians. All the Indians, whether they are on tribal rolls or not. And if you want to use this fact of Indians being disloyal, well, you can go back to the battle of the Little Big Horn.

Representative BERRY. Well, I didn't bring that up. I think that the loyalty of the Indian is superior to the loyalty of the white man and many other races, so far as loyalty is concerned. What I am thinking about is our loyalty.

You are the one who mentioned that these people on Hill 57 have had a terrible situation for many years. And you have been down here for many years. I was wondering why you had just now decided to do something for them?

Senator MANSFIELD. Oh, I haven't just now decided to do something, because I have tried to do something, and I will show the gentleman my correspondence to help these Indians through the Indian Bureau. The gentleman knows as well as I do that it is extremely difficult to get an Indian bill through the Congress, and it would be extremely difficult to get one of this nature, which, in effect, would create a new group of Indians, so-called, landless Indians, which are located not only on Hill 57 but, as was brought out, in other parts of the State as well. Those are factors we have to consider. And I might say to my colleague that I am 1 or 4 men representing the State of Montana in the Congress of the United States. And until last year I represented the western part of the State, which includes only the Flathead Indians.

Senator WATKINS. In this matter, it is very interesting to do a little philosophizing.

We had a witness yesterday who said all of this belongs to the Indians. Anyone who feels very strongly about that moral—and he raised a moral question—ought, of course, to immediately deed his farm or his land back to the Indians. There is nothing to prevent him from doing it.

When you get into the philosophy of the thing, we had about 8 million Indians in the United States, that part of the American Continent where the United States now is. Well, did divine providence say that no one else could come to this country, despite the fact that there was room here to sustain a population of 160 million people? I don't think so. When you get to talking about the first man here who had the right to all this, I don't think that goes at all. That isn't sound at all. Otherwise, after the first man came nobody else had the right to come.

Representative ASPINALL. Mr. Chairman, if you are going to introduce legislation having to do with all Hills 57 in our communities, believe me, I am going to introduce a bill to do away with some of

them in my community, that are apparently the aftermath of the Mexican War situation. You are just not going to do away with all Hills 57. I don't care whether it is Indians, whites, or what it is.

Senator WATKINS. Let's not overlook the fact that Hill 57 has nothing in particular to do with this case except that one of the witnesses used it as an illustration of the fact that Indians who had been given their property sold it and then became practically paupers and created situations like Hill 57. And up to this moment, there isn't a bit of evidence to sustain his view that these people ever had any lands to sell. They were landless Indians, apparently, from the beginning. And they did not become the kind of people they are at Hill 57 under those conditions by reason of the fact that they had been given their full liberty and had sold their lands, if they ever had any. That is how it came into this picture here. It is really not material or pertinent to this particular hearing. We allowed our friend to go ahead and use it as an illustration. But unless there is some evidence to show that these people had been given land and sold it any by reason of that became paupers or were forced to live in this fashion, then, of course, it hasn't anything to do with this situation.

Are there any further questions?

Representative BERRY. Just one to Mr. Finckinger.

Do you know how they got the name "Hill 57" in the first place?

Mr. FICKINGER. No; I can't say that I do, Congressman.

Senator WATKINS. Maybe Senator Mansfield can tell us. We are curious.

Senator MANSFIELD. I understand that the Heinz Pickle Co. used to advertise "57 varieties of products" all over the United States, and they had one on that hill. Of course, there aren't any 57 tribes of Indians there. Just one.

Senator WATKINS. But they have been in a pickle ever since.

A statement of Congressman Lee Metcalf who is unable to be present is submitted for the record:

(The above referred to statement is as follows:)

STATEMENT OF HON. LEE METCALF, MEMBER OF CONGRESS, ON FLATHEAD
WITHDRAWAL BILLS

I asked State and county officials of the State of Montana their estimates of the annual additional financial load passage of S. 2750 and H. R. 7319 would impose upon each department.

Those I asked included: Hon. J. Hugo Aronson, Governor, State of Montana, Helena; Mr. K. W. Bergan, coordinator of Indian affairs, State of Montana, Helena; G. D. Carlyle Thompson, M. D., executive officer, board of health, Helena; Mr. W. J. Fouse, administrator, department of public welfare, Helena; Mr. Scot P. Hart, engineer, State highway commission, Helena.

The following chairmen, boards of county commissioners: Mr. Oliver R. Brown, Lake County, Polson; Mr. Rue Carr, Flathead County, Kalispell; Mr. William J. Daigle, Mineral County, Superior; Mr. H. E. Smith, Sanders County, Thompson Falls.

County attorneys: Mr. Al Libra, Sanders County, Thompson Falls; Mr. Walter T. Murphy, Mineral County, Superior; Mr. Edward C. Schroeter, Flathead County, Kalispell; Mr. Jean A. Turnage, Lake County, Polson.

At the time I made this inquiry of each official I received the following statement from Miss Mary M. Condon, superintendent of public instruction, Helena:

"The school system in Montana has done more to integrate the Indian into the American way of life than any effort in this direction by any other agency during the last half century. We are very proud of the progress that we have made. We are also in a position to say that this splendid job could never have been done without the financial cooperation of the United States Congress through

Indian Education reimbursement to the local school districts. At the present time, 90 percent of all the children of Indian blood are enrolled in the public schools of the State which are administered under the laws of the State of Montana. There are about 5,000 children of Indian blood enrolled in the public schools of Montana today. There are over 3 million acres of tax-exempt Indian land in the State of Montana. The cost of educating these children is approximately \$1½ million per year. The Federal Government provides \$365,000 of this amount. The rest of the cost is provided by the State and the local taxpayer.

"The problems among Indians stem from the concentration of population in small areas. In other words, all the problems both economic and social stem from the reservation system set up by the Federal Government during the early days of our Nation. This is a Federal program and has been a Federal responsibility all these years. The United States Government has recognized its responsibility by financial reimbursement to the State whenever the State has assumed any of the responsibilities of the Federal Government. This has been true in health, education, welfare and any other service given the Indian by the State.

"The termination of Federal supervision over the Indian is not solving the problems confronting the Indian and the communities where the Indians live. It merely transfers the responsibility for the problem from the Federal Government to the State and local community. It is the feeling of those who study the Indian problem and work with these local communities, as our department must do, that the impact of Federal termination is going to be so great that it will result in tremendous hardship on many communities and the Indians themselves. This is definitely the case in education, health, and welfare, and in some communities these agencies will break down completely.

"The following information will give you some of the problems which will confront the local communities in the field of education:

"Elmo School District No. 22, Lake County, has almost 100 percent Indian enrollment. This is a 2-teacher school that enrolls about 40 pupils. This school district cannot function under present State laws of Montana without special financial aid from some source. The tax base in the school district is so low that 1 mill of taxation brings in only \$26.41 or revenue. This school district will have a tax levy of about 90 mills to operate its school without extra financial aid from some source. Under State laws, special legislation will be necessary and special State financial aid provided if this impact is to be kept from the local school district.

extra financial aid from some source. Under State laws, special legislation
 "There will be a financial impact upon the taxpayers of all the school districts now given financial aid from the Bureau of Indian Affairs. This impact varies with school districts from 5 to 90 mills of taxation. It is very evident that the taxation of trust property will not compensate the local school district for the impact.

"Those of you who have studied the map of the Flathead Reservation will note that the tax-exempt lands lie mostly on the fringes of the reservation. Placing this land on the tax rolls is not going to be of much benefit to the local school district. This land does not lie in the districts with large concentrations of Indian population.

"It is our contention that the termination-of-supervision bill, as now drafted, is ill advised and poorly planned and will result in impacts which cannot be met on the State or local level. There must be a longer period of transition if the termination of supervision is to be reasonably successful and the impact softened so that it is not cruel to either the community or the people of Indian blood.

"This same situation applies not only to education but to areas of health and welfare as well. A bill by Congress is not going to cure tuberculosis on the Flathead Reservation; it is not going to provide the needed welfare aid on the reservation; it is not going to educate the children on the reservation. The termination program merely transfers all these responsibilities to the already overburdened local communities and to the State.

"In the Flathead bill, to my knowledge, no one from the local or State government was ever consulted, despite the fact that they are vitally concerned.

"In conclusion, we wish to emphasize:

"The problems will still exist after termination. The problems were created by the Federal Government. It is not fair nor just for the Federal Government to walk out from under these problems and leave them as a burden upon the local community."

In the order of their replies, Mr. Fouse stated:

"It is difficult at this time to make an estimate as to the additional cost to the Welfare Department if these bills are passed. I met with Mr. Fickenger, area director, and Mr. Stone, superintendent of the Flathead Reservation, on February 11 in Billings regarding this matter, and they gave me every assurance that there would be no additional cost to us. However, there are so many factors involved, such as possible increase in caseload, the number that would be eligible for hospital and medical care under our standards, also how the Indian would handle this money, that I would hesitate to make an estimate at this time.

"I have one question about the bill and that is—it seems to me that 2 years is a very short time to put this law into effect. My opinion is that the impact on everyone concerned would be less if this period of transition was to extend over a longer period of time."

Mr. Bergan wrote:

"This will acknowledge your request for information in regard to the financial burden placed upon the State of Montana by the Federal termination of supervision from the Flathead Indian Reservation. Data concerning these costs is being compiled by the various departments and is being submitted directly to the Governor. They are not available in my office.

"It is very evident that Congress cannot cure tuberculosis by passage of a law. The recent survey of the Montana Tuberculosis Association on the Flathead Indian Reservation indicates that tuberculosis is four times more prevalent among Indian people than among non-Indian. After the Federal termination of supervision, the Confederated Salish and Kootenai Tribes will not be eligible for the Indian wing at Galen. They will be admitted to this hospital on the same basis as non-Indians. The non-Indians have an 18-month waiting list, at the present time, before they can be admitted to the hospital.

"We are not in a position to estimate the impact upon the Department of Welfare. For a year or two there may be very little impact, but as soon as the big money is gone there will be considerable need for welfare. It is the opinion of those who work on problems of this kind that within 2 or 3 years there will be a colony on the outskirts of Missoula similar to the colony at the city dumps in Havre. It would seem that Montana should protect itself against a situation of this kind. The employment service has a definite problem in this area.

"The problems pertaining to the Flathead Indians have not been solved. The State of Montana can do so if given the time and money to do it. It is evident that there will be impacts upon the State government units dealing with law and order, highway, health, education, employment service, as well as welfare. It would seem that the State should have some assistance from the Federal Government in dealing with these problems.

"It will be necessary to do considerable relocation work because the concentration of population in the Flathead Reservation area is quite excessive. The State employment service should have some financial assistance in performing this job.

"I have not been advised in regard to a substitute program by the Flathead Tribal Council. It would seem that they should submit an alternate program. If they wish to accept the termination of supervision then the State must protect itself if it assumes the responsibilities that have been dropped by the Federal Government."

Mr. Hart made the following statement:

"Based on a probable 20-year construction program in this area it is estimated that the annual additional cost, to the State of Montana for road construction, would amount to \$76,500."

Dr. Thompson replied:

"I am glad to give you what information I have relative to the effect of the passage of S. 2750 and H. R. 7139 in their present form.

"I have prepared 2 statements on this; 1 to Governor Aronson's committee and 1 which I hoped to personally present before the committee hearings on February 24. Unfortunately, now I cannot attend the hearings as I have an urgently called conflicting polio-vaccine meeting in Detroit which potentially affects Montana in an important way. I have sent my statement to be included in the record of the hearings.

"Specifically, the cost in dollars to the State board of health is not great. In fact, the passage of the bill will not in any way reduce our present funds for

we receive no money from the Indian Bureau. The Indian Bureau pays its funds directly to the district board of health covering Lake and Sanders Counties for inclusion of the Flathead Reservation in the district board of health programs. This is currently \$5,000 per year (one-sixth of the budget—the State board of health furnishes one-third and the local government one-half). It is now in its first year.

"This is an inadequate amount per-capita-wise in comparison to the Indian health problem off the reservation.

"Financing of the health department in this district is on the most minimum basis possible right now. The loss of the \$5,000 would almost certainly wreck the department. A few citizens in each of the counties would like to see this happen, but I believe, by and large, there is strong support for the district health department, including most of the physicians and dentists in the area.

"You may have asked Dr. Terrill at Galen for an estimate of cost. In case you haven't, this is a very significant figure. With a daily operating cost of \$10 per day, which is reasonable to expect it would be, with the new wing and figuring 100 Indians per day, the amount which the State must provide is substantial. Of this cost, the county pays \$1 and the State pays the balance.

"We cannot give a specific figure on the Flathead Indians who may be admitted to Galen, but if tuberculous Indians needing hospitalization were admitted, I would estimate it would average between 10 and 20 for a number of years.

"If the health department services are terminated, there will be less adequate tuberculosis control work done, with a greater spread of the disease resulting, since fewer of them will be recognized and will be convinced of the value of hospitalization for cure."

Governor Aronson telegraphed:

"H. R. 7319 and 2750 are commendable in ultimate aim of granting full citizenship rights and privileges to Indians. However, suggest adequate safeguards to protect elderly fullblood Indians. Also believe Federal Government should participate during transition period in financial impact on State and county government due to increase in welfare, public roads, education, employment, health, law enforcement, housing and other services. Indian treaty rights should be fully explored. Suggest careful consideration of these and other problems emphasized in November report of Governor's Interstate Indian Council. Because this measure would set a precedent for similar legislation affecting other tribes, think it imperative extreme care and caution should be exercised in drafting its provisions."

When this statement was submitted, I had received replies from County Commissioner Brown and County Attorneys Libra, Turnage, and Murphy. Their letters are attached, along with a statement from Mr. John C. Harrison of Helena, president of the Montana Tuberculosis Association.

LAKE COUNTY, MONT.,
Polson, Mont., February 16, 1954.

HON. LEE METCALF,
*United States Representative,
Washington, D. C.*

DEAR MR. METCALF: Your letter at hand and will try in my best manner to give you the picture that you asked for regarding the financial load of the passage of S. 2750 and H. R. 7319 that would be imposed upon Lake County. For example our road fund, I cannot see where it would make any difference for the fact that on January 6, 1953, the Indian Department turned over 32.5 miles of roads that were built and maintained by the Indian Department within Lake County and that at that time they told us that they were not doing any road work other than building timber roads into their own timber land and also fire protection roads into their tribal lands.

As far as the road picture, I cannot see that it will increase our financial load any. Ten mills brought \$72,971.70 during the year 1953 and if Indian lands were taxable, it would be approximately 30 percent more.

With relation to the welfare status concerning ward Indians, taking an annual average based upon the average of 1953 ward Indian cases, the additional burden placed upon the county would be approximately the sum of \$6,000 per year. However, if S. 2750 or H. R. 7319 should be passed by Congress and the ward Indians of the Flathead Indian Reservation should then be paid their pro rata share of the tribal assets this would in effect, remove all Indian cases from the welfare rolls; of course, as the acts provide, proper safeguards, such as guardianships or trusteeships, would necessarily have to be created

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to care for the aged, incompetent and minor members of the tribe. However, many of these welfare cases are fully competent to handle their own affairs. However, the additional revenue to be realized by Lake County when Indian lands become taxable, would greatly exceed any additional burden created.

With respect to the school situation, during the year 1952 which was the last year that funds from the Indian Bureau was received by Lake County schools, we find that the sum of \$27,186.07 was contributed by the Bureau towards the operation of Lake County schools.

However, I repeat that the revenues to be realized from taxation of Indian lands which are now nontaxable, would greatly exceed the loss of the contribution from the Indian Bureau.

It is a well-known fact that all of the Indians are now or have been gainfully employed just as any other citizen of this county, and are no more likely to become a welfare burden than any other citizen of this county, therefore the passage of this act cannot possibly create any additional or unusual burden upon Lake County.

It may be further stated that together with the economic equality gained by the Indian in Lake County, may also be added a degree of social equality which should be envied by any locality in the United States. In other words, we find that in our schools, our lodges, and our community social groups, we find that the Indian at all times is invited to join in and take their rightful part.

There is absolutely no discrimination with the Indians in Lake County because of color. We have very outstanding Indians in our band and all school activities, and most noticeably in the athletic field of endeavor.

Yours very truly,

OLIVER R. BROWN,
Chairman, Board of County Commissioners.

COUNTY OF SANDERS,
STATE OF MONTANA,
Thompson Falls, Mont., February 25, 1954.

HON. LEE METCALF,
*House of Representatives,
House Office Building, Washington, D. C.*

DEAR MR. METCALF: This will acknowledge your letter of February 12 in regard to S. 2750 and H. R. 7319 to terminate Federal supervision over the property of the tribes on the Flathead Indian Reservation. The most important reason why I have not answered sooner is that I have been engaged in preparation of a test case involving the right of Sanders County and the State of Montana to tax the unrestricted personal property of enrolled Indians on the reservation.

While a more detailed answer to your question will be forthcoming, following a conference of the board of commissioners and the various county officials concerned, I do wish to give you as much information as I can now. I do not believe that our road fund will require any additional funds as a result of passage of the proposed bill. There is very little mileage of Indian service road and we have already taken over the most important of that mileage.

The highway from Dixon past the agency north to Moiese and the bridge which crosses the Jocko River were taken over by Sanders County on June 30, 1953, by agreement with the Bureau of Indian Affairs. We are now responsible for maintenance and snow removal in the same manner as for other county roads. Most of the roads on the reservation were built by the county following opening to settlement in 1910.

While termination of Federal supervision would undoubtedly result in an increase in welfare recipients, it will apparently not result in an increased financial burden to Sanders County. The county is already levying the maximum allowed by law, which takes care of poor fund expenditures for only about half of each fiscal year. It is necessary to declare an emergency for the remainder of the year and to rely upon the aid received from the State department of welfare.

We would appreciate receiving from you copies of the bills, or any answers to them, and of the hearings if they are published.

Sincerely yours,

AL LIBRA,
County Attorney.

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LAKE COUNTY, MONT.,
Polson, Mont., February 17, 1954.

HON. LEE METCALF,
*Representative, First District of Montana,
Congress of the United States, Washington, D. C.*

DEAR REPRESENTATIVE METCALF: Replying to your letter dated February 12, 1954, inquiring as to the possible effect S. 2750 and H. R. 7319 might have on the annual financial load of Lake County, Mont.

I have discussed your inquiry with Oliver Brown, chairman of the board of county commissioners, and he has written you a letter which covered all phases of the county, other than law enforcement.

With respect to the additional annual financial burden that we may expect, I feel that there will be no appreciable increase whatsoever. I have talked this matter over with our sheriff and he informed me that there are no Indian law-enforcement officers living in Lake County whatsoever. The Lake County law-enforcement departments and the State of Montana highway patrol have the 100 percent burden of enforcing the laws, with relation to Indian, or otherwise, on that portion of the Flathead Indian Reservation within Lake County.

We receive no reimbursement for the board of Indian prisoners, although with respect to crimes, such as traffic violations, we are forced to care for many Indian persons.

For all practical purposes Lake County has had virtually all of the investigation and prosecution burden with relation to Indian people for many years past and, of course, will be required to continue to carry this burden in the future. I, therefore, feel that we will not be faced with any additional annual financial load, and the passage of the bills will tend to clarify a confusing question of jurisdiction over the Indians, which has hampered law enforcement considerably in the area.

If I can be of any further assistance in this matter please call upon me at any time.

Respectfully yours,

J. A. TURNAGE, *County Attorney.*

WALTER T. MURPHY, ATTORNEY-AT-LAW,
Superior, Mont., February 19, 1954.

HON. LEE METCALF,
House of Representatives, Washington, D. C.

DEAR MR. METCALF: I have your letter of February 12, 1954, regarding S. 2750 and H. R. 7319, to terminate Federal supervision over the property of Montana Indians.

Our county is not adjoining an Indian reservation and as a result, we have very few Indians here. However, we occasionally have a more or less transient Indian family and as a rule they are welfare problems.

The annual cost to Mineral County for such cases would be largely a guess. It would probably run in the neighborhood of \$1,000 or \$2,000 at least.

Your interest in this legislation is appreciated by our local officials, as we can ill afford any additional expense in this connection.

Very truly yours,

WALTER T. MURPHY,

MONTANA TUBERCULOSIS ASSOCIATION,
Helena, Mont., February 20, 1954.

To Chairman of the Joint Congressional Committees Hearing the Flathead Termination Bill:

This association has, since its inception in 1916, been actively interested in the Indian health problems, particularly in the field of tuberculosis. It was through the interest of this association that congressional action was taken to provide for 100 beds for Indian patients at the State sanitorium at Galen. At the time that the Federal Government and the authorities of the State of Montana worked out an agreement for the per diem costs of Indian patients at Galen, it was our understanding that these payments would be made over such a period of years as would be necessary to bring the tuberculosis problem among our Indian citizens in Montana under control.

It is with considerable note of alarm that we find no provision for the carrying out of the obligation of the Federal Government in the legislation to terminate the Flathead Tribe. If this legislation should pass as now written, the burden of supporting Indian patients from the Flathead Reservation would fall upon 2 or 3 counties and upon the State of Montana. Because of the high incidence rate still prevailing among the Flathead people, it is my opinion that State and county governments cannot at the present time carry this additional burden and I feel it is my obligation to point out this undesirable feature of the proposed legislation.

Until we can put our Indian citizens into a like physical condition that is enjoyed by their white neighbors, it is my feeling that the obligation for their health needs rests with the Federal Government.

JOHN C. HARRISON, *President.*

AGREEMENT COVERING THE ADMISSION OF INDIAN BENEFICIARIES TO THE MONTANA STATE TUBERCULOSIS SANATORIUM

This agreement, made and entered into this fourth day of December, 1950, by and between the Board of Examiners, State of Montana, for and on behalf of the State of Montana, party of the first part, and the area director, Billings area office, Bureau of Indian Affairs, for and on behalf of the United States of America, party of the second part.

Whereas, in accordance with the terms of Public Law 332, 80th Congress, additions to the State tuberculosis sanatorium at Galen, Mont., are being and will be provided to care for 100 tuberculous Indian beneficiaries of the State of Montana, and

Whereas the party of the first part is agreeable to operating beds and furnishing sanatorium care of 100 Indian beneficiaries in the State of Montana,

Now, therefore, the parties hereto covenant and agree as follows:

1. It is understood and agreed that Indian beneficiaries in Montana shall be first admitted upon medical application, using the accepted form of application established by Montana laws and in use at the sanatorium. Readmission will be accomplished by the same procedure as original admission, namely, application by physician and agency and notification from the sanatorium as to date of entry. Neither the first admission nor readmission will be made without authorization from the sanatorium signifying the availability of the necessary hospital accommodations.

2. It is further understood and agreed that clinical records, from admission to discharge, will conform to records now kept by the sanatorium, together with any additional records which may be necessary upon which to base claims for compensation for hospitalization; that reports concerning Indian beneficiaries will be rendered to the Indian Office or its representative upon request; that all records shall be the property of the sanatorium; that inspection to accredited representatives of the Indian Office or the Interior Department at all times will be granted; and that the Indian Office representatives may inspect the facilities being utilized by Indians at any time without advance notice.

3. It is further understood and agreed that the board of examiners will maintain a standard of care and efficiency equivalent to the standard set by the American College of Surgeons and/or American Medical Association.

4. It is further understood and agreed that admission of beneficiaries of the United States will be limited to enrolled or otherwise recognized Indians of Montana.

5. It is further understood and agreed that the board of examiners, through the superintendent of the State sanatorium, shall have complete control of the treatment, including discipline, of all patients and that said patients, beneficiaries of the United States, shall be subject to the same regulations as other patients of the State sanatorium.

6. It is further understood and agreed by the party of the first part that, in conformity to the requirements of section 3737 of the Revised Statutes of the United States, neither this contract nor any interest therein shall be transferred to any other party or parties, and that any such transfer shall cause the annulment of the contract as far as the United States is concerned, all rights of action, however, for any breach of this contract by the contracting parties being reserved by the United States.

7. It is further understood and agreed that only those Indian beneficiaries of the Bureau of Indian Affairs who have demonstrable active reinfection type of

tuberculosis will be continued in the sanatorium for treatment, provided, however, that those individuals with positive reaction to tubercle protein and who are suspected of having an active focus of infection may be admitted for observation and diagnostic procedures. Should procedures reveal no activity, the patient shall be discharged within 60 days of admission. Commonly, "preventorium care" shall not be furnished.

8. It is further understood and agreed that the party of the first part will provide outpatient service in the form of X-rays, examinations, and pneumothorax refills on an actual cost basis to the limit of medical staff available.

9. It is further understood and agreed that a fund expenditure of not to exceed \$5,000 during any one fiscal year may be made for surgery and treatment of referred Indian patients for unusual surgery involving professional fees and allied phases as provided by the State of Montana Tuberculosis Sanatorium, Galen, Mont., as this type of surgery is not possible or feasible otherwise.

10. It is further understood and agreed that the State of Montana will not bear the cost of transporting patients to and from Galen, Mont., nor the cost of personal effects not furnished non-Indian beneficiaries at the sanatorium.

In consideration of the above agreements, the part of the second part will pay, monthly, for the hospitalization of Indian beneficiaries in Montana at a per diem rate based on the cost to the State of rendering hospital services during the fiscal year ending June 30 next preceding the fiscal year during which this agreement is effective. The per diem rate will include hospitalization, medical and surgical treatment of active tuberculosis. It is estimated that expenditures under this contract will amount to approximately \$125,000 per annum.

This agreement to be effective during the fiscal year July 1, 1950, to June 30, 1951. Per diem rate per patient for said fiscal year shall be \$5.14.

This agreement may, by mutual consent, be extended annually, for a period of not to exceed 10 years from July 1, 1951.

In witness whereof, the undersigned have hereunto subscribed their names and affixed their seals the day and date first stated herein written.

Board of Examiners:

JOHN W. BONNER,
Governor, President of the Board.

ARNOLD E. OLSON,
Attorney General, Member.

SAM W. MITCHELL,
Secretary of State, Secretary of the Board.

Attest:

W. L. FITZSIMMONS,
Clerk of the Board.

[SEAL]

PAUL L. FLICKINGER,
Area Director, Bureau of Indian Affairs.

My voluminous file on this bill also includes statements from Mrs. Marguerite Cole, chairman, Lower Milk River District Committee, Fort Belknap Reservation, Dodson; President Eugene L. Pitts, Dixon Stock Association; President Bernard McLeod, Joeko Valley Tribal Stock Association; Mother Finbar of the Ursuline Nuns at St. Ignatius; Sister Providencia, L. C. S. P., Sociology Department, College of Great Falls; Secretary Dennis Dellwo, Flathead Irrigation District; Mr. Raymond W. Gray, of Belt. Their statements follow:

DODSON, MONT., *February 17, 1954.*

HON. LEE METCALF,

United States House of Representatives, Washington, D. C.:

We support the Flathead Indians in opposing S. 2850 in its entirety on grounds of its being vicious and composed without consent of Indians. We heartily oppose S. 2515, concerning Fort Belknap Indians on same grounds. We oppose H. R. 7445 as it conflicts the Allotment Act of 1921 as defines an Indian. We oppose any legislation without consent of Indians concerned. The Secretary of Interior is using his overextended power not for the good of the Indians but definitely against them.

Mrs. MARGUERITE COLE,
Chairman, Lower Milk River District Committee, Fort Belknap Reservation.

DIXON, MONT., *February 19, 1954.*

HON. LEE METCALF,
House of Representatives:

Protest termination of Federal supervision for Flathead Indians of Montana.
DIXON STOCK ASSOCIATION,
EUGENE L. PITTS, *President,*
and J. R. WAGNER, *Secretary-Treasurer,*

ARLEE, MONT., *February 20, 1954.*

Hon. Representative LEE METCALF,
Washington, D. C.:

Jocko Valley Stock Association requests that you appear for it on behalf of reserving for stock growers tribal grazing lands. For further detail contact Superintendent Forrest Stone for a plan to liquidate taking from 1 to 5 years. We choose this plan as the most efficient and equitable for the tribe.

JOCKO VALLEY TRIBAL STOCK ASSOCIATION,
JAMES GIRD, *Secretary.*
BERNARD MCLEOD, *President.*

ST. IGNATIUS, MONT., *March 1, 1954.*

HON. LEE METCALF,
Representative, House Office Building,
Washington, D. C.:

We living in close contact with the Indians and teaching their children, strongly oppose the passage of the bill which would terminate Federal control of them. Social prejudice and a sense of timidity and inferiority brought on by the white man's domineering would deprive them of a livelihood as well as their freedom and identity.

URSULINE NUNS,
MOTHER FINBAR, S.

Sister Providencia's letter said:

"We in Montana are very proud that you have been asked to read the address of Washington on the 22d. It is really an unusual honor for a freshman Congressman. Perhaps it is God's blessing upon your efforts for the poor. I have been impressed by your interest in the landless Chippewa and your gracious cooperation with groups interested in the Indians and counsel such as Mr. Schifter. We in eastern Montana who have been trying to help the Flatheads know how difficult it is to receive an interested hearing on Indian questions. I am delighted with this piece of recognition on Washington's Birthday, for it should serve you well later on the House floor if we do not succeed in convincing the subcommittee that the policy of termination is ill advised. Be sure that we are praying for you in your defense of the citizens of your district who are threatened with social chaos."

Mr. Dellwo wrote:

"I have received a copy of H. R. 7319 which has to do with terminating Government supervision of the Indian tribe on the Flathead Reservation. You are no doubt aware of the fact that the Flathead Indian irrigation project covering 140,000 acres of the old reservation, is about 85 percent non-Indian, and that the non-Indian lands of that irrigation project are organized into irrigation districts. The Flathead Irrigation District, of which I am a commissioner and the secretary, covers 80 percent of the non-Indian lands of the project. There are two other irrigation districts, the Mission District and the Jocko Valley District, the two of them covering 20 percent of that area.

"The commissioners have instructed me to convey to you their urgent request that you do all possible to kill the bill numbered above. The resources of the Indian tribe here consist of vast forest area covering the entire west slope of Mission Range, valuable power sites on Flathead River including Kerr Dam site, thousands of acres of grazing lands and other properties. Those properties are worth millions of dollars. There are about 4,000 Indians.

"If the millions in property owned by the Indians here were sold and the money distributed to 4,000 of us white folks, we would be busted in jig time. The Indians will do no better. The horde of salesmen who will swoop down upon them if that be done would make being busted the lesser evil.

"Our irrigation district is interested in a large way because of the danger that the timber in the Mission Range would be sold and the mountainside be denuded of cover.

"There also has been some talk of attempting to transfer this irrigation project over to the landowners. We want you to be particularly alert that no legislation be passed which makes it possible to transfer this irrigation project."

BELT, MONT., *February 26, 1954.*

Congressman LEE METCALF,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN: I am writing you in regard to the bill in Congress relieving the Federal Government as ward of the Indian.

The white man has long been a traitor and liar to the American Indian but this proposed legislation is the last straw in the chain of events that will hasten the destruction of a race of people.

It is the moral duty of the Federal Government to protect and guarantee the Indian a living, such as it is, if only to abide by long-forgotten treaties.

The very nature of the Indian, through the removal of his natural way of making a living, makes it necessary for them to depend on financial or physical aid.

If the Federal Government ceases to carry out this function and turns the Indian out to fare for himself, it will become necessary for the respective State, county, or city in which he chooses to live to carry the welfare burden. As it was the Federal Government that allotted the Indians to a designated reservation and not the State, it is not fair that the unlucky States having the reservations should foot the bill for their support.

The financial obligation would be far too great for any State, city, or county to meet; consequently, we would see a great increase in crime and sickness and a further breakdown of morals of a now quite law-abiding people.

It is proposed to give them a cash settlement but does anyone propose to give them a sum equal to the value of the land they now have plus the stipend they now receive? It would not be long before the money was gone and where would the Indian be?

Last, but very important, who is to receive the reservation lands? If such a bill ever becomes a law, it should become a part of the bill that the land reverts to the State and all oil or mineral rights with it. Then the State would receive an income with which to keep the Indian.

Thanking you for the good work you are doing and hope you do not find this letter too long—by the way, I am not an Indian.

Respectfully yours,

RAYMOND W. GRAY.

In all, I received only two statements favoring passage of this bill. One follows:

POLSON, MONT., *February 24, 1954.*

HON. LEO METCALF,
United States Representative:

Please attend hearings re Flathead legislation 25-26. See to it that a complete liquidation is affected as presented by our invited delegates, Vera Voorhies, Anatisia Wievoda. Appreciate having this telegram in record.

Kindest regards, best wishes.

MARY ROSE CLAIRMONT,
ERNEST K. CLAIRMONT,
KENNEDY DUPUIS.

(Statement of the Flathead Irrigation District follows:)

FEBRUARY 3, 1954.

HON. MIKE MANSFIELD, Senator,
Washington, D. C.

DEAR SENATOR: I have a copy of H. R. 7319 which has to do with withdrawing Government supervision over the resources of the confederated tribes here. This bill is in the Committee on Interior and Insular Affairs.

We will be very grateful if you will do everything possible to kill this bill. Those resources consisting of a vast forest area, numerous power sites, large areas of grazing lands and the lease of the large power site at Kerr Dam, are being administered under regularly established processes, and the result seems to be O. K. If all of this property, running into the millions in value, were to be

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distributed, right out of a clear sky, to any 4,000 of us out here on the Flathead, Indian or non-Indian, the chances are we would be busted within a short while. The hoard of salesmen who would swoop down upon us, would make being busted the lesser of two evils.

As an irrigation district, we are particularly concerned with the likelihood of the tremendous watershed on the west side of the Mission Range being denuded of natural cover if the timber thereon should be sold.

Then we want you to be particularly alert that the bill be not amended to include provisions for the transfer of this irrigation project to the irrigation districts or to the landholders. We do not want this project transferred at this time in any shape or form.

The attached is a copy of statement by the Flathead Irrigation District presented to the tribal council at a recent meeting of that body.

Best personal regards,

Yours truly,

D. A. DELLWO,
Secretary, Flathead Irrigation District.

P. S.—The Flathead Irrigation District covers 80 percent of the non-Indian lands of this project. D. D.

FLATHEAD AGENCY, MONT., *January 26, 1954.*

STATEMENT OF FLATHEAD IRRIGATION DISTRICT

(By Dennis Dellwo, secretary)

MEETING OF COMMITTEE OF CONFEDERATED INDIAN TRIBE IN THE MATTER OF WITHDRAWAL OF GOVERNMENT SUPERVISION

A proposal that the United States withdraw its supervision of the affairs of the Indian tribe would be of no interest to the irrigation district, so long as all lands of the irrigation project be required to carry their share of project costs, except that it is also proposed that the United States withdraw from the irrigation project. In any plan to withdraw supervision of the affairs of the tribe, as well as of the individual members of the tribe, much thought would have to be given beforehand to the procedures to be had in the matter of service to Indian lands by the irrigation project, as well as to the matter of the collection of the costs of that service. Probably the issuance of patent in fee to Indian lands under the project, and their admission into the irrigation districts would be the thing.

We, of the Flathead Irrigation District, with the exceptions noted above, are not presuming to interfere with this tribal deal in any way. However, when it comes to shunting the irrigation project, with its insurmountable complications, over to the irrigation districts, we are dealing with a threat which vitally concerns us.

It is too bad that some few groups of project people have gone all out for a transfer of the irrigation project. Those groups must be totally lacking in the use of foresight and of common good judgment, or else they must have acted without making the slightest study of the problems involved. No one who has kept abreast of the development of the involved legislative and contractual structure of that project, no one who has taken the trouble to give even a little thought to the opposing interests here, certainly, no one who has attempted to figure out a process under which it would be possible for the landholders or the districts to manage this project, would be sufficiently foolhardy to give his approval of this move.

For instance: (1) Groups of landholders south of Post Creek contend that all gravity water originating south of (above) that creek should be reserved for lands of the Mission division of the irrigation project. Would the landowners of that district agree to be charged with all the construction costs incident to bringing that water that far?

(1) It might be contended by one district or another that each district should run its own power business. Have the two south districts figured out a method of segregating the power business, and would they want each district to retain the net revenues produced within each one?

(3) Have they figured out a peaceful method of apportioning available gravity water to the near lands and to the far lands? Would they apportion it on a per-acre basis at the point of diversion or at the point of delivery to the lands? Or, do they plan on going to law about it?

(4) No doubt they have resolved, where the courts have been unable to resolve, the status of the numerous claimed private water rights. Would they just permit such a claimant to divert all the water in the creek? Or would they depend upon further lawsuits?

(5) I suppose they have delved into the contract of the Montana Power Co. with the United States in the matter of delivery of power "for the benefit of" the Flathead Irrigation project. I suppose they have a step by step plan worked out to handle the power business here without any assistance from the United States.

Truly, I do not believe they have given any of the matters, above enumerated, the slightest consideration.

Representatives of the Flathead Irrigation District underwent tremendous effort securing the passage of Public Law 554 of the 80th Congress as well as in the drafting of the very splendid contract which has been set up in all three of the districts here. In the spring of 1948 we were told by Members of Congress that the Flathead was getting the most considerate and liberal contract of any project in the United States. That contract was intended to run 50 years. People here, who had no hand in doing those things, who have not the slightest thought concerning the difficulties involved in procuring the approval by Congress for a law and a contract like these we are now operating under, seem to have no scruples when it comes to destroying what others have done.

The contract of the Flathead Irrigation District with the United States is one which supposedly involves mutual obligation. It was set up with minute observances of detail in the matter of legal procedures established by Montana statutes authorizing such contracts. The Flathead District, presumably, is bound by the provisions of that contract. Then, of course, the United States is similarly bound.

The contract above referred to provides, among other things: "The districts executing this contract agree to aid the Secretary of the Interior * * * in determining questions of policy * * *." The commissioners of the Flathead District believe the question of policy involved herein should rate top priority with the Secretary of the Interior and with the Congress in seeking the "advice and recommendations" of the irrigation district. They believe also that the inhibition in our Constitution against laws "limiting the obligation of contract," applies to the United States as well as to the States.

They believe the United States should go on through with the Flathead irrigation project under the terms of existing contracts.

STATEMENT OF D'ARCY McNICKLE, BOULDER, COLO.

Mr. McNICKLE. My name is D'Arcy McNickle. I live at 570 Highland Avenue in Boulder, Colo. I am now director of a project privately financed called American Indian Development. I am here as a member, an enrolled member, of the Flathead Tribe. I am here at my own expense.

I have not been asked by the tribe to represent it, nor have I been asked by any other organization to represent that organization. I am here simply as an individual member of the tribe.

I might say that previously, until 2 years ago, I was with the Bureau of Indian Affairs for 16 years. I might say also that I was born on the Flathead Reservation and lived there until I was 21 years of age, that I left the reservation to go as far away from it as I could, sold my allotment and went as far as England to finish my schooling, and worked for 10 years in New York, before finally coming into Indian work.

I give you that background, because I think it may help you to see that I will be expressing opinions, and there is some background for the opinions.

Senator WATKINS. Would you like to tell us something about your education?

Mr. McNICKLE. I finished at the University of Montana in 1925, and, as I said, I sold my allotment. I went to Oxford University in England. I later on studied at Columbia University, New York, while working there. And still later, I did some work at Grenoble University in France.

I would like to start with a sort of a general statement, that in my own knowledge the Department of the Interior, the Bureau of Indian Affairs, over a period of years, have been working toward a gradual withdrawal of Federal services. And I think the gong that sounded and caused the cow to kick over the milk bucket was this Resolution 108, that required immediate action to be taken, required the Department to submit bills by January 1. And I think those bills, at least this Flathead bill—I will stick to that—represent, I would say, some hasty and ill-advised thinking. I think it reflects thinking that really goes back to 1907. And to be facetious for a moment, I almost expect my former colleagues in the Bureau to be wearing mutton chop whiskers and high button shoes. Because this is thinking that goes back to 1907.

As an example of that, I refer to the idea of this final roll. It has already been mentioned here that the tribe has a roll, which is kept current, and to all purposes is evidently a satisfactory roll. There may be, as someone has said, some who might claim to be entitled to enrollment, and certainly they should have a chance to make their claim. But, basically, the tribe ought to have the right to decide whether it wants a tribal roll or a current roll.

A final roll will involve the tribe, if it tries to continue as a holding corporation, in a great deal of work. Or it will involve that corporation. Because keeping track of the heirs of people on this original roll who may be scattered all over the country will grow into a clerical job of tremendous proportions.

Where these final rolls exist, that is the situation. I believe on the original Osage roll, there were some 2,200 names. There is now the job of trying to keep track of something over 5,000 people, and every time someone dies the machinery starts going to find out where the heirs are and how many there are and whether they are alive and so on, and to determine what interest they have. So that if the tribe is compelled under this bill to accept a final roll, you are imposing a burden. And I think, basically, the tribe ought to have a choice whether it wants a final roll or a current roll.

Senator WATKINS. Would that be your recommendation?

Mr. McNICKLE. That would be my recommendation; yes.

Senator WATKINS. Let me ask you this. Of course, the white people have difficulty in following the heirs of those who die. If a corporation were set up, for instance, for this tribe, they would become stockholders, and their heirs would succeed to their stock just the same as white people would succeed to ownership of stock that their deceased parent had if a will hadn't been made willing it elsewhere, if the person had it in his possession at the time of his death.

So the matter of keeping track of who is the heir would be the interest of the heir himself and his parent or his ancestor.

Mr. McNICKLE. That would be a family matter ordinarily.

Senator WATKINS. That would be a family matter. The way we are going now, the United States has to keep track of all of this. The

Tribal Council has some responsibility, and they try to keep track of it.

In the United States, we have two outfits trying to keep track of the tribal roll. But if the burden were shifted over to the Indians themselves, they would do just like the white people would do. If there is the slightest bit of property that might be inherited, if the person thought he might be an heir, he would take care of it.

Sometimes in England, when a person will die in England, they will advertise here and in Australia and nearly every place they think English people have gone to settle, in case heirs have gone there. That has happened time and again.

Mr. McNICKLE. That is correct.

Senator WATKINS. We can't solve that problem with any device I know of except to put them in the same interest the ordinary citizen would be in. The pecuniary interest usually takes care of it. If they have an ancestor they are related to, and they are his heir, they will usually try to keep track of who he is and establish their heirship.

Mr. McNICKLE. But in this bill, however, there is evidently a choice that the tribe might set up a corporation to take over this property and manage it.

Senator WATKINS. That is the tribal end of it.

Mr. McNICKLE. And to earn money on it, evidently, and to distribute it to the enrolled people. So there would be a burden on the corporation, it seems to me, to see that that money is distributed to the right people.

Senator WATKINS. That is on every corporation.

Mr. McNICKLE. And you would be transferring the load which the Federal Government is now carrying to this tribal corporation.

Senator WATKINS. That is right.

Mr. McNICKLE. And I was simply saying that a proper bill ought to give the tribe a choice, really, of whether it wants to keep a current roll in order to facilitate that kind of distribution, or whether it will be saddled with a final roll in which the tribe or the management would be responsible for finding out who the heirs are and where they are.

Senator WATKINS. I think the purpose of the bill is misunderstood. The purpose is to find out who gets the property now. And after that, they become the original stockholders in the corporation if they follow that pattern, and the individuals will get their transfer of property, which will become a fee patent for the individual allotments and ownerships.

So, from that time on, there should not be any difficulty.

Mr. McNICKLE. But it would have this other effect.

Senator WATKINS. I would like to know how a final roll would cost any more than the current.

Mr. McNICKLE. I suspect that the current roll is not a burden. But we can check on that.

Senator WATKINS. I am glad you brought it up, because it gives us an opportunity to explain the difficulties, and as to how it will work when it is transferred over to a corporation or goes under individual ownerships.

Mr. McNICKLE. The other advantage of this final roll, and the proposal which is in that section 4, of vesting a personal-property interest in the tribal property, vesting a personal-property interest in the people who go on that roll, taken together with the act, as brought in

information supplied by the Department, that over half of the Flat-head people reside away from the reservation—and the evidence shown here is that at least among those who were polled, a great majority of the off-reservation people were in favor of a distribution. And by vesting property rights in these people, it seems to me that the tribe would have little chance to hold this property intact, that the pressure on the part of the off-reservation people favoring distribution would build it up to such an extent that if the tribal officers tried to hold it intact they would be voted down.

Have I made that point clear?

Senator WATKINS. What you are trying to say is that the majority should not decide, as we do in ordinary corporations?

Mr. McNICKLE. Well, I seriously question whether the off-reservation people should have a vote. And that includes myself—in making a decision about property on the reservation in view of the fact that half of the people are trying to make a living there. Or if that is not an acceptable position to take, I would suggest using a rule that has been used by tribes on previous occasions, of requiring that three-fourths of the adults favor any sale of lands, distribution of property. That formula was used in some of the Sioux treaties, I believe, requiring a three-fourths majority of the adult members.

Senator WATKINS. That could be written, I assume, into the corporation bylaws or the corporation articles.

Whatever the State of Montana would permit them to do, I think they could do.

Mr. McNICKLE. Under their present rules, voting is limited to residents of the reservation.

Senator WATKINS. I do not say that I favor that, but I say if it was finally determined by this committee to put in that kind of a provision, it probably would work out to the incorporation papers themselves.

Mr. McNICKLE. In other words, what I am simply saying is that those on the reservation trying to make a living there should decide that they would like to hold this property intact and manage it as corporate property, pay dividends out of the earnings, every effort should be made, I should think, by the committee to favor that.

Representative D'EWART. Might I ask a question?

Mr. McNickle, don't you think that the committee has to recognize, though, that all the Indians on the roll, whether they live on the reservation or not, have a constitutional right in the estates of the Flathead Tribe?

Mr. McNICKLE. I don't deny that. I am simply raising the question of whether, in voting on the final disposition of the property, they should have the same voice that those on the reservation have. Because the situations are different for the two groups.

Representative D'EWART. My question ran to the point as to whether the Congress has a right to take away a right from some of the Indians on the tribal roll and grant additional rights to other Indians on the tribal roll.

Mr. McNICKLE. I am not sure. Maybe Mr. Tunison could answer this. I am not sure whether Congress would have to make that decision; whether the tribe itself couldn't make it.

Another general point I wanted to make is that I think there is a basic confusion here reflected in this proposed legislation.

I think it is clear that the Federal Government, at any time, can cut off its services by its own action. There is no question of that, certainly. However, you have here a situation which is not as simple as that. You have Federal services, but you also have these treaty obligations. And I would think that as far as the treaty obligations are concerned—this point has been made before, but I repeat it—there ought to be a meeting of minds. There ought to be an agreement between the tribe and the Federal Government. In other words, in the second situation Congress has the power, it is true, but it shouldn't by its own action terminate these obligations without arriving at a meeting of minds with the people.

Representative D'EWART. What would you say to this suggestion: That when the foreign state known as the Indian Nation of Flatheads accepted citizenship in this country, they in effect invited and accepted a proposal which gave them responsibilities as citizens of this country as well as rights.

Mr. McNICKLE. They had no choice, of course. The 1924 act simply imposed citizenship on them. There was not there an agreement that "we will accept citizenship and in exchange give up any treaty rights we may have."

Representative D'EWART. There was no Indian objection, was there?

Mr. McNICKLE. No. They had no chance.

Representative D'EWART. No chance? What do you mean? You say they have no chance today. They are here in numbers to object. I never heard any Indian organization object to its being given citizenship in this country. In the 7 years I have been here working on the Indian committee every year, there have been only 2 Indians that have objected to citizenship in this country. And those two, I think, possibly lived across the line in Canada. They were on the Mohawk Reservation in northern New York right along the boundary.

Mr. McNICKLE. Maybe I haven't made my point clear. At the time the 1924 act was under consideration, the tribes weren't asked "Will you accept the citizenship and in turn give up any treaty rights you may have?" The act was simply passed. They had no choice in the matter. I don't think any of them would have rejected citizenship. No. I am not saying that. But you were making the point, as I understood it: When the citizenship act was passed, and citizenship was given to these people, didn't that then change the relationship?

Representative D'EWART. I would think that the acceptance of citizenship in this country, by taking advantage of the opportunity to vote and do all those things, would in effect change their status. Because up to that point, they had been citizens of another country. And instead of coming in one at a time before a naturalization court, the Congress passed a general naturalization act for all Indians, and they became citizens of the United States. And if there had been any opposition from Indians anywhere in the country at that time, when Mr. Curtis—I am not certain of this, but I am advised that Mr. Curtis, the man who became Vice President, either introduced the bill or favored it strongly—there would have been objection all over the country. And had there been objection, the Indians probably would have been given the opportunity to say whether they wanted it or didn't want it.

But none of them have said anything, in all of these great organizations that have existed to protect them.

I think we were conferring something that was not harmful but something that is greatly desired by people all over the world. In fact, we have a great deal of difficulty to keep people from moving in unlawfully and every other way so that they can become citizens of this country.

Mr. McNICKLE. I am not disputing that.

Representative D'EWART. And when they go to vote and do the other things, I think they show that they have accepted the benefits of that act.

Mr. McNICKLE. The original point I was trying to state there was that I think as far as this treaty relationship goes, there ought to be a meeting of minds. There ought to be an agreement. I think such an agreement can be reached. I can't, as I said, speak for the tribe. But I think, as has been pointed out here several times, the Flathead people certainly are reasonable. Their whole history with the white man has been one of peacefulness, of friendship. I think there can be a meeting of minds here.

As I said at the beginning, because of the time schedule, the deadline that was placed on the Bureau, it has not presented the kind of bill that could be worked out and should be worked out, and it ought to start with the people, with the tribe.

Incidentally, I believe I started the first conversation on withdrawal with the tribe. I went there in 1946, with the Assistant Secretary of the Interior, Mr. Davidson, at the time, and held a meeting with the tribal council, on this problem of withdrawal, and made the suggestion that the tribal council should start thinking in terms of the day when Federal services would be withdrawn. So I know from personal knowledge that, going back some time, there has been thinking in terms of withdrawal. And I think if that gradual working out could have been allowed to go on, we could come up with some kind of legislation that would be satisfactory to the Congress and to the tribe.

Senator WATKINS. You would agree with me that the objective of the United States in becoming the guardian of these Indians was to prepare them for management of their own affairs and for full citizenship?

Mr. McNICKLE. That is right.

Senator WATKINS. With all its rights and obligations?

Mr. McNICKLE. That is right.

Senator WATKINS. Sometime somewhere along the line there has to be a move made to terminate that guardianship. Is that not right?

Mr. McNICKLE. And to do it, I am saying that Congress certainly has full power to cut it off. But I am urging that you do not use that power. I think that is a decision you must make, as to whether you will use the force you have, or whether you will attempt in all earnestness to reach a meeting of minds.

Senator WATKINS. Well, when you say a meeting of minds, do you mean a hundred percent of the Indians have to agree to it, or just a majority?

Mr. McNICKLE. Well, I don't know whether I could answer. When there are a reasonable number who feel satisfied that they know what

this thing is, that it is going to work, I think when that time comes there will be no misunderstanding.

I believe the meeting of minds I speak of will be there. It might be a majority. It might be something like a three-fourths majority. Or you might get a unanimous decision.

Senator WATKINS. The fact of the matter is that you know that most of these Indians are fairly able to take care of themselves, don't you? That is the main thing here, and the only thing that really amounts to anything so far as I have found out up to date, the fact that they are afraid they might lose their property, and some of them don't want to pay taxes.

Mr. McNICKLE. Well, that is true. And there are a lot of institutions in this country that don't pay taxes and would resist any effort to put them on the tax rolls, I am sure.

Senator WATKINS. Well, the Indians can get in that category, too. But that doesn't stop us from having a proceeding to put them all on the tax rolls, if they can.

In connection with that, I wonder if this isn't worth considering. It is a matter of being on the tax rolls. I notice, and I think probably you can verify this, that the Indians in the Flathead area vote at the general elections, vote for city, county, States, and national officials. That is right, it is not?

Mr. McNICKLE. Yes.

Senator WATKINS. And they have elected in various parts of Montana at various times Indians who have served in the legislature. That is right, isn't it?

Mr. McNICKLE. That is right.

Senator WATKINS. Now, do you think it is a proper function, for people who claim they don't have to pay taxes to vote at elections, to elect officials who fix taxes on all the rest of the people other than Indians?

Mr. McNICKLE. I think it is done right along.

Senator WATKINS. It may be done, but do you think that is the right and sound thing to do? In other words, the Indians don't have to pay taxes, but they can vote at elections to determine the tax policies by sending to the legislature or to the Congress people who will fix the tax policies—not for the Indians, no, but for the whites? In other words, you can help determine an election, and maybe an Indian vote would determine it. But "No taxes against Indians. That is forbidden."

Mr. McNICKLE. I don't think taxation itself is the badge of citizenship. That is the only point I am making.

Senator WATKINS. It may not be the badge of citizenship, but it is one of the obligations, that you should help maintain your Government. And I am glad to do it, even though, as I said the other day, I don't like to. I do some things I don't like to do.

Mr. McNICKLE. But I think the bill, as written, makes it difficult for the tribe, or the tribal governing body which is responsible for starting some of these actions under this legislation, to have an even break on trying to do the thing that they might want to do. In other words, if the tribe wants to go in for management, to take over management from the Federal trustee, it must start by making a request of the Secretary. And, as I said, there is pressure. There will be

many who will want to divide everything up. And before the subject can be maturely considered, this pressure of those who want to divide up might force a premature action, which would result in a division of property which might turn out to be the wrong judgment.

Now, I understand that this amendment which has been proposed by the Department, which would permit a question to be reconsidered, may cover that point. I just heard the language here, and I don't know whether it does or not.

Senator WATKINS. That is to give them a second chance.

Mr. McNICKLE. But I think, basically, the burden ought to be on the other people, on those who want to make a division. The burden of taking the action and of getting a vote ought to be on them. This tribe ought to be continued under tribal management unless something else happens, in other words. The responsibility for management simply ought to be transferred to the tribal governing body, which may be reorganized under State law, if the committee thinks that is preferable.

Senator WATKINS. Well, they have to have some entity.

Mr. McNICKLE. They have one now.

Senator WATKINS. But that will have to be changed, because that can't remain if they become ordinary American citizens. They have changed their status from Indians over to American citizens a hundred percent, and that can't exist unless they want to take advantage of the State law and organize themselves in a body corporate or a cooperative, whatever they want to do. When they have done that, then they have placed themselves in the position where they have a legal entity through which they can act, just like white people do through their corporations. So the opportunity for them to control their property is the same as any other person who has to control his property.

What I am trying to find out from you is this: Do you feel that a small minority ought to be able to determine the policy with respect to the ownership and holding of property?

Mr. McNICKLE. It wouldn't be a small minority. I am saying that those who are living there, trying to make a living, ought to be favored. Under the present regulations of the tribe itself, only those who have residence may vote, and I think that is a perfectly equitable arrangement. It does not cut the others off from the right to share in the property. If there is any division of property, they get their per capita payments. But they do not vote in determining policies of management. And I think that is a perfectly good arrangement.

Representative D'EWART. Mr. Chairman, could I comment?

Mr. McNickle, it is the view of House committee—let me put it that way—that we don't have a constitutional right to take away from part of the Indians of a tribe and give to another part of the tribe. That came up recently in a mineral case on the Fort Peck Indian Reservation. And we were very careful, in drafting the legislation requested by the Indian tribal wards, so that the Federal Government would be protected. That tribe there asked us to take property, mineral rights in that case, from some of the Indians and give them to some other Indians. In fact, in the first place they belonged to all of the Indians in the tribe, and they were to be given to a few of them.

We were very sure in the committee that, if we did that, we laid the Federal Government open to almost unlimited suit and that we did not have that right. The tribe could do it if they wanted to, but the Congress couldn't. And I think we ought to make it clear that the Congress would lay itself open to damages if we took away from some of the Indians of a tribe and gave that property to others.

Mr. McNICKLE. I must not have stated my position there.

I am not proposing taking property away. I am simply talking about management. And the corporations in this country manage property under a board of directors. You can vote by proxy, that is true. But unless you are a majority stockholder, actually your voice is relatively minor. Management is set up so that it can operate without interference as much as possible, so long as it keeps within its own rolls, without interference. And that is, in essence, what I am talking about.

Senator WATKINS. You said something about private rolls. You will note, of course, that under an arrangement whereby they would incorporate, the stockholders, or the people who are on the rolls, would then become stockholders in the organization. And upon the enactment of this act, a certificate of interest—I am right on that, am I not—of those on the rolls will be available. They will have an interest which will be inherited that they can pass on to their heirs. That does not mean that each heir from that time on will be a member of that tribe. The way it is now, your tribe keeps expanding, and expanding, and expanding. Anybody that has any Indian blood, apparently, no matter how little, they take in as Indians. But from that time on, your tribal rolls cannot expand. By that I mean that the stock itself will be issued to those who are the original stockholders. From then on, when a stockholder dies, as the estate is divided, his heirs will not become members of the tribe. They will have an interest in that share of stock. The Indians who are on the reservation will be much better off, in my judgment, to have this sort of thing done now. If they are not careful, they will have this tribe expanded up to 15,000 or 20,000. And then when they have a final division later on, in years to come, they will get a very small part of the tribal property. It will be divided among 15,000 or 20,000 on equal shares. So the longer they put it off, the worse off they are going to be.

Mr. McNICKLE. You mean if there is a current roll kept?

Senator WATKINS. Well, I am just pointing out that as it is now, you go on year by year, and you have birthrate increases.

Mr. McNICKLE. People die, too.

Senator WATKINS. Some die. But you are expanding. The Navahos have been expanding from about 1,200 to about 1,800 a year. They have gone from about 8,000 up to around 75,000 Indians.

What I am pointing out is that from the standpoint of the Indians themselves, it would be better to have this done soon. Because if you don't, you will have to divide it up on equal shares, with an expanded Indian population, an expanding tribe.

Whereas, if you do it now, they only become heirs to the interest, an inheritable interest, of those who are on the rolls now. Those who come after will only take a small fraction of one interest. But if you don't have this done, they will divide it up on equal terms, and if you get 15,000 Flatheads, you will get one fifteen-thousandth. As

of today you will get one four-thousandth. That is something for you to think of.

Mr. McNICKLE. But all I am saying here is: Shouldn't the tribe have that right of choice? If they want to keep a current roll, shouldn't they have the right to choose that rather than have the Secretary or the Congress imposing it on them and saying, "You should have a final roll"?

Senator WATKINS. If they want to have a final vote, they can cut it up into eighteenthths or do whatever they please.

Mr. McNICKLE. All I am saying is that in drafting legislation, you ought to sit across the table from the tribe and work these details out.

Senator WATKINS. We are doing that right now. You are a member of the tribe, and we are on the other side, and we are trying to do the job as a guardian. That is how we are sitting in here today, as part of the guardianship of the Indians.

Mr. McNICKLE. I am sure we are not losing sight of this, and I think we must keep it in sight, namely, that you aren't disposing of Federal property or public property here. This is property of the Indians, that was theirs, and that the United States, by treaty, said they would recognize as our property. You drew a boundary around it and said, under article 2, "We will protect you against outsiders coming in there."

Senator WATKINS. You realize that we are not trying to dispose of this property at all. We are just trying to let the rightful owners have it. We say, "You are the rightful owners. Here is your property. You can dispose of it."

If there is to be any disposal, it will be done by them and not by us.

Mr. McNICKLE. But you are making it very difficult for them to keep that property, and that is just the point. The cards will be stacked against any in the group desiring to keep this intact and manage it. Because when you talk about \$70 million here, \$17,000 per family, the pressure to get that divided up is going to be awfully great, on the part of people who tomorrow, after they get it, may regret that kind of solution. And it is very difficult, under this legislation, this proposed legislation, to get any other kind of result.

Senator WATKINS. Well, it is difficult unless we want to pass an act that the majority can't rule, which is totally un-American. But if that is what the Indians want, and they will say so to us, and our constitutional lawyers say it is not violating the rights of these people, all right. But you don't want to give them their rights, those fellows off the reservation. You want to leave it in the hands of those on the reservation.

Mr. McNICKLE. Well, I think that is equitable. I am talking about management now, not taking property. I am talking about management of that property. Those who are on the reservation and trying to make a living there, I think, are entitled to get a break on it.

Senator WATKINS. You can give it to them if you want to. It isn't ours to give.

Mr. McNICKLE. Well, this legislation makes it difficult to obtain any other result. That is all I am saying here.

Senator WATKINS. Then you would recommend to us that we put a provision in this bill making it so that those who live off the reserva-

tion will not have the same voice in determining what is to be done as those who live on it. Is that your idea? I want to get it clear.

Mr. McNICKLE. It could be done that way, or a provision could be in there that the Indians will decide who will have the right to vote. And let them decide that by majority vote.

Senator WATKINS. What Indians?

Mr. McNICKLE. The Flathead Indians, everybody on the roll.

Senator WATKINS. That is what the bill does.

Mr. McNICKLE. Who shall have the right to vote? That would be the first question.

Senator WATKINS. The bill proposes a referendum, to send it out to all of them.

Mr. McNICKLE. But the bill, as written, allows the off-reservation people to vote on the question of disposing of property.

Senator WATKINS. Well, shouldn't it?

Mr. McNICKLE. No. I am giving the two proposals. Either the bill should say that voting shall be limited to reservation residents, or the other alternative is that the bill say who shall have the right to vote on the disposition of property. That is the way the Constitution itself was adopted originally.

Senator WATKINS. You mean the Indian constitution?

Mr. McNICKLE. Yes, in voting on the Flathead constitution, voting was open to everyone. But the constitution had a provision, which everyone by voting on it approved, which limited voting to residents on the reservation.

Representative BERRY. Here is just another thought, Mr. Chairman. That puts an additional penalty on those who have left the reservation, doesn't it? Out in our country we have a great deal of difficulty now—I fight with the Department every day—because we are trying to induce these Indians to get off the reservation to find employment, and when they do, they will automatically give up any rights, or, rather, possibility, of obtaining relief from the reservation, should they become unemployed.

Now, this would do the same thing. This would place a penalty upon the Indians who have left, wouldn't it?

Mr. McNICKLE. I don't believe so.

Representative BERRY. Well, you are going to make them all come back to the reservation, and they won't have a say in it.

Mr. McNICKLE. No; if they want to leave, and the desire to leave is strong enough, they will leave.

Representative BERRY. It would have to be strong. Do you want to make it strong? Do you want the people to integrate?

Mr. McNICKLE. If they are on the reservation and prefer to make a living there, they ought to have the chance. And if they decide to go away, it ought to be because there is good reason to go away.

Senator WATKINS. In your own case, do you think it was wise to give you your fee patent?

Mr. McNICKLE. Oh, yes. I regret it. I think it was a foolish thing to do. At the time it seemed all right.

Representative BERRY. You thought it was a foolish thing at the time?

Mr. McNICKLE. No; I do now.

Representative BERRY. You think it was a foolish thing?

Mr. McNICKLE. I would like to have kept the land.

Representative BERRY. Wasn't your education worth more?

Mr. McNICKLE. Oh, yes.

Representative BERRY. And you got your education by virtue of that, or part of it?

Mr. McNICKLE. That and working. I could have done it working without selling the land.

Senator WATKINS. Would you think you would be better off on the reservation?

Mr. McNICKLE. If I could have made a living, I would much rather be in the West than in Washington. It was hard to make a living in the West.

Senator WATKINS. Well, I have noticed that those who went there and stuck it out and really worked, got along pretty well, including the Indians.

Mr. McNICKLE. Well, on that question of voting, I am sure the tribal delegates will have something more to say.

I have one more point.

Do you want to quit?

Senator WATKINS. Go right ahead and finish up.

Mr. McNICKLE. Which is really a question which the committee may not desire to answer at this time. But there are many Indians in town right now, and there is a lot of talk going on about this general withdrawal program, as it affects these particular tribes at the moment. But more, the worry has to do with what is next, what comes next. And I was wondering if the committee would care to say at this time whether it is the intention of Congress to go on, tribe by tribe, and withdraw all down the line. And what brings that to mind is that in August 1952, the then Commissioner of Indian Affairs, Dillon Myer, sent out a memorandum to all Bureau officials, in which the statement was made:

I think it may be fairly said—

I am quoting from that memorandum—

that current congressional action with regard to the Bureau of Indian Affairs and Indian appropriations indicate future appropriations will be limited largely to financing items which will facilitate withdrawal.

That is a statement taken from this memorandum, on the basis of which all Bureau officials were instructed to draw up withdrawal plans for every reservation, and, moreover, to state how much has been done toward withdrawal, how much remained to be done, and what the plans were for completing that withdrawal program.

Senator WATKINS. Do you want to know the position of Congress?

Mr. McNICKLE. Is that a correct statement of Congress' intentions?

Senator WATKINS. The best way to do is to take what Congress has said.

Mr. McNICKLE. That is 108, I guess.

Senator WATKINS. On August 1, 1953, the Congress adopted the following policy:

Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and

Whereas the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it *Resolved by the House of Representatives (the Senate concurring)*, That it is declared to be the sense of Congress that, at the earliest possible time—

And it names the tribes, and so on. The intent being that as rapidly as these tribes are to the point where they can take care of their own responsibilities and go on, they will be given that right.

We don't intend to deprive them of the God-given right to make a few of their own mistakes and to manage their own affairs.

That is putting it in a nutshell. I can only speak for myself on that. But the Congress has declared itself in a general policy adopted as I understand it unanimously, without a single dissenting vote in either branch. And we are now trying to carry out the directives.

Mr. McNICKLE. The reason I brought it up is that the directive applies to these specified States and tribes.

Senator WATKINS. That is immediately. But as to the general proposition, we don't need to wait and say, "We will have to wait until we pass another directive." Because it has already been declared the policy of Congress. It has been the policy from the beginning, as you admitted a moment ago, to get the Indian people to the point where they could handle their own affairs.

Mr. McNICKLE. But not necessarily to terminate the responsibility that might have been assumed under treaties.

Senator WATKINS. Under treaties, you wouldn't even be citizens.

You can't claim as a treaty right that you are to be citizens of this country. You can't be citizens of another country and here too at the same time.

Mr. McNICKLE. But there have been court decisions, I believe, that have said that there is no inconsistency between citizenship and being a member of an Indian tribe.

Senator WATKINS. No, you can be a member of a tribe, but that doesn't mean that the tribe still retains the status of a foreign government.

Mr. McNICKLE. But as a member of the tribe you may have certain—

Senator WATKINS. You may be a member of a tribe, but not a citizen of a foreign country any longer.

Mr. McNICKLE. But as a member of a tribe, you have certain rights that were put into a treaty at one time, and there is nothing inconsistent with that and being citizens of the United States.

Senator WATKINS. Whether it was inconsistent by law or not, it is inconsistent as a matter of logic, as I have already pointed out in this tax matter.

Mr. McNICKLE. Indian affairs don't follow logic.

Senator WATKINS. Apparently they don't, but we would like to get them within speaking distance of logic in the near future.

Anything further that you want to give us?

Representative BERRY. Mr. Chairman?

There probably is a question that might be answered in the last part of the resolution, where it says that:

It is further declared to be the sense of Congress that the Secretary of the Interior should examine all existing legislation dealing with such Indians, and treaties between the Government of the United States and each such tribe—

That is in the last paragraph of 108.

Mr. McNICKLE. I thought that point might be clarified, as to the intentions of Congress about going on with step by step withdrawal or tribe by tribe withdrawal as time passes.

Senator WATKINS. By the way, how long has it been since you were in the Indian Bureau?

Mr. McNICKLE. Two years.

Senator WATKINS. I thought you resigned recently.

Mr. McNICKLE. But I have been on leave for 2 years, since March of 1952.

Senator WATKINS. I would say that the best statement of what the policy of the Government is to be is the one adopted by Congress, because it is the only branch of the Government that can give the policy. It fixes the policy. So that you will have to govern yourselves accordingly.

The people you helped elect to Congress, you know, did this very thing.

Mr. McNICKLE. Just one point. There was some discussion yesterday about consultation, as to whether it had been adequate or not. And I think the record showed that there had been in a period of 6 months, 6 or 7 months, some 9 meetings or conferences, some of which were limited to small groups, tribal councils, and I think 2, what you might call, public meetings. And actually I don't believe that you could call that adequate consultation, when, if it is true that this property is worth \$70 million—I don't know whether it is; I would like to have some analysis of that, but anyhow, it is money. And a hundred years of relationships are involved. And whether you can really consider 9 meetings in 6 months as adequate consultation, I think is to be seriously questioned.

Senator WATKINS. This matter of consultations, I think, was raised by the President of the United States. He said that the Indians would be consulted in the appointment of the Indian Commission. I don't know how many months it took, but it was 4 or 5 months that Secretary Lewis was busy consulting with Indians. And he didn't begin to get around to all the Indians.

Every Indian thought he ought to be consulted about that. And this matter of consultation, of course, can be overdone.

Mr. McNICKLE. It can be underdone, too.

Senator WATKINS. In 1946 we were out there talking to these Indians about it. In 1947 I talked to a lot of Indians about it. In fact, I told nearly every Indian who came in here that that was the program of the United States. And I told them to get ready for it. But apparently every time we get right around to the point, they will say, "Well, we need more time." How much more time? None of them says less than 10 years, and some of them up to 25 years.

Under one of the bills here introduced, if it were carried out, a tribe that was ready for emancipation 10 years ago would have a bill that it would be 25 years before they could get put on the roll, never meeting the situation fairly and squarely.

Sometime, somewhere, we have to do what Congress has said ought to be done.

Now, Congress got busy on this job and said, "All right. We have been talking about it for years. We have been working at it for 150 years in the case of some tribes. Now it is time to act."

Mr. McNICKLE. But I would like to have a bill that would start an action as of the passage of the bill to, say, set up this corporation, to transfer to that corporation complete responsibility for management, under pretty much the present arrangement, with a tribal council elected by the people, and give that council, with full responsibility for its mistakes, or 5 years to take the next step, which would be complete severance of trusteeship.

At the present time, this tribal council has had, since 1935 or 1936, to manage property with every possible string attached to it, so that they have never had real experience in being responsible for their mistakes, and learning from them. Everything has had to go up. The Secretary has had to approve anything that involved basic decisions about property.

So rather than doing what you were doing here, or proposing to do, starting some machinery into operation which, before they know what has hit them, may result in the property being dissipated, and the loss of the opportunity for management, do it the other way, and start an action which will give them full management responsibility, and then wait and see what happens. That would be my final recommendation.

Senator WATKINS. Is there any question?

Representative D'EWARD. Mr. Chairman, in view of the discussion that the witness has brought up, I would like to quote or paraphrase some hearings that were held in the Senate in 1947, at which time a certain criterion was set up for the withdrawal of Federal Government supervision. And that criterion, established in 1947—and I don't know that it has ever been denied or set aside—is:

First, the degree of acculturation; second, economic resources and condition of the tribe; third, the willingness of the tribe to be relieved of Federal control; fourth, the willingness of the State to take over.

Those criteria were set up back in 1947 as a measure of the very steps that are being proposed under 108.

There is one other comment I would like to make in regard to the preparation of rolls.

In section 3, it states twice that this is a proposed roll; that the roll shall be final only for the purpose of this act. It is not final for other purposes, only for the purpose of this act.

That is the comment I wanted to make.

Senator WATKINS. Any further questions?

If not, the witness will be excused.

Mr. McNICKLE. Thank you, Mr. Chairman, and members of the committee.

Senator WATKINS. The committee will be in recess until 2:30 this afternoon.

(Whereupon, at 12:35 p. m., a recess was taken until 2:30 p. m., this same day.)

AFTER RECESS

(The hearing was resumed at 2:30 p. m.)

Representative BERRY. The committee will come to order.

The first witness this afternoon will be George Tunison, the attorney for the tribal council of this tribe.

STATEMENT OF GEORGE M. TUNISON, TRIBAL ATTORNEY OF THE
CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLAT-
HEAD RESERVATION, MONT.

Mr. TUNISON. With your kind permission, I would like to move that map over here near this spot that it will be readily available.

My name is George M. Tunison, attorney at law, of Omaha, Nebr. For many years, I have been attorney under contract with the Federated Tribes of the Flathead Reservation in Montana. I may add that I have also during those years been attorney for the Shoshone Tribe of Indians of the Wind River Reservation in Wyoming. Those are the only two tribes, or individual Indians, whom I represent.

Representative BERRY. I wonder if it would not be better if you would sit down there so that you can talk into that microphone. I wonder if the people in the room can hear the witness. This room is pretty large, Mr. Tunison, and we want everyone to hear.

Mr. TUNISON. Very well, Mr. Chairman. I will add that I have prepared a nine-page typewritten memorandum which I will hand to the reporter at the close of my address, and which I would appreciate having placed in the record at that time.

Now, I would like to state to the committee that this map which is an official Interior Department map from the office of the clerk of the committee shows the various land accessions of the United States, and the green area in the upper left-hand corner is labeled on that map, "Oregon Territory, American title established in 1846."

Now, you will observe from that map that it begins at what is now the lower line of Oregon, and the southern line of Idaho, and extends into what is now a part of Wyoming. From thence, it goes along the Continental Divide up to the Canadian line, where the Continental Divide comes out into Canada and then along the 49th parallel to the Pacific Ocean. Then it goes south to the place of beginning. That was the 1846 accession of that territory to the Dominion of the United States. That territory had prior thereto been a debatable ground as to whether Great Britain owned it or whether America owned it, and certain claims of France and even of Russia were involved therein. But that was all settled by this treaty of 1846.

Now I mention that point for this reason, that the Indians residing in that territory of which the Federated Salish and Kootenai Tribes that I represent were the original owners of that territory. They were there before there was any Declaration of Independence and they were there before there was any Constitution of the United States, and they actually owned and occupied that land. The land owned by the Salish people, the Federated Salish and Kootenai Tribes, is what is known as western Montana, which appears on this map beginning at the Canadian line, at the Continental Divide, and coming right down along that Continental Divide line to a point immediately southeast of Butte, and Anaconda, and then going west along the Continental Divide to the Bitter Roots. Then it goes back up along the Bitter Roots and the Purcell Mountains to the Canadian line.

That territory included 16 million acres of land, and in that present territory there is located this present Flathead Reservation of one million and a half acres of land.

The reason it is called a reservation, gentlemen, is that the Flatheads own that land. That was their country from time immemorial and no one has ever disputed that, and they granted that land to the United States. The United States did not set aside this reservation for those people. They granted the 16 million acres to the United States. That point has recently been decided by the Supreme Court of Montana in the case of the *State of Montana ex re Irvine v. District Court, Fourth Judicial District*, December 20, 1951. It is cited in 239, Pacific, Second, and volume 6 of the Montana State Reporter, at page 163, in which the court said and it will be interesting to you gentlemen to know that the court that wrote this opinion, or the judge who wrote this opinion for the Montana Supreme Court, is now a Member of Congress from the Second Montana District, Congressman Metcalf, and here is the language used in 1951:

It should be noted that the Flathead Indian Reservation was created by the Hell Gate Treaty of 1855—

Representative BERRY. I do not think that these folks can hear, and I think that you will have to speak into the microphone.

Mr. TUNISON. All right, Mr. Chairman. It was created by the treaty of 1855—

between the Indian tribes called the Flathead Nations and the Federal Government—

and this is the significant language, your honors

the treaty with the Indians was not a grant of rights to the Indians but it was a grant of rights from the Indians with a reservation remaining to them.

In other words, the point emphasized in that decision is that, when the Flatheads ceded this 16 million acres of land to the United States for general public purposes, they did the ceding and they did the reserving, and this present reservation which is now before your committee for consideration was reserved. Nobody gave it to them. So the court continued:

Consideration has been given to the State's argument in regard to our enabling act and the provisions thereof. The answer to that argument is that the admission of the State into the Union even without any express reservation by Congress of governmental jurisdiction over the public lands within its borders does not qualify the former Federal jurisdiction over tribal Indians. Whatever rights a State acquires by its enabling act are subordinate to the Indians' prior right of occupancy.

Then he cited *United States v. Thomas* and another case.

That is the latest decision of the supreme court of the State in which these lands are located.

Now, going back to our story, gentlemen, after this Oregon cession of 1846, next came the act separating the north half of that country from Oregon and from what is now Idaho and creating the State of Oregon. Next came the election of Franklin Pierce in 1853, I think it was, and President Pierce appointed an Army major named Major Stevens to make a survey of the country from St. Paul and Minneapolis to the Pacific coast. It was with a view of lining up a railroad—and I will say that is presently the line of the Northern Pacific Railway—and of establishing friendly relations with the Indians along the route of that railroad. He appointed him the first Territorial Governor of the State of Washington.

He went out there in 1853 and started from St. Paul and Minneapolis. He met different tribes along the road, and he met with the Flatheads in the Flathead Valley. He went on out to Olympia and established the Territorial government of the State of Washington, which at that time extended from the Pacific Ocean to the Rocky Mountains, and the territory at that time on the east side of the Rocky Mountains was a part of the territory of the great and sovereign State of Nebraska.

Governor Cummings, of Nebraska, came up the river at the time of this treaty and met Governor Stevens over on the Judith River and made the first common hunting ground treaty with the Blackfeet.

So these people who came into that country following Lewis and Clark in 1804 and 1805 were fur traders. They were the Hudson Bay Co. The first Hudson's Bay Co. post established in that country was on this present Flathead Reservation, known as Fort Connah, and it was established by the grandfather of Walter McDonald who sits here, the present chairman of the tribal council, and who has lived there since his birth, and the McDonald family have lived there all of these years.

The Hudson's Bay factor married a Flathead Indian woman, raised a large family, and the descendants of that family are presently on that reservation and active in tribal affairs.

After these first early trappers came in, Father DeSmet came up the Missouri River from St. Louis in 1840, and in 1841 he established on the Flathead Reservation the old St. Mary's Mission down there on the Bitter Root. That church has been active in the affairs of this tribe from that time to the present, and I see represented here by Father Birn, the local parish priest from the St. Ignatius territory, who will tell you his story when the time comes.

These three tribes, following that first trip of Major Stevens across there, were united largely, I will admit, by Governor Stevens' negotiations into one tribe, known as the Confederated Salish and Kootenai Tribes. That included the Flatheads, in the southern part of that 16 million acres and the Pend d'Oreilles in the middle part and the Kootenais in the northern part. But they were united into the Confederated Salish and Kootenai Tribes, and they signed this treaty.

Now, following that first visit, Governor Stevens returned to Washington and told his story to Jefferson Davis and to the President, the then Secretary of the Interior, and he was commissioned to go out and make a treaty with these three tribes whereby they would cede this 16 million acres of land to the United States and agree to go on a reservation.

In that treaty there was no mealy-mouthed words about when it should last or how long it should last. It said, "This is to be a reservation for your tribe." It did not say it was to be for 10 years or for 100 years or 50 years or another period. "It is for your absolute and undisturbed use and occupation, as an Indian reservation."

I wish to say to this committee on behalf of this tribe, and the unanimous resolutions of its business council that is the position of this tribe today, that they are entitled to keep that territory which belonged to them long before there was a United States, and which they ceded with a reservation of this particular Indian reservation to themselves, and

they are entitled to keep that as an Indian reservation as long as they want to keep it as an Indian reservation.

The argument I have heard here advanced—and I say this part argumentatively—that the United States has the right to terminate this treaty with those Indians without consultation with them, without offering them any compensation for the loss of hunting and fishing rights which are guaranteed to them in that treaty, for the loss of their other incidental rights involved in that treaty, because simply you have the power and simply because this committee and this Congress has the power to do that—that, to my mind, is a whole new concept of the dealings of the United States with either a sovereign nation or an Indian tribe.

What this tribe wants is the right to have their right to own and occupy that reservation in perpetuity. Now, I will grant that if this Congress or any other nation wishes to abrogate and violate a treaty it has the perfect right to do that. But common fair dealing requires that when you do that you at least call in the other party and say, "We as a Government have decided that it would be better for you and better for us to terminate this treaty and we want to terminate the treaty with you gentlemen."

That has not been the approach of this Congress or these present bills to this problem. Now, on the vital question of taxation, which is what this bill means and which the committee has very frankly stated at these hearings, it is the intention of these bills to put all of this property on the tax rolls.

Now, there has been talk here about \$70 million, and I ask the committee, Where is any \$70 million? Who is talking about \$70 million? What products are they talking about?

The statement was made here that Kerr Dam is worth \$30 million. Well, the Kerr Dam brings in to these Indians \$200,000 a year. That is the contract price, and that covers a long period of years yet to come. Now, what is something worth which produces \$200,000 a year? Do any of you gentlemen know how to figure that at 4 percent? You can figure what the value of it is. To talk about that being worth \$30 million is the height of absurdity.

Now, the same statement is made about our tribal lands being worth \$40 million. Now, the evidence that you have here is that the most they have ever brought in per year is \$600,000, and that figure is arrived at at a term of high lumber prices and under the sustained-yield program outlined by the Bureau of Forestry, and that yield in normal times will swing to at least a third, around \$200,000. Now, again, what are forest lands which produce \$200,000 per year worth? Are they worth \$40 million, which figure has been indicated here? I say that as a matter of commonsense anybody knows they are worth about what they will earn at 4 percent.

Now, when you put those lands again under taxation, which this bill clearly contemplates, how much will be left no one knows. It seems to me the fundamental thing is, have these people got rights in land which they own before any of us here were present, ages before that, which they reserved to themselves. Have you a right to say now at the end of 100 years, "Gentlemen, you fellows have been pretty good Indians, and we are going to cut you loose and make you the same as any other American citizen"?

The question was raised this morning about the common immigrant. I say the common immigrant brought nothing to this country except in the case of most of them a determination to work and a willingness to work, but these people whose affairs are now before you gentlemen were here and they were the owners of this country. When they ceded it to the United States, they reserved this reservation. It is my humble opinion, as one who has been for a good many years interested in Indian affairs, that is not fair and just treatment to these Indians.

I might say, in conclusion, that it was our Shoshone case in the Supreme Court of the United States some 15 years ago which established the doctrine that Indians on a treaty reservation own everything on that reservation, the coal and the oil and the minerals and all of their resources. Prior to that time, that had been a kind of debatable question. Many people in the Interior Department and in the Department of Justice took the position that all the Indian had was a right to occupancy, and that he could cut a little timber for his domestic purposes, and his fencing, but that the latent hidden resources were retained by the United States.

Well, that Shoshone case settled that rule, and since that day there has been no question but what the Indians on a tribal reservation under a treaty own everything that was there. So that these Indians own everything that is on their reservation, and they are entitled to have it and maintain it without this kind of legislation which will subject it to taxes and which, in my judgment, based on many years of what I believe to be considered sound experience with Indian matters, will result in the loss of that property. They do not want that.

Now, Mr. Chairman, I thank you for your consideration, and I think that I have given you the picture.

Representative BERRY. Well, Mr. Tunison, I just have a question or two. How would you suggest that the people ever get their rights to the property?

Mr. TUNISON. The people, Your Honor, have all of the rights to the property they need now, the ones that own property there, like these men who are going to appear before you. They occupy the land and they farm it, but they do not pay taxes on it.

Representative BERRY. Would you think that if a majority of the Indians favored this legislation or similar legislation, whatever they wanted, that should terminate this treaty that you are talking about?

Mr. TUNISON. I think if a majority of those Indians living on that reservation and using that reservation want to terminate this treaty, they have a right to do it; yes.

Representative BERRY. You think it should be limited to those who live on the reservation?

Mr. TUNISON. That is right.

Representative BERRY. Do you think that those who have left the reservation do have property rights in that property?

Mr. TUNISON. Yes, sir; and I agree that in the event of a dissolution or termination of that reservation, they should receive their proportionate share.

Representative BERRY. But they should not have anything to say about what should be done with it?

Mr. TUNISON. No, sir; for the reason that the Wheeler-Howard Act under which that tribe is organized, and to which it has faithfully

adhered, provides that only Indians living on the reservation, the charter of incorporation issued under that act, provides that only the Indians living on the reservation shall have a right to vote on the disposition of tribal property. Those who have seen fit to stay there, Your Honor, and make that their home, are the people who are interested in the heritage received from their Great Chief Victor, whose son, incidentally, sits here in this room, and will testify later. That has been their home and it is the home of their ancestors, and the home where their ancestors are buried, and those that want to stay there and live there, some 2,000 of them, are the people who should decide what should be done with it.

Representative BERRY. How long do you think it should be before they should be given an opportunity to have their property?

Mr. TUNISON. Well, I do not agree, or I cannot grasp the concept of Your Honor's question, "agree to have their property." They already have their property.

Representative BERRY. Subject to the supervision of the Federal Government, is that right?

Mr. TUNISON. That is right.

Representative BERRY. What does the treaty say, Mr. Tunison, with regard to this? Is there anything in the treaty?

Mr. TUNISON. Very well, sir, I will be glad to read you the exact words of it. The treaty states, in article 1—

Representative BERRY. Is that the 1855 treaty?

Mr. TUNISON. Yes, and that is the only treaty this tribe has ever had with the Government. Article 1 said that—

the Confederated Tribes of Indians hereby cede, relinquish, and convey to the United States all of their rights, title, and interest, in and to the country occupied or claimed by them and bounded and described as follows.

Then, there is the description which is shown on the map I have already indicated to you, starting with Canada and coming down the Continental Divide and then over to the Bitter Roots and then north along the Bitter Roots and the Purcell Mountains to Canada again, and back to the place of beginning.

That is the description. Article 2 is:

There is, however, reserved from the lands above ceded—

and this is the language that I think you want—

for the use and occupation of the said Confederated Tribes.

It says for the use and occupation of the said Confederated Tribes, and as a general Indian reservation on which may be placed other friendly tribes from the Territory of Washington under the common designation of the Flathead Nation, head chief of the Flathead Tribe, as the head chief, that tract of land included within the following boundaries, and then they set out the boundaries of the reservation which you gentlemen are dealing with, and which is presently occupied by the tribe.

Then, the treaty goes on in the next paragraph:

All of which tract shall be set apart and so far as necessary surveyed and marked out for the exclusive use and benefit of said Confederated Tribes as an Indian reservation.

Then, it goes on—

Nor shall any white man except those employed by the Government—
and so on.

Those are the vital words of that treaty. It says:

There is reserved for the use and occupation of said tribes all of which tracts shall be set apart, surveyed, and marked out for the exclusive use and benefit of said Confederated Tribes as an Indian reservation.

I submit on that point—

Representative BERRY. It does not say under the jurisdiction of the Federal Government or anything like that, though, does it?

If they should form an association or a corporation to handle their own affairs, would it not be covered by this treaty, and it is for their own exclusive use and benefit?

Mr. TUNISON. The tribes themselves, you mean?

If the tribes are willing to give up that exclusive use and benefit provision, you mean?

Representative BERRY. But this does not take the exclusive use and benefit from the tribal property; does it? By that I mean this bill.

Mr. TUNISON. No, it provides for a patent in fee to this tribe and then they are in the same position as your chairman has indicated repeatedly in this hearing, as any other citizen of the United States. Now, the position of this tribe is that they are in a better position and they had something which the United States wanted, and they ceded that to the United States for a valuable consideration, and they are entitled to the benefit of that bargain. That is the position of this tribe.

Representative BERRY. In other words, if the property were not taxable, would that withdraw your objection?

Mr. TUNISON. Yes, sir, and I think that this tribe would be happy to take their reservation and run it themselves and the Government could leave them alone if they wanted to but do not put us on the tax roll.

Representative BERRY. There is just one more thing that I would like to ask you and that is this: You say that under the Wheeler-Howard Act, the nonreservation Indians have no right in the operation of that reservation?

Mr. TUNISON. That is right. For your honor's information, I will be glad to read that to you.

Representative BERRY. I will take your word for it. Do you not think that all Indians under this treaty and their children and grandchildren of all of the Indians covered in this treaty have a vested right in that reservation, in the property of that reservation, the assets of that reservation?

Mr. TUNISON. Yes, sir.

Representative BERRY. Then, when the Wheeler-Howard Act took their rights away from them, is that not taking from them a constitutional right?

Mr. TUNISON. No. Any Indian who is an enrolled member of this tribe that wants to live on that reservation has a perfect right to go there and live on it.

Representative BERRY. There are about 4,000 Indians; are there not?

Mr. TUNISON. Yes.

Representative BERRY. They are the enrolled Indians?

Mr. TUNISON. Yes, sir.

Representative BERRY. How many of them live on the reservation?

Mr. TUNISON. About half of them.

Representative BERRY. And they are getting along fairly well with 2,000. That is probably about all that the area will carry; is it not?

Mr. TUNISON. I would say so; yes.

Representative BERRY. And by this, you are trying to force the other 2,000 to come back and all 4,000 live on the reservation so that none of them can make a living; is that right?

Mr. TUNISON. Not at all, sir, and I decline to have those words put in my mouth and we are not trying to force anybody to do anything. But, I am saying to you that the descendants of the people who made this treaty have a right to stay there and use that reservation, and if anybody wants to get up and go to Seattle, or Washington, they have a perfect right to do so.

But the people who live there and use and occupy that reservation and produce its products with their own hands are the ones who ought to have the management of it.

Representative BERRY. But you are taking property away from individuals without any compensation, and not just compensation, but any compensation; are you not?

Mr. TUNISON. No; we simply formed this corporation under the Wheeler-Howard Act, and we are adhering strictly to it. Now, if you want to repeal it—

Representative BERRY. It may not be constitutional though; may it?

Mr. TUNISON. No one has seen fit to attack it as yet.

Representative HARRISON. Does the Wheeler-Howard Act provide that only those residents who live on the reservation may vote on the disposition and use of the tribal property? Is that in the Flathead constitution?

Mr. TUNISON. Yes. Let me read what it says. I will be glad to do that.

Representative HARRISON. That is under the Wheeler-Howard Act?

Mr. TUNISON. Yes, sir.

Representative HARRISON. Now, are the rights of the enrolled members vested property rights?

Mr. TUNISON. That is a pretty broad statement, but will you elaborate a little on what you mean by vested property rights?

Representative HARRISON. You know what I mean, Mr. Tunison, as an attorney, are the tribal rights of all enrolled members vested property rights. Do the property rights vest in the individuals? And, are they rights of which you cannot divest them?

Mr. TUNISON. Yes. I would say that is a general question and I would answer that, yes.

Representative HARRISON. Then are they such rights of property as are protected by the due process clause to the fifth amendment of the Constitution?

Mr. TUNISON. I will grant that they are.

Representative HARRISON. What becomes of constitutionality of the Wheeler-Howard Act, then?

Mr. TUNISON. Now, listen, your honor, if you want to debate the constitutionality of that act—

Representative HARRISON. I am asking a question and the witness can say he does not or does want to answer it, but I am not going to get into an argument with him. I am asking a question and I am entitled to an answer.

Senator WATKINS. Can you answer it, Mr. Tunison?

Mr. TUNISON. I do not presume to pass in a judicial capacity on the constitutionality of an act of this Congress. You know as much about it as I do.

Representative HARRISON. Your position is that you just prefer not to answer that question; is that right?

Mr. TUNISON. I prefer not to pass on the constitutionality of it.

Representative HARRISON. I am not asking you on that. I merely asked you a question of what, in your opinion, becomes of the constitutionality of the Wheeler-Howard Act.

Mr. TUNISON. In my opinion, then, I will say that the Flatheads had a perfect right to adopt this charter, which was submitted to the Secretary of the Interior, and was approved by him.

Representative HARRISON. Nobody has questioned that, Mr. Tunison, and I am merely saying if these are vested property rights and come under the fifth amendment would the Wheeler-Howard Act then, in your opinion, be constitutional if it deprives those who lived off the reservation and owning vested rights from a vote on the use and disposition of their property.

Mr. TUNISON. There are two "ifs" in there, and I prefer to go back to the fundamental doctrine that the tribe has the right to develop its own membership and this tribe could, if it saw fit, revise its rolls, and say only those living on this reservation are entitled to be enrolled here.

Now, the tribe has not done that, and it has continued to carry these people, although they reside in various cities, on its rolls. But, it is entirely within the management and purview of these Indians to restrict the management of that reservation to those who prefer to stay there and live.

Representative HARRISON. Such action on the part of any council or any of those on the reservation voting would certainly violate our due process laws, would they not, of the fifth amendment?

Mr. TUNISON. No, sir; it would not.

Representative HARRISON. Your position is that they can vote to take away and divest these people who reside off the reservation and divest themselves of their property rights and their interests in tribal assets.

Mr. TUNISON. I do not think that question is involved, but I will say this, that this treaty set aside this reservation as a home for these people belonging to this tribe. Now, if one of them sees fit to be in Seattle or to go to Washington, there is a grave question there whether he still retains that right or not. But the tribe has never raised that question. The tribe has continued to carry them on the rolls. That is a moot question there.

Representative HARRISON. It might be a moot question, Mr. Tunison, to some individuals, but I would say it would be far from a moot question to the individuals concerned with it.

Mr. TUNISON. Nobody has raised it on them. It is a moot question until someone raises it.

Representative HARRISON. I am raising a question as a matter of information at the present time.

Representative D'EWART. The question has been raised many times before our committee and only recently in this session in the case of the Fort Peck Reservation. The House committee very clearly determined that we did not have the right to divest any tribal member of his right in the tribal estate.

Mr. TUNISON. That is right. Nobody is trying to divest any tribal member here.

Representative D'EWART. Then, I do not understand what you are trying to do if you say that those who leave the reservation, who are on the tribal rolls, still lose their right to the tribal assets.

Mr. TUNISON. I do not say that.

Representative D'EWART. That is what I inferred from your remarks.

Mr. TUNISON. If you interpret any of my remarks that way, I would like you to have the reporter tell me where I said that, and I did not say that.

Representative D'EWART. Did you not try to convince this committee that if an Indian left the Flathead Reservation, he thereby lost some right in this tribal estate?

Mr. TUNISON. I did not, and I said he is carried on the rolls and he gets his full share of anything that they receive. The tribal officers pay out in per capita payments whenever they get a few hundred dollars ahead. They pay it out to everybody on the rolls.

Representative D'EWART. That is right, but you did, if my memory is right, say they were divested of their right in the management of that estate.

Mr. TUNISON. What I said, and I will repeat it, is that the tribal constitution issued to this tribe by this Government contains a provision that only those who have resided on the reservation for a period of 1 year have the right to vote on the management of the reservation. Now, to my mind, that is a clear proposition, and that is the position of the tribe.

Representative D'EWART. And you argue that it does not in any way divest a Flathead Indian of any rights whatsoever when he leaves the reservation?

Mr. TUNISON. No. I do not agree about it at all. I say that that tribal Indian who has left the reservation gets his share of any income that reservation has.

Senator WATKINS. May I ask this: Is the right to participate in the management worth anything?

Mr. TUNISON. To the Indian; very much.

Senator WATKINS. And to the Indians who have left the reservation, is it worth anything?

Mr. TUNISON. Apparently not; they have gone off and left it.

Senator WATKINS. Well, now, just as a matter of policy, Mr. Tunison, is it not the likely effect of such a proposal that if it were meant that they could not have any voice in anything would it not be that it would be tantamount to saying to these Indians the only way you can realize fully all of your rights is to come back to the reservation and stay there?

Mr. TUNISON. No; it would not at all.

Senator WATKINS. If you go away, you say, you do not have any vote on what disposition may be made of that property. That is what you are proposing, and you are saying only the Indians who live on the reservation have the right to determine the future policy with respect to the management of this reservation.

Mr. TUNISON. No; what I am saying—

Senator WATKINS. That is all that is involved here and we are not trying to take away the property.

Mr. TUNISON. Yes; you are when you put it on the tax rolls. I differ with you on that. I am telling you as one with as many years of experience in Indian affairs as any man in this room that that is what you are doing to these people when you put their property on the tax rolls.

Senator WATKINS. We are only doing this: We are saying to you Indians, "You want the advantages of American citizenship and you want to enjoy what the rest of the taxpayers are paying, and you want to sit in the legislatures and you want to sit on county commissions and fix the tax rates for everyone else, and you want all of those privileges, and you do not want to submit any of your property to help carry the burden of the things that you enjoy along with the rest of American citizens," over and above anything guaranteed to them in the treaty.

Mr. TUNISON. All right. You are entirely disregarding the consideration which these three tribes furnished in exchange for that exemption. You paid no attention to the language of that treaty.

Senator WATKINS. There was nothing said in that, as I remember, about taxes; is there?

Mr. TUNISON. What is it?

Senator WATKINS. Is there anything in the treaty itself directed to the question of taxes?

Mr. TUNISON. Why, the treaty says it is for their absolute and undisturbed use and occupation as an Indian reservation.

Senator WATKINS. I think my deed to my home says the same thing but I pay taxes on it just the same.

Mr. TUNISON. I do not know what the deed to your home says.

Senator WATKINS. It is in all deeds. It conveys a fee title and there is nothing in there that says it is going to be exempt from taxes, and I do not see anything in there that says if you are going to get benefits from society you should not have to pay something for those benefits.

Mr. TUNISON. I will read you what Governor Stevens said on July 19, 1855:

On another point, I wish to speak plainly—

Senator WATKINS. Who is this?

Mr. TUNISON. Governor Stevens, the man who made this treaty, and these are the official minutes.

Senator WATKINS. Read from the treaty and let us have what is in the treaty. We are talking about the treaty itself.

Mr. TUNISON. I will read what he said:

On another point, I wish to speak plainly. Within yourselves you will be governed by your own laws. The act will see that you are not interfered with but will support the authority of the chiefs. You will respect the laws which govern the white man, and the white man will respect your laws. We look

with favor on the missionaries who come among the Indians for they desire them and I think their coming may do good. The priest will be your friend but he will have no control over your affairs. The priest will advise you in your spiritual affairs, which relates to God, but he will have no control over your temporal affairs. Your own laws you will manage yourselves.

That is the verbatim transcript.

Senator WATKINS. They have come a long ways since the day when there were no other benefits out there except what they had on the reservation. I am pointing out to you the modern conditions under which they are living. They are getting many benefits along with the other people, and in addition to that now they have been given the opportunity of citizenship. They have embraced it and they go to the elections and they elect the county commissioners and they elect members of the legislature. They elect Congressmen and those Congressmen pass laws which require the payment of taxes.

They have participated to that extent and they use the highways provided by the people of the United States and they go to the various sections of the country and the cities and towns and they have opportunities for labor to improve the conditions. Over 600 of them have actually taken advantage of that. They get all of these other benefits and, at the same time, under your theory, they are not supposed to make any contribution to that. They still have their property and the conveyance of property ordinarily does not say whether it is going to be taxed or will not be taxed. That is one of the powers of the State; police power or whatever power you call it.

That is to require of the members of society and of the American citizen certain contributions to help maintain the things that they are going to enjoy and get benefits from.

I am trying to point out to you the overall benefits, and the overall situation which they have embraced of their own will. No one compelled them to vote, and there is not any compulsory vote on that.

I cannot see why a group that gets the benefits of society and all of these things should resist making their own contribution to it. If you say the property is not worth much, very well, they will not pay very much. Many of them, of course, are paying income taxes, and they are paying personal property taxes, and where they have gone into cities and towns where they bought property in their own names, independent of the Federal wardship, or guardianship, they pay taxes on that. So, to that extent, they have done that.

Now, we have a rather extensive reservation here. It is made up largely of forest lands and grazing lands. We are talking now about saying to the Indians who are away, if you are going to get the right to say anything about the management, you have to come back. Suppose they did all come back. Would they have equal rights to living quarters and farming land and to grazing land on that reservation with the others? They have an equal ownership; could they have it?

Mr. TUNISON. Sure; they would.

Senator WATKINS. There is plenty of land and plenty of room?

Mr. TUNISON. Well, there are over 500,000 acres.

Senator WATKINS. But what about farming land; could they get an equal farm with anyone else who lived there?

Mr. TUNISON. Well, now, you are setting up first an entirely improbable situation.

Senator WATKINS. You mean if they come back?

Mr. TUNISON. Yes, sir.

Senator WATKINS. There would be a big inducement if they can have anything to say about the management of this and they have to come back in order to have a voice in it and they might decide to go back. Suppose they did.

Mr. TUNISON. There is plenty of room.

Senator WATKINS. I am testing your theory. That is what I am doing to see how it works.

Mr. TUNISON. There is plenty of room for all of them there.

Senator WATKINS. That is physically, but with opportunities, I take it for granted it is like all reservations that the best lands and the best setups have already gone to Indians who are now there.

Mr. TUNISON. And who sold them; all but 15. Subsequent testimony will show you here that there are 15 original allotments still in the hands of the Indians.

Senator WATKINS. But at any rate, these people you say still have a right to the tribal lands, and I am talking about the tribal lands and not those that are in individual allotments.

Mr. TUNISON. Well, the fundamental difference of approach between the counsel for this tribe and the chairman of the committee, I think you have stated very fairly, Mr. Chairman. You have recited all of these advantages; and now I have recited to you the simple facts of a simple contract made 100 years ago with a group of unlettered Indians who did understand what the treaty said and what Governor Stevens told them.

Now, if in your opinion it is the just and right thing for the United States to say to those people, "We are through with Government supervision of this, we are going to give you a patent to it; God bless you, do the best you can with it," they do not want you to do that and I do not want any doubt to be in the mind of this committee about their position.

Now, I will grant you, you have the power to kick them out and turn them loose if you see fit to do it.

Senator WATKINS. You would insist that this constitution, by these Indians who lived on the reservation, should be governing as to all of the Indians whether they are there or not?

Mr. TUNISON. The management; yes.

Senator WATKINS. You do concede, if Congress thinks that that is an unfair advantage taken of Indians who do not live there, that it could be repealed by the Congress?

Mr. TUNISON. The Congress enacted the Wheeler-Howard Act, and you certainly have the power to repeal it.

Senator WATKINS. That is precisely what we are trying to do in this bill. It is to repeal that, too; and it would go out with the rest of it. They would have to start over again if they wanted to do that.

It has not worked very well in many places we know. My own personal judgment is, if it permits them to setup such a constitution as you told us about, that it probably takes away, without just compensation, one of the rights of an Indian who wanted to go somewhere else.

Now, if the objective is to have these Indians integrated with the people of this country, to make them regular citizens with the rest

of the people, the constitution you are talking about has the contrary effect. It has the effect of trying to segregate the Indians and to put them on this reservation to keep them there. It is the type of philosophy with respect to these Indians that would want them actually to stay pretty much as they were away back in the tribal days when they went into this treaty with the United States.

I do not think that the majority of the Indians, on or off the reservation, want anything of that kind. It is my candid opinion that, if they would submit that to an honest vote of the Indians after the whole matter were explained and if those Indians were intelligent enough to see that it is to their interests, the interests of the Nation, and the interests of society in general, that they become an integrated part of this country, they would vote for some kind of proposal that would give them full and complete rights as American citizens to control their own property.

And that is all we are trying to do. They would also vote as American citizens, and they would say, "Gentlemen, we are invited to share this civilization with you. Although times have changed and events have transpired, we are going to recognize those changes. We want to do our humble part, if it is a humble part, in carrying on that Government. And we want to pay our part for whatever is necessary to keep it going."

It seems to me that you folks are the ones who want to go back to the days of the treaty, segregate the Indians, and keep them there. Everything we have done, in an educational way and all of these helps that we have given them, has had for its objective the training of them so that they could be integrated.

Now, if the tribe of Indians can keep their property from being taxed, those who live on their reservation, why is it not logical that all of the Indians who live off the reservation should likewise have their property not taxed?

Mr. TUNISON. Listen, at a meeting 4 years ago, I asked the board of equalization of the State of Montana who were good hardheaded ranchers and country fellows, sitting around a table like this: "I want you fellow to say what you would do if we Montana Indians become a part of the Union. Your ancestors had a township of good grazing land and in order to get them to come into the Union, Congress passed an act or a treaty that he could come in and hold that land forever exempt from taxes."

"No," I said, "would any one of you men sitting around this table voluntarily step up and say, 'I want to be a patriotic citizen and I want to pay taxes the same as anybody else?'" I did not get a single assent vote.

Senator WATKINS. Did you present the other point of view, that is, of what their duty would be as citizens?

Mr. TUNISON. I did not make as long a speech as you did, Your Honor.

Senator WATKINS. I realize that you did not. And they probably took advantage of the fellows and appealed only to their personal side and not to their patriotic side?

Mr. TUNISON. They were a pretty hardheaded crowd.

Senator WATKINS. I will admit that to be so. Any citizen, of course, and I will say nearly any human being, does not like to carry any

more burdens than he has to carry. But there ought to be a concept developed in this country that it is not only the right but also it is a privilege to pay taxes to help maintain our country, to maintain its institutions, and to make for progress.

The Indians have taken advantage of the highways, the modern inventions; and they do not want to live any more as their ancestors did when the treaty was made. Practically all of them are taking advantage of everything around them, that is, schools, health institutions, churches that are built according to our civilized standards, and all of those things.

I am trying to bring out the general overall policy and basic philosophy in back of this bill. And we say to them, "Here is your property, full-fledged American citizens. You have accepted the offer of citizenship, and you have come in now. Take a few of the obligations and go along, but manage your own property. Take this God-given right that no man ought to take away from you, to manage your own affairs without a guardian sitting over you to tell you whether you may come to Washington, spend a few dollars, or whether you may do this, that, or the other."

That is what we are trying to do for them. And it is the first time in my life that I have ever seen any American actually resist being given more liberty.

Mr. TUNISON. Well, Your Honor, I realize that there is such a debate.

Senator WATKINS. Will you tell me where Americans have resisted? I notice that some of you Indians say that Americans do resist having liberties given to them. They fought for it everywhere. They are fighting for it now, and billions of dollars are being appropriated not only to keep themselves free, but also to keep other nations free.

Will you please tell me. Is there any one here who has any idea that we are trying to take away liberties or that we are fighting against having liberties? I would like to know, if there is such an idea, what it is.

Mr. TUNISON. You are not trying to take away liberties; you are are trying to take away contractual rights. We might as well have that issue right out plain on the table.

Senator WATKINS. I have just one further thing; and then I will be through.

What about this land that you said came in, and you used that illustration, "coming into the Union?"

Incidentally, somebody else claimed some right to that; and we obtained that property by a claim of some kind or other, independent of the Indians, to start with. The treaty came in years after we took over the property.

Mr. TUNISON. You took over the property and entered into a contract with Great Britain in 1846. The State of Oregon was organized 2 years later, in 1848, and then the northern part was split off.

Now, as to who owned that territory prior to 1846 was a widely disputed question.

Senator WATKINS. We took it by reason of discovery and as a result of what our English ancestors and others had done. If our right to any of it is good, probably our right to that area is just as good as our right to the rest.

Some would say that we do not have any right to any of it, but I have not found anybody feeling that way who is willing to step up and give a deed back to the Indians for that part.

Mr. TUNISON. As to who governed that country in 1846 and in 1855, probably Walter McDonald, the chairman of the tribal council, who is here, can tell you. His grandfather was the Hudson Bay factor out there.

Now he was about as much law as anybody knew about in that country that was under the domain of Great Britain. That was all settled by this treaty of 1846 which did not disturb the Indians' right to the real ownership.

Senator WATKINS. Of course, we assumed that we received some ownership by reason of discovery or settlement. We never did admit that the Indians had the right to own all of it.

Mr. TUNISON. I do not know. The Supreme Court of the United States has spoken very strongly on the point of the validity of an original Indian ownership, and if they did not own it, who did own it?

Certainly, this little band of colonists that landed on the coast of New England did not get it by landing on that coast.

Senator WATKINS. They got whatever right anybody got by reason of coming here. Who were ahead of the Indians?

Mr. TUNISON. I do not know.

Senator WATKINS. Who did they take it from?

Mr. TUNISON. They were here from time immemorial.

Senator WATKINS. And we have been here for a long time. They did not have a right to control this whole part of the earth where 8 million of them lived where the territory would support over 200 million.

Mr. TUNISON. When this treaty was made for that 16 million acres of land, he was in a suppliant position as compared with the Indians. He was going into a new raw, remote country and he wanted the right of white people to come into that territory and explore it, settle it, and get the Indians to live on a reservation.

He was asking something from the Indians. He was asking them to surrender this 16 million acres, which they had owned from time immemorial. And he wrote that treaty and put that provision in it. Then Congress ratified it and the President proclaimed it.

Senator WATKINS. I think that you have my view and I have yours.

However, I have 1 or 2 questions on some of the practical things and then I will be ready to yield to my colleagues.

At the present time, the United States is paying for the education of the Indian children from the Flathead Reservation in the State schools of Montana. Do you think the United States ought to go on doing that?

Mr. TUNISON. That is purely a matter of discretion with the United States.

Senator WATKINS. Well, you would not object if we say that we are not going to do it any further in view of the fact that Indians are amply able to take care of that themselves?

Mr. TUNISON. That is a matter for your committee and the Congress to decide how far they want to go.

Senator WATKINS. Do you think we ought to go on contributing to these Indians out of the Public Treasury, that is, what we call gratuity money to maintain health services?

Mr. TUNISON. Well, on the question, Your Honor, of actual Indian administration out there and on these various funds, I have no question on the figures submitted by the Bureau of Indian Affairs and by Superintendent Stone. I will ask the tribal delegates who are here to answer your question about whether that ought to be continued.

Senator WATKINS. But that would not be your thoughts. I said, "Do you think we ought to?" I am trying to get your point of view; that is, not necessarily the Indians, although I think you reflect what they think.

Mr. TUNISON. Well, I would say that it is rather common in this great Government of ours for the Government of the United States to encourage the education of various classes of young people. I see no reason why the Indians should be excepted from such a program.

Senator WATKINS. I will agree with you. But do you think they ought to have it without a contribution? Is there any reason why they should not make a contribution to the maintaining of the schools?

Mr. TUNISON. No.

Senator WATKINS. Then you do not object to that. Of course, this bill would make it so that they would have to contribute.

Now, the next one is with respect to the highways that they use. Do you think that they ought to make a contribution to the maintenance of the highways on the reservation and off the reservation?

Mr. TUNISON. Well, I think that that would go with some other problems; if the Indians were approached on whether they would be willing to surrender their treaty rights and make some contributions to these various State funds, that would be a different approach.

Senator WATKINS. You would not want the county commissioners and the other people to say in the school district, "We are not going to let you go to school any more; we are not going to take a contract; we will not let you travel on our roads off the reservation; and we will not let you do a lot of these things that you are now permitted to do because you take the position that you have certain exclusive contractual rights and you are insisting on the contract?"

What would be the situation? Do you think under those circumstances, if they are going to use those facilities, they ought to make a contribution?

Mr. TUNISON. The State of Montana is not raising that question.

Senator WATKINS. I did not ask you that. I ask you, do you think that they ought to? You are dodging the question.

Mr. TUNISON. Well, I certainly do not intend to dodge any question you ask me.

Senator WATKINS. What do you think?

Mr. TUNISON. They do pay in the form of licenses.

Senator WATKINS. I did not ask you whether they paid. I ask you, do you think that they ought to pay?

Mr. TUNISON. Yes, sir.

Senator WATKINS. That is the answer. I have no further questions.

I have one further question that has been suggested to me. This is about your position "that this bill would not be so bad and it would

probably be all right if Congress did not put the property on the tax rolls."

Mr. TUNISON. That is the fundamental objection to it, yes, sir.

Senator WATKINS. That is what I understood.

My colleagues may now go ahead.

Representative D'EWART. I would like to return to your interpretation of the Wheeler-Howard Act because it is different from anything that has been presented to our committee before.

I have a copy of the act before us, and I will quote some of it. Then we will explore your interpretation of it.

Title to any lands or rights acquired pursuant to this act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

Now that means all of the tribe, does it not? Or does it mean a part of the tribe?

Mr. TUNISON. I think that means the whole tribe.

Representative D'EWART. I think so, too.

Then we go over a little further in the act and it says:

* * * to prevent the sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe, * * *

Now again, that means all of the tribe, does it not?

Mr. TUNISON. Except to this extent: That each tribe has the right to decide its own membership. I have seen instances, repeatedly, in the Shoshone case where they were fortunate enough to get some oil a few years ago, of people applying for enrollment with various degrees of blood.

The whole matter solemnly was submitted to the tribal council, the general council, and the vote was unanimously "No". We have the authority to decide the membership of this tribe. And I see no inconsistency in the action of the Flathead tribe in saying that the people who live on the reservation have the right to vote on tribal matters.

Representative D'EWART. Let us pursue this a little further. You say that the tribe shall be governed by a majority vote of those who live on the reservation, is that a correct statement of your position?

Mr. TUNISON. Congressman D'Ewart, with the highest regard for you, let me get the official statement on that. I want to get the charter issued to this tribe.

Representative D'Ewart. We will get to the charter after a while. I am trying to talk about the Wheeler-Howard Act and not the charter. I am trying to find out an interpretation of this Wheeler-Howard Act. Under that act it says:

Provided, That such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation.

Now it does not say that that majority of the Indians living on the reservation shall govern forever, but it simply says that the charter shall be adopted by a majority of the Indians living on the reservation. I quoted you the law just as it reads. I think that is important.

Now, if the tribe itself in its charter wants to deprive some of its members of some of its property rights, that is another matter; but it is not the Wheeler-Howard Act that takes those rights away from some of those members. I want to make that clear.

The charter may do it, and I do not know whether it does or not: but the Wheeler-Howard Act does not deprive any member of a tribe of his rights as a member of that tribe.

Mr. TUNISON. Then may I inquire, Mr. Congressman, if it is your position that Harold L. Ickes, Secretary of the Interior, who issued this constitution and bylaws, which was approved by the tribal council out there, and the charter issued—that that was an illegal act?

Representative D'EWART. I think Mr Ickes interpreted this act way beyond any interpretation intended by Mr. Wheeler. I think the testimony and other statements following enactment of this law by Mr. Wheeler bear forth that statement.

Mr. TUNISON. My only answer to that would be that this tribe was one of the first tribes to approve of a corporate charter and a constitution and bylaws back in 1935.

Representative D'EWART. I am not arguing about the charter, but I am saying that the Wheeler-Howard Act did not deprive members of the tribe of any rights. That is the only point I am trying to make.

Now if the Indians did it in their charter, that may be, and I do not know; but the Wheeler-Howard Act did not do that.

Mr. TUNISON. Well, on that point, Your Honor, the charter says, and I will just read it to you briefly. I will read from article 4, section 5:

Any member of the confederated tribes of the Flathead Reservation who is 21 years of age or over and who has maintained a legal residence for at least one year on the Flathead Reservation shall be entitled to vote.

Now, you have raised a new issue here, on me, and I have never gone back to the Wheeler-Howard Act to try to ascertain whether that was a legal provision; but I can only say it has been in effect for over 20 years, and this is the first time that I have heard it raised that that was an illegal provision.

Representative D'EWART. Again I would like to read this provision, "such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation," and that only refers to ratification of the charter.

Mr. TUNISON. Well, that charter bears this certificate:

"Pursuant to section 17 of the Act of June 18, 1934, this charter, issued by the Secretary of the Interior to the confederated Salish and Kootenai Tribes, was duly submitted for ratification to the adult Indians living on the reservation and was on April 25, 1936, duly ratified by a vote of 425 for and 129 against in an election in which over 30 percent of those entitled to vote cast their ballots. Edwin Duprey, chairman of the tribal council.

Representative D'EWART. I apologize for taking so much time, but it seems to me that this is important to the tribe and also to the Congress because we deal with this matter continually.

Up here, according to the subject I read a little bit earlier, it is the tribe that votes on the disposition of property under the Wheeler-Howard Act. They must consent, employ legal counsel, fix the fees, and so forth; and prevent the sale and disposition, lease or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe. And you just said a few minutes ago that the tribe was all of the members.

Mr. TUNISON. Yes, but I say, also, that the tribe has the right to limit the right to vote to those who live on that reservation just the same as they have the right to limit the roll.

Representative D'EWART. I will agree, they have a right to vote; but they cannot under the Wheeler-Howard Act dispose of property without the tribe giving its consent. And the tribe, as you say, is all of the members. That is what I am trying to say.

Mr. TUNISON. The tribe has the right to limit the vote to those who live on the reservation.

Representative D'EWART. That is right.

But not for the disposition of property because that right is denied in the Wheeler-Howard Act. And all of the tribe and all of its members must vote on the disposition of property, as I read out of the act, and as you, yourself, said a few minutes ago.

Mr. TUNISON. If you want to take that position, I cannot help it. It is your construction of the act. The construction has been for 20 years that the people living out there had the right to vote. If you want to change the law, or enforce an edict that everybody has to vote on everything, I will grant you may say that.

Representative D'EWART. I would like to know if this tribe has disposed of any property under your advice?

Mr. TUNISON. No, sir. It would be against my advice if they did. My advice is to keep what they have as long as they can.

Representative D'EWART. I think you are on safe ground if you advise them not to without a vote of every member of the tribe.

Senator WATKINS. There are many other things connected with the government of the tribe which they could vote on because it governs largely the people who are on the reservation.

Mr. TUNISON. That is right.

Senator WATKINS. The matter of property sale, conveyance, or anything of that sort, would never come up under the ordinary circumstances?

Mr. TUNISON. That is right.

Senator WATKINS. Of course, you know ordinarily a man has to sign the deed before he can be divested of his property by conveyance of any kind?

Mr. TUNISON. That is right.

Senator WATKINS. Now, as I understand it, Mr. Tunison, you are here today as the attorney for this tribe of Indians?

Mr. TUNISON. Yes, sir.

Senator WATKINS. And you speak for them and the arguments you have presented here today are the arguments of this tribe?

Mr. TUNISON. Well, I would not want to assume that what I have said were all of the arguments of this tribe.

Senator WATKINS. But the principal arguments?

Mr. TUNISON. Well, I would not even go that far, but I will say they are in behalf of the tribe, yes, sir.

Senator WATKINS. I would assume that this tribe in hiring an attorney would have him present the principal arguments. I think you have said that the principal argument against this bill is the fact that if it goes through the Indians will have to pay taxes on this property when it comes into their possession and when they have fully unrestricted possession and control?

Mr. TUNISON. That is my opinion.

Now there are Indians sitting here who value the hunting rights which they have exclusively on this reservation and who value the

fishing rights which they have exclusively on this reservation as being of large value to them. I know they are.

There are men, who I see sitting here, who go out and get an elk or deer and bring it home. It is part of their winter's meat.

Now, if this becomes law, they cannot do that, and they come under the State law. So those are things and there are other things in addition to this one thing of taxes that I have mentioned.

Senator WATKINS. They want to take everything they can get from the State and other people and, at the same time, give up nothing.

Mr. TUNISON. Why should they not; it is their land, and they contracted for it.

Senator WATKINS. I want to make sure that that is the position.

Mr. TUNISON. That is right.

Senator WATKINS. I think that that is all that I have to ask you.

Mr. TUNISON. Thank you, Mr. Chairman and members of the committee.

Senator WATKINS. We will argue with you a great deal and we will argue with lawyers more; but everybody here today apparently wants to be a lawyer.

Mr. TUNISON. I thank you for your consideration, gentlemen.

Senator WATKINS. We will call Mr. Walter McDonald.

Before some of the members of the committee leave, we will say that we will continue this hearing at the conclusion of this session this afternoon until tomorrow morning at 10 o'clock. It will be in this very room. And we will probably run until 1 o'clock tomorrow afternoon. We are trying to finish the hearing on this bill tomorrow.

STATEMENTS OF WALTER McDONALD, CHAIRMAN OF THE TRIBAL COUNCIL; WALTER MORIGEAU, VICE CHAIRMAN OF THE TRIBAL COUNCIL; RUSSELL GARDIPE, TRIBAL LAND CLERK; AND STEVE DeMERE, TRIBAL MEMBER OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION

Mr. McDONALD. Mr. Chairman and members of this committee, my name is Walter McDonald, chairman of the Tribal Council.

Now, yesterday, I saw where the Department of the Interior had four of their men up who testified; and our position here today is that we would like to give the full information on timber, power sites, land, and irrigation.

I wonder if it would be permissible for me to have my boys up here with me today, like it was yesterday.

Senator WATKINS. Do you want some people up with you?

Mr. McDONALD. Yes.

Senator WATKINS. You may surround yourself with the whole tribe if you want to. We will not object, whether they are on the reservation or off.

Mr. McDONALD. Thank you, sir.

Senator WATKINS. State your name, your address, and what official position, if any, you occupy with the tribe of Indians known as the Flatheads; also state the names of your colleagues who are sitting at the table with you.

Mr. McDONALD. My name is Walter McDonald; I live in Montana; and I am chairman of the Tribal Council. On my left I have Steve DeMere, a member of the tribe, who has come here and stopped by on his way to New York City, to testify in his own behalf, and in the request of the tribe of anybody who wanted to make a statement.

I have Russell Gardipe, our landman, with me. And on my extreme right, I have Walter Morigeau, vice chairman of the Tribal Council.

I have a prepared statement, but I will not read from it. But in order to save time, I believe, I will make a short statement; and I think, if we can get together with the gentlemen up there, we can move right along. So I will just speak from my statement and from my notes.

First of all, we are talking about the consultation. I believe that Mr. Stone, our superintendent, said there were nine meetings.

Well, I may differ a little on that. As far as the Department of the Interior coming out on the reservation, and with our hands across the table, I imagine there was one on the 7th of October and on the 16th of October I believe there was one. The congressional delegation came out there.

Then prior to that time Mr. Spaulding came by for a day or two and met with some of the committeemen. We met Mr. Rexly in Mr. Stone's office. Then we had our own meetings out there.

The position that I have taken as chairman of the council, and with my boys, regardless of which way this bill goes, is our firm stand that we should get the consultation of the State officials and their organization, which would be effected by a termination of this reservation.

For instance, we met with the Forest Service in Missoula, Mont., to ask their views on this thing. We went as far as Governor Anson from the State welfare department; and the three irrigation districts which are on our reservation that are obligated in this.

So we are bringing the views of the work we have done. I believe these boys, and I want to compliment them. They have done more work as individual members of the tribe than the Interior Department themselves in getting everybody schooled on this.

First of all, we speak of termination. We have two factors involved; I received them in great emphasis. Probably they will go into the corporation.

In the event this bill goes through and a referendum vote is taken on this reservation and it is liquidated, I want to bring out the fact of our assets out there and how they will be disposed of.

As was brought out yesterday, we have our power sites, and the Kerr Dam and the timber is worth \$70 million. In my statement I wanted to go back, and I said that I did not see where that figure ever came from. And Congressman Harrison made that statement about our reservation.

I never did know where that figure ever came from. But yesterday I found out. It is from the Department of Interior. We have some questions set forth in here on the value of our power sites.

Senator WATKINS. Could you give us your judgment as to the value of your property?

Mr. McDONALD. Yes.

Senator WATKINS. If you do not like what it has been valued at, you may give us your opinion of what you think it is worth.

Mr. McDONALD. Let us say on Kerr Dam then the assessed valuation of the county is \$8 million, approximately; and on a transmission line and a third unit to be built, it will run about one million and a half, or it will be around 9½ or 10 million dollars on that power site.

There is the undeveloped power sites. There is potential power sites, three of them. As I understand, a man by the name of Mr. Dubay brought out in a meeting over on the reservation that he had taken from either Bonneville or the Army engineers report that if they were developed into the same capacity and energy they would run up in to \$30 million.

Now to speak on timber. I would like to turn this over to Walter Morigeau to talk on timber.

Mr. MORIGEAU. Mr. Chairman, we use the same figures that the Indian Department has used because they are accurate and they save us the time to make them up. We have 390,000 acres of tribal-owned land.

In that there is 353,000 acres of timberlands. Now, according to the report we have approximately 500 million feet of standing, merchantable timber. There is 300 million feet which is available for cut, and the other 2 million is probably in areas where it is too hard to get at, too high, and contains a poorer type of timber.

Now, we are right at the peak of this timber development which is a very good time to sell our timber and sell our reservation. There is \$463,000 income from timber last year, in 1953; but you go back to 1951 and take the timber cut from 1931 to 1945, and you have an annual cut of 7,600,000 feet, on an average income of \$24,000 per year, for 15 years.

The cost of operating that forestry department runs approximately \$50,000 a year, against \$24,000 income a year. That is for 15 years.

Then the big cut starts. There were the war years and the demand for timber, and high prices, and the big cut. Starting in 1946, the annual income for those 8 years averaged right at \$400,000 per year. And the annual cut was 32 million feet per year. That is a jump from an average of 7½ million feet to 32 million feet cut per year.

Senator WATKINS. That was all virgin timber, was it?

Mr. MORIGEAU. That is right.

Senator WATKINS. You have not gotten around to the second crop, have you?

Mr. MORIGEAU. Not yet. For instance, now, and I will read this chart: We have a chart which is called a depletion table cut on the Flathead Reservation. We are just right at the tailend of the heavy cut on this chart. Next year, according to the chart, in 1954, the sale of timber will be 8 million feet; and following the next 30 years, the annual cut, according to the chart, will be 8 million feet per year.

At the present price of \$20, or around there, or a little better, that would probably be \$160,000. We cannot estimate any income on that for the next 30 years because the price varies. If it is \$10, it is \$80,000. But we know that there will be a bigger cut than 8 million feet because there always has been a runover on the estimate of the timber in the different areas.

So, I estimate, instead of the 15 million feet estimated yesterday, I will estimate around 10 million, to be sure. I did that for this rea-

son: That the best accessible timber areas are just about gone, and the rests of the timber that is there is going to be difficult to log. If the cost of timber drops, our income will drop.

I do not expect to make any money for the tribe on timber within the next 30 years.

Representative D'EWART. Would you yield for a comment. We discussed this same subject with the Klamath Tribes just a few days ago and they have quite extensive timber holdings. They get a higher stumpage than you do because they have more clear timber and perhaps more accessible timber.

But during the course of the hearing, they testified that they did not think that the stumpage value of timber would decrease over the coming years because of the need for timber in the country and other factors. They thought the stumpage value would remain approximately at the same level or higher.

I thought, perhaps, you would be interested in that comment.

Mr. MORIGEAU. Of course, there is a difference between our timber and the Klamath timber. They have a better class of timber and receive a better price for it.

I am just afraid that under this liquidation bill—I call this a liquidation bill. I shouldn't perhaps call it that. It is supposed to be a withdrawal bill from Federal supervision.

Senator WATKINS. A freedom bill. A declaration of independence.

Mr. MORIGEAU. I am just afraid, now, if we take this timber and put it under a corporation under State law. If it is a closed corporation, that type of corporation, as I understand it, has about 70 percent Federal income tax. It would probably be a closed corporation, as we operate there. But if we operate under just a corporation, where our stocks would be negotiable, the Federal income tax on that corporation runs from 25 to 52 percent of the gross income.

Senator WATKINS. You are wise enough to figure out the difference there. I imagine you can make a decision that will keep it from running into higher taxes.

Mr. MORIGEAU. Well, yes. But how are we going to do this, now, that is up to you.

We don't know those things yet. We haven't studied them.

Senator WATKINS. Well, you have had several years in which to do that.

Mr. MORIGEAU. Oh, no.

Senator WATKINS. This doesn't go into effect to the point where you have to organize tomorrow or next week, after this is done. You have read the bill. It doesn't provide that you have to take that over and make that decision immediately.

Mr. MORIGEAU. But here is the thing on this forestry matter, as stated yesterday. We have never had any experience down there in operating our forests. The forests have been operated by the Government.

Senator WATKINS. You have been talking as a forest man. I think Mr. McDonald said you were the forest man, that you knew more about this. What is your background?

Mr. MORIGEAU. Mine? I am just a rancher.

Senator WATKINS. Have you been handling, on the tribal council, the forestry matters?

Mr. MORIGEAU. I have been on committees that approved forest sales.

Senator WATKINS. And your judgment was good enough that the Bureau of Indian Affairs has usually approved what you have recommended?

Mr. MORIGEAU. They are in a matter of routine with the Government, and we approve the sales. That is about as far as we have gone on forestry.

Senator WATKINS. You check to see whether they have done a good job or not; don't you?

Mr. MORIGEAU. Oh, yes. We have checked and found out we don't do anything about it, on an occasion or two.

Senator WATKINS. That is an argument, of course, why you ought to get rid of them and run it yourself, if they are not doing a very good job.

Mr. MORIGEAU. The thing that I was trying to get at was this operation under a corporation. I wanted to finish that, because that is important to me, and I think it is going to be important to the rest of the people. I am just using forestry alone as an example.

If you are taxed 25 or 50 percent of this estimated income in the future on forestry, supposing we get \$200,000 a year. We are taxed \$100,000 for that, at 50 percent. I don't know what the rate will be. And then we have to turn around, in turn, and pay a State income tax, which is 3 percent of the net. And then we have to pay property tax in the State of Montana on this Forest Reserve, 353,000 acres. And then we have got to maintain this forest and this watershed. And it has cost the Government around \$50,000 a year. It will cost us more when we first start out. That is not including fire. One good fire can break us. We would have to go out and borrow money somewhere to fight these fires. We don't know where we are going to get that help. And I maintain that this bill will take plenty of study.

I have tried to estimate the value of that forest. I would like to sell it for \$40 million, but, as I understand it, that figure was arrived at on the basis of the income over the next 60 years. I believe I would sell that, and our tribe would, if we could get \$40 million for our forests. We would be glad to sell it. That is, I will say that personally, for myself. But estimating the value of that forest, I am a long way from that figure. I can't figure it on account of the variation in prices.

I would just figure the 300 million feet of available timber at a certain price. And if you try to sell that, you are going to have to take an awful discount on your money. Because you can't sell a hundred million feet of timber to nobody and not take a discount on that price, and get 40 or 50 cents on the dollar.

I have something else in mind on that timber. That is a natural resource. It comprises the biggest acreage of the tribal holdings, 353,000 acres. If we were to be liquidated, and the land was taxable—I don't think it should be broken up. We probably would be forced to sell that land in strips, timber and land. That is a national resource. It takes care of the irrigation, 120,000 acres of irrigated land. You have all seen the map. It takes right around the rim of the reservation.

I think that is a question there not for the people out there to just dispose of in any haphazard way just in order to get our money out of it, but it is a national resources, and as I point out in my statement, I

think it should be handled in that way. It should be handled under a separate bill. I think that goes with the national forests, when the time comes that we dispose of that reservation, that property.

That leaves us, then, with only about 57,000 acres of grazing land, tribal land, on the lower edge of these forests, scattered out in small sections, which is used by our stockmen.

Do you want me to continue on this? I was on forests.

Representative D'EWART. I would like to concur in your remarks that the National Forest is a great community asset over there and should be carried on looking toward future generations, the water supply of the area, the recreational benefits to be derived from it, and all the other features of that forest, in studying this proposition. I think we should be careful that the forest is carried on on a sustained yield basis, for the benefit not only of the present people but for future generations. I really go along with you on that point very strongly.

Mr. MORIGEAU. That is what I would personally recommend, that this thing should have a study. We have resources in that area, that is, recreational resources, all through that area, and these forests. We take care of them, or try to. We have very good cooperation from the National Forest Service.

Mr. McDONALD. We have one more thing on forestry, Mr. Chairman. We wanted to bring out some other points on private enterprise and Government control of our National Forest preserves. We think if this thing were put on the auction block and we were defeated in a referendum vote, to liquidate immediately, maybe the Diamond Match Co. or somebody would come in there and log the whole thing. Because they are not too much concerned about the conservation part of the timber, but they want to get their money out of it. It is a fact that timber isn't too accessible any more. Our big lot is gone. And whether we are going to get a hundred thousand feet over here, or a million feet over here—that is the kind of thing we want to bring out to show the people that we have worked on this problem ourselves, and it is quite a problem, and that is why we are hoping for time. Because when we get into irrigation a little later on, in power and land—

Representative BERRY. If I might interrupt, how long do you think it would take you to work this out to where you could come up with something? How long would it take you to work out a pretty good answer?

Mr. McDONALD. We are thinking on two sides here, Mr. Congressman. If the bill should be a reality and it goes to a referendum vote, maybe we won't have anything to work out. There has been great emphasis on a corporation, but that won't always happen. This may be sold out, by the will of our people up there, the wishes of our people. That is what I am trying to get at. Hereafter, if this thing is sold out, what will happen to our power sites, our conservation, everything else? Some of us are willing to pay taxes either way and have our little land there. But the question is how long it will take to get our money out of this if it is sold.

Representative BERRY. Do you think a majority of the members of the tribe would want to liquidate?

Mr. McDONALD. If they can get their money, they will. That is right. On that statement of Mr. Harrison's up there in Montana, on

that \$70 million—I guess he was informed by the Interior Department, and that is where he got his figure—immediately, the petition went out all over the United States, you know, based on that figure. I imagine there have been a lot of petitions coming in from Seattle and Los Angeles.

The people are not educated on how long it will take for them to get that money. There will be a lot of pressure. And if it came to a referendum vote, maybe I would go right along with them if I thought I could get \$17,000. But it is a matter of how long a time, in the selling of these assets.

So that is why this deserves time, because of the implications involved up there.

One of the things up there: We have seven stock associations, where we have purchased land on a basis of tribal purchase, and those people up there have contracts with the Government, and some of them have loans, and it will affect the people if this thing is sold out, because the Indians cannot compete with their neighbors or other cattlemen to buy that grazing land back; I mean, in the event it was to be liquidated. That is a pretty serious question.

The emphasis has been all along on a corporation, but it mightn't happen that way.

Mr. GARDIPE. Mr. Chairman, I have been land-lease clerk for the Confederated Tribes for a period of 7 years, and I have had access to all the land records of the Flathead Indian Agency and have examined those records in the period of these 7 years as to disposition of Indian property.

Now, as the Congressman, Mr. D'Ewart, said, the Flatheads had a very good land program, and I grant him we did have a very good land program. It moved rather slowly. We never rushed anyone. We did step on a few non-Indians' toes when we started buying what we called economical units for Indian families. In a period they had purchased 57 tracts of land. That is not including tax land, but Indian lands, to rehabilitate Indian people. Then sometime in the year of 1952, I believe it was, our credit funds were shut off, and we were without a way to provide means for the members of our tribe to secure funds to purchase heirship lands, and so forth, in trust, in economical units.

What I mean by economical units—I believe one of the Congressmen is quite familiar with our irrigation districts and our irrigation system on the Flathead. And it is my opinion that to have an irrigated economical unit on the Flathead Reservation to provide for a family of 4, which would be average, it would have to consist of 160 acres of irrigated land, to go into diversified farming. So moving from there to the dryland farmer, and we do have a few members in our tribe, it would be necessary for him to have 260 acres of dryland farming to provide a fair living for a family of 4.

Now, I have found that what Indian families have been rehabilitated there started out not with a whole unit at one time. In other words, a portion of the unit would be acquired for them until they could repay that loan money back to the Confederated Tribes, and the intent was to, if they were in good credit standing, lend them more money to purchase additional lands and therefore build up that economical unit.

Now, I believe the withdrawal bill is a little bit premature. The fact is that our Indian farmers and stockmen that are on the reservation do not have what you could call economical units. They are operating today, for the simple reason that they have access to tribally owned lands, and they have access to their cousin's allotment, who might lease it to them because they are cousins, for a consideration.

Representative BERRY. If I might interrupt there, you have got 18,618 acres of Indian-owned land in this area, haven't you?

Mr. GARDIPE. Now, Mr. Congressman, I would have to make a guess at that.

Representative BERRY. Just approximately.

Mr. GARDIPE. I would say approximately about 5 to 10 percent would be Indian operated.

Now, I would like to bear that out with this fact: That those irrigated tracts are interwoven with white-owned lands, and an Indian farmer is not readily accessible to that irrigated tract, and he has not been too interested in picking it up. The only way that we could have secured more Indian lands, irrigated lands, to be used by Indians, is to have encouraged him to move in there. But when we lost our means of doing that, we were at a standstill.

Representative BERRY. You were talking about consolidating these Indian lands for Indian use. By doing that, couldn't you encourage more Indian operation of this Indian land? And are some of the Indians—I had probably better ask this first—operating deeded land?

Mr. GARDIPE. I would like to answer that question in this way, if you don't mind. I went through our records of fee patents issued in the Flathead Reservation since fee patents were available to Indians. I wish to state that there has been a total of 1,578 fee patents issued on Indian lands. And to the best of my knowledge, working there, knowing the various farmers and their operation, I estimate that 15 of those still have retained their land in a fee status and are still using it.

Representative BERRY. How many?

Mr. GARDIPE. 15 out of 1,575.

In other words, approximately 98 percent or 99 percent of the land has been sold.

Now, I know there is a reason for that, and I am not sure if you fellows know of it: That in 1919, under a declaration of policy, the Secretary of the Interior exercised his authority to issue patents to Indians that were deemed competent, without their application for that patent. In other words, we call them forced patents. And that took lots of Indian land out of Indian ownership.

I believe sometime in 1946, the Congress of the United States was good enough to enact another act that said that those Indians that did not accept those patents could pay up whatever liens they had on them, and everything, and then bring them back into trust. And a few of them were brought back in.

Representative D'EWART. Would you yield?

Representative BERRY. Yes.

Representative D'EWART. Did I understand you correctly when you said that 90 percent of the lands on your reservation were non-Indian operated?

Mr. GARDIPE. No, what I meant, Mr. Congressman, is that out of the 1,575 patents that were issued, at least 98 percent of the land had been sold to non-Indian owners.

Representative D'EWART. Oh, yes. That only applies to the patent lands.

Mr. GARDIPE. That is right.

Representative BERRY. I want to commend you fellows for the work that you have done on this, and the job you have done in running your reservation. Do you think that any greater percent of Indians can be farmers or cattlemen than the same number of white people? Is there a difference between the percentage of those who can make a success of farming and operating cattle among the Indians, or among the white people?

Mr. GARDIPE. May I answer that in this way, Mr. Congressman. I have lots of friends who are farmers on the Flathead Reservation, and they have resided there for a number of years. Those farms of theirs are passed on to their children. In other words, those children of today pick up practically developed farms. We have among my people many enrollees, as myself, who were unallotted and had no land to commence this farming. Under our program, it was very possible for war veterans, in connection with the Veterans' Administration and so forth, to start buying up lands and commence farming. I can encourage those people to hold those lands but I cannot guarantee that they will do so. I have a peculiar case of a woman coming to me just before I left in regard to her property.

And I don't care to quote her name but I would quote the incident. She is very interested in getting started in the cattle business. She has 160 acres of the best land in the Flathead Valley. There is a non-Indian very much interested in buying it from her. Her land has produced approximately \$750 to \$1,000 income for her. She is a very good friend of mine. She said, "I have to sell my land, because I want to buy some cattle so that I can go into the cattle business."

I asked her if it wasn't necessary to have land in order to own cattle. And she admits it. But she said, "We have no other way of getting those cattle unless I sell my land."

So that is an example of what an Indian of our reservation is up against as far as getting started on an economical unit.

Representative BERRY. The thing that I was thinking about is this: The Bureau has had no program for habilitation or for rehabilitation of the Indian in most places other than farming; isn't that right?

Mr. GARDIPE. I believe that is right, yes.

Representative BERRY. And I have always felt, from having lived on a reservation most of my life, that the percentage of Indians that could make a success of farming isn't any greater than the percentage of white people who could make a success of farming.

Mr. GARDIPE. I will grant you that, Mr. Congressman. But under our program, they would not necessarily have had to go into farming. They could go into any business they wanted to on the Flathead Reservation. In other words, if a man wanted to have a jewelry shop or a restaurant or whatever it is, that was his privilege.

Mr. McDONALD. Mr. Chairman, one more reason why we have been held down this last year in our credit work up there is that the tribe furnished their own money. And I believe it was on April 22, 1952, that our credit was shut off in the Interior Office, and so was our repayment-for-cattle program stymied, and up to that time, we probably had a 7 percent delinquency, or prior to that, but it fluctuates, probably

mostly because of per capita payments in the year, and the matter of getting all that money back because of delinquency. And at one time in 1946, I believe, the total of credit funds outstanding was around \$600,000. We are down to \$200,000 now.

But since that program has gone off up there, that credit program, we have almost nothing as a program. It is rather embarrassing. It is true that if we are to keep going there has to be some kind of a program.

I still have to go back to that idea that there may be wholesale sale of assets.

We have timber contracts with operators, and they have based their program on a time probably as long as 12 or 13 years. We have repayment-of-cattle contracts out. We do not owe the Government too much money. At least, these cattle came from the drought-stricken areas in the early thirties, and we have purchased these cattle and are paying for them a quite outrageous price compared to what they were worth at that time.

So we have quite a lot of things involved here, cattle and everything else, and I say again that we are just stymied.

Representative D'EWART. One tribe was before our committee not long ago, and we were having somewhat similar troubles to yours in the matter of credit for a revolving loan fund; and I might say you are not the only tribe we have found that had a little trouble collecting.

Mr. McDONALD. But they say we are progressive and advanced, and then they cut our loan funds out because we were poor managers.

Representative D'EWART. This particular tribe was having the same difficulties as yours, and I think it is quite often a fact that Indians do not like to press their tribe fully for collection.

Mr. McDONALD. I agree with you.

Representative D'EWART. This tribe solved that problem by turning over their loan fund to a committee of their white neighbors and leaving the collection to them. I offer it as a thought.

Mr. GARDIPE. Mr. Chairman, there is a point in this withdrawal program. I am not an attorney, but I have examined various water cases in relation to the Flathead Indian Reservation. And under this bill, it is in my mind that the Secretary of the Interior would have the authority to extinguish any equitable right that the Confederated Tribes may have in waters of the Flathead Valley. I say that, because in the well-known Alexander Water case on the Flathead Valley, it was said that all lands were entitled to their proportionate share of water, but that the Indian allottee exercised the priority right.

Therefore, if the court recognized the Indian allottee's priority right to water, there should be some prior right in those waters being used for irrigation.

I am not an attorney. That is just my own everyday opinion of the thing and what I have been able to make out of the different cases that have come up before the courts.

Representative D'EWART. I don't think I follow you as to how these water rights could be extinguished.

Would you explain that again? I just don't follow.

As you know, I did a lot of work with your irrigation district a few years ago and put in weeks with you on rewriting your irrigation laws, and I am interested in this particular question of how you feel those water rights would be extinguished.

Mr. GARDIPE. I have done quite a bit of work. I was appointed as a member of the 1951-52 supplemental designation board for the Flathead Indian Reservation. That appointment came through Public Law 554 that set up the designation.

I was also a member of the policy committee established by Public Law 554 with the irrigation district. Under the Alexander Water case, the judge in his conclusion stated that all lands in the Flathead Valley were entitled to their proportionate share of water, but that the Indian exercised a priority over a non-Indian. Therefore, I believe the way that Indian acquired that priority must have been through the tribal equity in those waters. And my question is: Under this termination bill, then, the Secretary of the Interior would be able to extinguish that tribal priority?

Representative D'EWART. I would question that, but I would like to have my counsel look into it a little bit.

As I remember it, your water rights under your irrigation district, outside of your secretarial rights, are recognized by the State of Montana. The secretarial rights are also recognized.

Mr. GARDIPE. That is right. The Bureau of Indian Affairs recognizes only the secretarial right, as far as a private water right is concerned.

Representative D'EWART. And it has been the practice of this committee to recognize Indian water rights as prior to the white man's rights on reservations. I think that is true in all cases that I know of.

Mr. GARDIPE. Mr. Congressman, could you tell me on what grounds those priority rights are recognized?

Representative D'EWART. I think it is a matter of the recognition part of the grant given them under their treaty.

Mr. GARDIPE. That was the Hell Gate Treaty of 1855?

Representative D'EWART. I am not sure. I am speaking of all reservations, generally. Now, we had the water compact, the Yellowstone Valley water compact, for instance. In that, we accepted Indian water rights as coming ahead of any State disposition of water rights. And we have done that in other work in compacts around the country. We recognize that prior right of the Indians to their water as ahead of other rights in that area. We do it in setting up reclamation projects. We had a case in the Colorado Basin where there were some Indian rights there, and they came ahead of white men's rights.

I think we have done it in every case that I know of. And they are not based on use, as are white men's. White men's rights are based on earlier use, you know. Whoever had it first acquired that right. Indian rights are inherent, as I understand the situation.

May I ask Mr. Grorud if that is the case, that the Indians have an inherent right, because of treaty rights, ahead of anything that the State grants or does not grant?

Mr. GRORUD. That is right.

Representative D'EWART. That was what I thought.

Mr. McDONALD. We have one other thing, under Public Law 554. We feel that there is another thing that is involved in this determination. We have never been paid for that water up there on the hills that partly made up that Public Law 554. And that is why

we think there should be a further study made on this. We still contend our natural resources are supporting that irrigation project up on the reservation, as there are 124,000 acres of non-Indian-owned lands as against 16,000 or 18,000 acres of Indian-owned land. All of those factors come into this proposed bill.

Representative D'EWART. I will agree that your irrigation districts organized under State law on that reservation do pose a difficult problem, and I am not willing to state at the moment just how it should be worked out. I think it should be explored with you people. Because certainly we don't want to disturb those irrigation districts, and we don't want to disturb the delivery of water to the land, and we want to protect your rights in that water.

But how that can be worked out, I have not entered into it far enough to say at this time, and I don't believe you have either, have you?

Mr. McDONALD. No.

Representative D'EWART. It is a difficult problem.

Mr. McDONALD. That is right.

Representative D'EWART. And it raises some special problems we haven't run into anywhere else, and it deserves a lot of study.

Mr. McDONALD. That is right.

Representative D'EWART. I will agree with you there, because I know how those districts of yours are set up. They are operating very successfully; part of their success is due to power earnings and the sale of power applied on some of your costs, and that further complicates the situation.

Mr. McDONALD. Now, as I said, we have had general studies to meet this bill or see which was the best alternative. And I would like to turn this over to Steve DeMers on some of the information he has gathered at the State level in Montana.

Mr. DEMERS. Mr. Chairman, before proceeding with the discussion on the problem here, I wish to say that there is no particular difference of opinion as to the need for some kind of reasonable legislation providing for the ultimate termination of Federal supervision over our reservation. The question is: Is such legislation needed at this time, and are the Indians ready for that type of legislation? Particularly the kind that is provided in Senate bill 2750 and H. R. 7319, where now as I understand it, the titles have been amended to be called "declaration of independence" by the chairman.

I am sure it will interest this committee to recognize or consider some of the impact that this legislation might have on the Indians as well as the county and the State governments. For example, one of the major problems on the Flathead Reservation is health. And with a combined annual appropriation of \$95,460, of which slightly over \$50,000 is tribal funds and the balance Federal expenditures, the question of how to avoid a tremendous impact by the severance of such appropriations remains entirely unsolved, the impact being on the Indians as well as the county and State government.

Representative BERRY. Could I interrupt there?

The tribe has been contributing how much?

Mr. DEMERS. \$50,000 annually for hospitalization. The remaining \$45,000 being appropriated from Federal funds.

Certainly, that will create an impact on the State and county governments as well as on the Indians themselves, particularly by increasing the caseload, the welfare caseload.

That has been said here, in certain letters quoted, particularly one from the county attorney in Lake County, which is the principal county in our reservation. I think that that can probably be questioned.

Mr. Chairman, I would like to read and offer for the record a telegram from Gov. J. Hugo Aronson, of Montana. I quote:

H. R. 7139 and S. 2750 are commendable in ultimate aim in granting full citizenship rights and privileges to Indians. However, suggest adequate safeguards to protect elderly fullblood Indians. Also believe Federal Government should participate during transition period in financial impact on State and county government due to increase in welfare, public roads, education, employment, health, and law enforcement, housing, and other services.

It goes on then:

Indian treaty rights should be fully explored. Suggest full consideration of these and other problems emphasized in November report of Governors' Interstate Indian Council. Because this measure would set a precedent for similar legislation affecting other tribes, think it imperative extreme care and caution be exercised in drafting its provisions.

Now, Mr. Chairman, a statement of that kind coming directly from the Governor would indicate that he is concerned at the impact that this proposed legislation would have on the health and welfare.

I continue:

Some \$300,000 is annually appropriated from tribal funds under a tribe-county agreement for general relief, and certainly to terminate such fund would actually impose an additional burden on both the county welfare caseload again, as well as the Indians themselves.

Reference has been made frequently here in the past day and today regarding tribal moneys, regarding the educational facilities.

Representative D'EWART. Before you leave the matter of welfare, I have a letter here signed by Oliver R. Brown, chairman of the board of commissioners of Lake County, whom you know of.

Mr. DEMERS. Yes, sir.

Representative D'EWART. Let me quote that and comment on it.

With relation to the welfare status concerning ward Indians, taking an annual average based upon the average of 1953 ward-Indian cases, the additional burden placed upon the county would be approximately the sum of \$6,000 per year. However, if S. 2750 or H. R. 7319 should be passed by Congress and the ward Indians of the Flathead Indian Reservation should then be paid their pro rata share of the tribal assets this would in effect remove all Indian cases from the welfare rolls. Of course, as the acts provide, proper safeguards, such as guardianships, or trusteeships, would necessarily have to be created to care for the aged, incompetent, and minor members of the tribe. However, many of these welfare cases are fully competent to handle their own affairs.

And then he says in another paragraph:

It is a well-known fact that all of the Indians are now or have been gainfully employed just as any other citizen of this county, and are no more likely to become a welfare burden than any other citizen of this county, therefore the passage of this act cannot possibly create any additional or unusual burden upon Lake County.

Would you like to comment upon that?

Mr. DEMERS. I would be happy to comment, Congressman. It would seem to me that there are several inconsistencies in that letter

and in the opinion of Oliver Brown, as chairman of the Lake County Board of Commissioners. Naturally, no one would deny the fact that those people who have in the past been gainfully employed, and others who will be gainfully employed, would not become welfare cases. But certainly when he asks, on the one hand, that the election be passed, and then asks, on the other hand, that certain help be provided by the Federal Government for the indigent cases, that doesn't seem to be at all consistent with the facts.

Actually, it was that county commissioner and his additional members who were so strongly in favor of a mutual agreement entered into between the tribe and the county for the welfare load, wherein the tribe took half of the cost of the general relief funds and paid for them out of their own tribal moneys.

Representative D'EWART. Does this agreement you refer to concern maintenance of Indian Service roads?

Mr. DEMERS. No, sir. I am talking about a tribe-county agreement for general relief.

Representative D'EWART. All right.

Mr. DEMERS. Did that answer your question, Congressman?

Representative D'EWART. Well, I wanted you to comment at length on this, because it does come from the county commissioners, and you should have a chance to state your views clearly and completely.

That is why I read it to you, so that you would have that opportunity.

Mr. DEMERS. Yes, sir. As I pointed out, where the tribe and the county have entered into an agreement for general relief, it has proven to be a distinct benefit to the county as well as the tribe. It has served to reduce the cost of both the tribe as well as the county in their annual relief. The counties, I am sure, will admit that fact.

Representative D'EWART. It is working very well for both parties?

Mr. DEMERS. Yes, sir. Certainly the bills here proposed would tend to completely sever any contribution by the tribe in such an agreement.

Representative D'EWART. And thereafter they would be treated the same as non-Indians.

Mr. DEMERS. They would be treated the same as non-Indians, but they would certainly become an additional burden on the county by reason of the increased welfare load.

With respect, then, to education, about \$10,000 of tribal funds have been annually appropriated for the Indian children in a parochial school on the reservation, and hot lunches for Indian children in public schools, plus an additional \$10,000 over the past few years, of tribal funds, which has been given to various schools for buildings and for other purposes.

Naturally, it would follow that to terminate such appropriations is going to have a serious and adverse effect on both the Indian children themselves as well as the schools throughout the reservation.

Now, those are only a few of the examples. Certainly we are not here to condemn, without offering something that we think is better. And, Mr. Chairman, I would like to offer for your consideration at this time—

Representative BERRY. Steve, just before you leave that, let's think this way: If the bill is passed, this \$10,000, and then \$50,000, and other funds that are contributed by the tribe, will be contributed by the individuals, instead of the tribe, won't they, through taxation?

Mr. DEMERS. Yes, that is undoubtedly correct. But as a matter of fact, it would be substantially by the individuals than it has been by the tribe.

Representative BERRY. Do you think it would be less?

Mr. DEMERS. It certainly would. The statement, in itself, that approximately \$145,000 be realized in taxes from tribal land—as a matter of fact, the tribe, through its various contributions, has contributed well over \$250,000. So that when you sever the contributions and revert to taxation you are getting less than if you would leave the status quo as it is now. The \$10,000 to the parochial school and the hot-lunch program of approximately \$8,000 as against \$2,000—there is a big difference. But remove that difference as to the parochial school at St. Ignatius, and those children would undoubtedly have to become State cases. There is just simply no other answer than that, and it is as simple as that. Because those children must be put in some kind of a school, and they are put in a parochial school, in some cases, orphan children, in some cases children of needy parents, that would have to be taken care of under another program.

Representative D'EWART. Mr. Chairman, we have reached 5 minutes past 5. Obviously, we are not going to finish with these four gentlemen tonight.

They are contributing very materially to our understanding of this problem.

I would like to suggest that we have them before us in the morning and proceed from here.

Representative BERRY. I would agree with you, Congressman D'Ewart. And I would agree with you that this is very interesting and very material. And I want to commend these four men on the contribution that they are making to our understanding, especially mine.

Mr. TUNISON. Mr. Chairman, may I ask leave to submit the written statements of these gentlemen to the reporter for the record?

Representative BERRY. Certainly. Without objection the written statements of each of the four will be made a part of the record.

Mr. TUNISON. And in that connection, Your Honor, I would like also permission to submit a written statement from Father Taelman, the venerable old chief priest out there who spoke at your meeting, who has prepared a concise statement of a page and a half.

I would like it to go in with these others.

Representative BERRY. Is he present?

Mr. TUNISON. He is unable to make the trip.

Representative BERRY. That may be made a part of the record.

(The document referred to is as follows:)

TESTIMONY OF FATHER LOUIS TAE LMAN, S. J., ON THE FLATHEAD BILL

After an experience of over 60 years with the Flathead Indians and a competent knowledge of their average mental qualifications and capacities, and the past and present living conditions that surround them on all sides, I must in all justice and charity to them express and urge my earnest opposition to the proposed bill. I would stifle the voice of my conscience were I to speak or act differently. Without malice of any kind to the originators of the bill, I cannot but claim that their action and purpose bespeak real ignorance and consequent lack of recognition of the facts, past and present, that vitally affect the legitimate welfare and very existence of the Flathead Indians. It is my conviction that the said bill, instead of effecting for them any legitimate promotion or benefit, will

spell their final undoing and doom. It will climax, historically, the Government liquidating process of the past 100 years, in its dealing with the said tribe. A review of the past might illumine the present bill for the benefit of all concerned.

The first step in this liquidating process was the treaty of 1854. Without going into many details, one fact stands out, that the combined Salish and Kootenais ceded to the Government the greatest bulk of their original territory, which by prior occupation and peaceful possession, legally belonged to them, being restricted by the same treaty to the diminutive present Flathead Reservation. The ceded lands, valued by United States standards at that time, at some \$18 million, brought no financial benefit to the Indians and their centennial claim still remains unanswered. Is it fair liquidation?

A second step in this Government's process is the well-known historical fact of the forced removal by the Government of the specified Flathead Indians from the Bitter Root Valley to the Jocko District of the present Flathead Reservation. This was done on the strength of the forged signature of old Chief Charlo, a statement to which the chief clung till his dying day. The fact of their removal bespeaks, during all these years, since 1899, the tremendous damage and loss, inflicted upon the Flathead Indians. And what return was there for them in the Jocko Valley. Let history tell the facts.

A third step in this Government's liquidation process of the combined Flathead Indians on the reservation, was the destruction in 1896 of their magnificent educational school system. It came like a bolt from a clear sky. By the treaty of 1854, the Indians were guaranteed the education of their children. The only possible solution was for the missionaries and the sisters to do the work. And they did the work with wonderful success as the years went along. History tells of 3 magnificent schools, with its 300 children in attendance and their extra work of domestic science and various trades. The Government, no doubt conscious of its financial obligations to the Flatheads, helped to furnish the costs, when suddenly it passed a bill that "it would no longer appropriate money for sectarian Indian schools." The Flathead educational program got killed, although for years to come, public schools were not available. The intellectual, moral and financial losses last till this day.

The fourth step in the Government liquidation process for the undoing of the Flathead Tribe, was the opening of the Flathead Reservation in 1908. This remnant of their former large territory, was too large yet and had to submit to the details of that bill, with all its consequences that now prevail and show it to have been the worst thing that ever happened to the Flathead Indians. Their loss and damage are irreparable. It would take too long to go into details. But the evidence of the facts and the concurring testimony of the Indians are obvious and crushing.

And now comes the fifth step of the Government's liquidation process for the Flathead Tribe. It will prove to be its final undoing and doom. That such will be the case readily follows from the preceding four steps and from the actual conditions that still prevail in and around the said tribe. We can well admit the four steps just mentioned, could not or would not so readily have happened, if the tribe as a body, with its sufficient average mental capacity, had been able to manage and protect their rights and common business affairs, measuring up and defending themselves against the attacks of smart and greedy outsiders. In competition with "white intelligence" the Indians have lost out, to their bitter experience. And they apparently are bound to sustain, inside of a few years, their final loss, in utter defeat, should "white intelligence and strategy" and purpose, ignore the full actual conditions of our Indians and pass the bill.

As an old Indian missionary, soon to complete my 87th year, 57 of which I devoted to the Indians, I must say that I earnestly oppose the Flathead liquidation bill. May God save us!

STATEMENT OF WALTER W. McDONALD, CHAIRMAN OF TRIBAL COUNCIL AND OFFICIAL DELEGATE

My name is Walter W. McDonald and I am a member of the Flathead Tribe. I am one-half degree Indian blood, chairman of the Flathead Tribal Council and I live 6 miles north of St. Ignatius on land I am purchasing under the Flathead revolving credit loan program. I first got my loan before I was elected to the council. I am here officially representing the tribal council and a majority of the people living on the reservation, especially the fullbloods, Kootenai—and

the Salish and Pend Oreilles, better known as the Flatheads. I also represent some of the people off the reservation.

My reason for saying I do not represent all the people is that some people off the reservation and a small number on the reservation are in favor of terminating the Flathead Reservation and turn our tribal assets, such as Kerr Dam, timber, grazing lands, power sites, Hot Springs enterprises, Blue Bay Lodge, and our waters into cash and I am opposed to this idea because in the bill, the Secretary of the Interior has the authority to either turn our assets over to a Government agency such as Bonneville Administration, army engineers, or Bureau of Reclamation, or sell the dam to a private company, such as the Montana Power, or any other private company.

In the case of a Government agency taking over the timber and Kerr Dam and power sites. The treaty of 1855 and the tribal council were very instrumental in stopping the raising of Flathead Lake back in 1944, whereby this would have affected 7,000 to 9,000 people living around the lake and also thousands of acres of land would have been taken out of production. Since the treaty of 1855 definitely states "to a point due west from the point half way in latitude between the northern and southern extremities of Flathead Lake" will be our north boundary. This project was never started again. Later in the forties the tribal council, using their treaty, protested the building of the Paradise Dam which would have been built off the west side of our reservation, but would have flooded Indian grazing and farmlands on the reservation. Since the Government is negotiating with the western Indians for their fishing ground at Celilo Falls or The Dalles, it stands to reason the Government would like to get control of the Columbia River and its tributaries. At the present time Lake County gets around \$240,000 a year in taxes, and the tribe will start getting \$175,000 in rentals. On the other hand, if a private company buys Kerr Dam, will the competition be there? In Ome Lewis's report to Congress on the two bills, he states the Montana Power would be the logical bidders. Since Montana Power is the only big company in Montana it makes one feel reluctant to agree with the proposed bill because of the controversial issue of private enterprise or Government control.

At a recent election of five officers of the tribal council held on the Flathead Reservation, I was elected from the Mission District and one writein for another man. I was unopposed in this election and my stand was made before the election that I was opposed to any termination at this time.

My grandmother, Mary Deshaw, was a cousin to Chief Martin Charlo, father of Paul Charlo. My folks were moved from the Better Roal Valley in 1887 along with many other Indians to the land of the Flatheads where they were never to be molested again. The Flathead Reservation was then occupied by the Kootenais and the Pend Oreilles. This was the reservation the Confederate Tribes retained in the treaty. The Government did not give them this land, it was retained. Our treaty among the fullblood Indians, especially, is a sacred instrument and has been respected.

At the present time our program on the reservation is a satisfactory one. Many people under the Wheeler-Howard Act have progressed—others have not. The tribal council has 7 regular employees and arrangements for irregular labor; also the tribal council helps pay the salaries of 4 county deputy sheriffs; the tribal law and order setup runs about \$15,000 a year or more.

The tribal council pays the Ursuline Convent \$7,500 for 9 months to care for and educate 30 Indian children. There are 80 children in this grade school, predominantly fullbloods as distinguished in everyday life. The other 50 children are cared for by other charity contributions. If this reservation was terminated a number of these children would either have to go to foster homes or a State orphanage as some of them have undesirable parents or they are almost homeless.

The tribe pays its own hospitalization—\$54,000 a year to Holy Family Hospital, where in many cases in the wintertime especially, some of the Indian patients stay because their homes are inadequate and with no one to care for them the hospital keeps them until the winter weather breaks, etc. The tribe has a contract with the hospital.

It is true the Johnson-O'Malley Act helps our public schools. In the event this reservation was terminated and the funds are withdrawn, the taxpayers would have a larger burden because some of the Indians, especially the fullbloods, cannot pay taxes because of the rent money they get they can hardly survive, let alone pay taxes. In some cases the older Indians will not accept old-age assistance because they do not want to have their land pass out of their

families because the State will have a claim on their lands whenever the client dies, and if they accept old-age assistance their children and grandchildren will lose this land.

It is true many petitions have been signed for the terminating of the Flathead Reservation. When the Committee on Indian and Insular Affairs met on the Flathead Reservation it was stated by Congressman Harrison of Wyoming, I quote: "It is my understanding that your net worth of the tribe is about \$70 million; a total of \$70 million divided up per capital and distributed to each man, woman, and child would be \$16,800."

The above statement was taken from the minutes of October 16, 1953, held at the Flathead Agency. To this day nobody knows where that figure came from because our reservation has not been appraised and the tribe owns only the income from the dam.

This figure of \$70 million has caused many petitions to be signed. It caused many people to come to the council and try to be enrolled, people carrying these petitions who are members of the tribe have misinterpreted to Indians off and on the reservation. A news item came out of the Seattle Post—\$72 million in cash to be distributed among members of the Flathead Tribe when these petitions are signed. Through misunderstanding many petitions are supporting the liquidation of the Flathead Reservation. We must not evade the issue of termination, by thinking farther than just selling our reservation out, because in 10 years or more the Flathead Reservation would be well on the way to gradually terminating itself because of all the patents to lands that have been issued in the last 2 years. A large majority of these people did not invest their money wisely. The motive of getting a patent on the Flathead Reservation is to sell your land. It looks as though if this keeps up there will be first-class citizens without land or security. There seems to be some public opinion, along with Congressmen and Senators that the Indian should be equal to all other citizens and be first class. I am a first-class citizen under the act of 1924. I live my life the same as any other citizen of the United States. The supervising power the Government has over me is minor, but the people of the United States and in Congress are confusing citizenship with taxes, mainly because the Indian does not pay taxes on his land, etc., he is rather looked down upon as a non-citizen. Regardless what the outcome is on the Flathead Reservation, the real Indians will always be Indians because of heritage and racial prejudice.

There are so many things involved on the Flathead Reservation. It seems as though a 10-year minimum should be considered before any action is taken to terminate the reservation. The tribe has spent money for grazing land, to block out range units for seven stock associations who are benefiting by this range program. If this land was put on the auction block, there would not be one member who could compete with his white neighbor or big operator and buy this land back and the membership of these associations consist of about 80 members. Most of these members have about 80 acres and depend on summer and winter grazing. In our credit program it was shut off April 2, 1952, because we were not collecting money fast enough. Our credit rating average is not too bad according to local bankers—it drops below 7 percent, then it raises above 7. We have loans that run as long as 10 years or more, yet what will happen to these loans in the event of termination? More people will have a large burden on them to have to pay their loans regardless of their loan contracts which will not be good.

This also applies to our repayment cattle program which was also stopped April 2, 1952, and since then very few collections have been made because the Department of Interior wanted us to collect cattle but not to reissue cattle. This program was started from the drought-stricken days of the early thirties. The Government brought cattle on the reservation and the tribe has been paying in cash for these cattle at an outrageous price in comparison to when they were purchased. Since then the tribe has made contracts with the individual Indian for a certain amount of years to pay back each year. In turn, the tribe has made a contract with the Government to pay in cash or kind.

If the reservation is terminated there will also be the fact of taking everything some of the Indian stockmen have to settle up his obligations when they have a contract that will run for a while yet.

The Flathead irrigation project is a reality because it is supported by tribal resources given to Indians in the treaty of 1855. This water has not yet been paid for, but because the Flathead irrigation project was built by the Department of Interior and has made contracts with landowners and the Government as in

Public Law 554, the non-Indian landowner is only filling his duty by contract with the Government that the net power revenue be applied to his construction cost at the rate of \$65 an acre and on Indian owned lands the net power revenue be applied against Indian operation and maintenance. Therefore if this reservation is terminated, it will put Indian lands subject to construction cost instead of operation and maintenance, whereby the Leavett Act protected Indians to the extent there would be no construction cost on Indian lands as long as it stayed in a trust status.

Since I have brought out some of the high lights of the reservation, it seems to me this particular proposal should deserve considerable amount of consideration and it cannot be done in 2 years, as there are timber contracts with the tribe where timber has been sold over a period of many years and these operators have based their program on these contracts. On the other hand, the timber on the reservation has not all been cruised. There are approximately 15,000 acres of unsurveyed land in the mountainous regions.

In conclusion, I must say before any termination is considered the non-Indians, as well as the Indians, must be educated on the responsibilities of one government as the non-Indians must face the facts of welfare, health, law and order, and education. Our older, full-blood generation will almost be extinct in another 10 years and that termination date is not too far out of line, but if the tribe could develop more power sites and cut more timber by renting to private companies, the tribe could and would get more income and more taxes would be paid to the counties. At the present time the sustained yield timber cut will run until 1987.

STATEMENT OF TRIBAL DELEGATE—WALTER H. MORIGEAU

My name is Walter H. Morigeau from Arlee, Mont., on the reservation. I am a rancher. I am a member of the Flathead Tribe and a member of the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., I am a delegate of the tribal council sent here to Washington, D. C., to oppose passage of H. R. 7319 and S. 2750, because these bills threaten the security of the Indians living on the Flathead Reservation reserved by them in their treaty of 1855.

The economy of our people depends on the use of our tribal assets.

1. The full bloods and near full bloods depend on their hunting and fishing rights as part of their existence. These rights will be lost by this bill.

2. Our stockmen depend on our grazing lands for their living. These lands being lost to them will mean the depletion of their herds, as their home ranches are too small to carry them, there being no provision in the bill for the purchase of these ranges, and no assurance of money to buy them. Our farmers will be cut down on their operations through the loss of their leased lands.

With the loss of these lands, there will be hardships on these people who have loans from our credit program, our cattle program, and money borrowed from banks and loaning agencies.

The addition of taxes in their condition will be disastrous, there being no time of transformation, as there cannot be any amount of money received in the near future from this bill.

The forests and watershed lands are vital to the economy of the whole area, not only to Indians, and I cannot see how they can just be sold to anybody and quickly.

Our Kerr Dam is in contract for many more years, and our value is not mature. Our Hot Springs bath house will more likely be sold at a loss. Blue Bay resort is questionable, and our power sites are questionable as to value.

The bill does not mention oil or mineral rights, which should be reserved, also hunting and fishing.

I cannot see any reason for this bill at this time.

According to the record, about half of our people have left the reservation to make their permanent homes. This proves that through assimilation the reservation will liquidate itself within a reasonable period of years. But the question is what to do with the people living off the reservation and a few still living on the reservation. Most of them have no personal property or allotments, having sold their allotments. Some did not receive any allotments, though they still hold tribal interests or heirship lands. Most of them do not participate in the reservation programs, such as hospitalization and credit, or other programs.

But because the programs are paid for from tribal funds and they pay their pro rata share of this program from their tribal funds, they feel that this is not fair to them.

They have been working toward a liquidation program and now are supporting this bill, with no respect for the people who have maintained their holdings on the reservation through the years, nor the consequences to these people from this bill to obtain their last cash in hand from their tribal holdings.

I believe this should be stopped, and a separate bill passed to pay and separate them from the tribes as they wish.

The basis of good citizenship is ownership. The Indians owning property are and will be far better citizens, with a little tax exemption, than Indian citizens in poverty. Check on this among Indian citizens in the State of Montana in the city of Great Falls and Havre nonward Indians and the reservation Indians.

As to terminating Federal supervision only would not be such a shock, but the liquidation of our tribal holdings at this time and in the short time as the bill provides would be disastrous to my people. The Indian Service in the past few years has eliminated such services to our reservation as field health nurse, field farm extension and workers' credit manager. These were very important to us in our program.

We have not had time to make studies on taxes and business organization.

The State of Montana has not declared itself ready to assume the responsibility for the Indian, which I think it has in the case of the landless Indians, and I am sure that the Flatheads do not want to end up in the same places (Hill 57), which can be caused by the passage of wrong legislation.

The sale of property under the bill: The forests and watersheds, which is the largest asset, should never be sold on the auction block to individual interests, but is of a national interest in conservation and should be dealt with in that way. Sale should be to the Government only of a separate bill.

Our 1855 treaty provided the reservation should be a home for the tribe. No time limit is set. It is to be a home forever for those Indians who want to live there.

The past few years has shown a great improvement in the education of our children under the aid to our school system. This alone, if stopped, can change many things—first, after most of the lands are lost or sold by the Indians, and remember this—the Indian will never leave here—this is his home—we will have discrimination which, in turn, will cause Indian education to drop and will, in turn, lower the standard of this citizen.

Let us first settle the problems above noted before we have a bill. Let us settle our claims first to be better prepared for the change. Let us have a clear agreement with the State of Montana about the problems. If the United States is anxious to relieve the nonresident tribal members, let it acquire their interests on a fair basis.

STATEMENT OF RUSSELL GARDIPE

My name is Russell Gardipe. I am enrolled member of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana. I have been the land and lease clerk for 7 years, hired by the tribe. I am opposed to the withdrawal of Federal supervision of the Flathead Indians until they have developed their own natural resources. I say developing natural resources of their own, such as economical grazing units. Today, the Indian stockmen of our tribe are dependent upon tribal lands for grazing purposes. The average Indian stockman should have 50 to 100 head of cattle and 900 to 1,200 acres of land to be able to support an average family of four. I believe that the Indian Bureau failed in helping Indians in the cattle-raising industry by not helping them secure economical units of their own. Securing of these units cannot be accomplished at once, but should be done each year or so until a unit is then complete. Withdrawal of the Federal trust at this time will force 75 percent of our Indian stockmen to liquidate their present herds of cattle. What is then to become of these men? They would then have to readjust themselves to some other means of a living. The confederated tribes have reinvested funds from their natural resource in lands in order to consolidate grazing units for Indian stockmen and the protection of timber resources and watershed purposes. The Indian farmer, of our reservation does not have an economical unit of land on which to make a living and economical units for a farmer on the reservation consists of 160 acres of irrigated land or 320 to 400 acres for dry land farming.

Indian farmers are dependent upon leasing other Indian lands in order to be self-supporting today. Withdrawal of the trust covering allotted lands would mean putting the land into a non-Indian ownership as 98 percent would be sold to non-Indians. This is shown by the Secretary of Interior's policy of 1919 on the Flathead Reservation whereby patents were forced upon them in accordance with the act of 1887. It is well established that patent in fees are only applied for so that the land may be sold. Approximately 15 allottees out of 1,575 patents issued still have their lands. This is a very small amount. Many of those people who received these forced patents are on the relief rolls today. It appears that the intent of this bill is to get the land out of Indian ownership. The provisions of apparent benefits to the Indian by lifting the trust and letting him handle his own lands is but a pretext to get them into non-Indian ownership. Under the terms and conditions of this bill the Secretary of the Interior would have the right to extinguish any tribal equity that he may care to extinguish; and an example of this would be the tribe's equity in waters that are used for irrigation. The well-known Alexander water case on the Flathead Reservation acknowledged the Indian priority to water, therefore, if the Indians hold such a priority, surely there must be a tribal equity in those waters. I see no provision under this bill to compensate the Flathead Tribe for the equity, which the Secretary of the Interior would extinguish. This would also apply to reservoir sites and small hydroelectric plant located on Hell Roaring Creek which is operated by the Flathead Indian irrigation project.

In regard to the present irrigation project on the Flathead Reservation, it is known that it is the intent to turn this project over to the people to use the waters of the Flathead for irrigation and no doubt the water users will ask for tax exemption for the organization claiming it is a nonprofit organization, but should tribal natural resources be passed to a predominant non-Indian organization tax free while other natural resources of the tribe will be subject to taxation? The bill makes lands retained by Indians subject to construction cost contrary to present law.

It has been reported that lifting of the trust status of Indian lands would bring a potential tax income of \$145,000, this figure being based on all taxable land now in trust. I am assuming that all taxes must be paid in order to reach this figure mentioned, but this is only an assumption. What of the vast lands that individuals will not be able to dispose of, and it would not be with the payment of taxes, if Indian lands are assessed and no taxes paid. It appears that the counties of Sanders and Lake will become land-poor such as they did during the depression of the early thirties.

The bill is premature as no thorough study has been made by qualified persons as to what effect this termination will have upon the general public of western Montana. Will it interrupt the present stable economy of the Flathead Valley, and if so, how long would it take the counties involved to recover from the impact? This fact has been stated that the Indians would receive some \$15,000 to \$18,000 each. Where is any such money or any money mentioned in the bill. Has any consideration been given as to what would be done with the funds? Example: Each Indian would leave the reservation to more or less see the world. Those that dissipate their funds would soon return to become a burden on the taxpayers of the counties. The present number of Indians residing on the reservation and who have maintained it as their home would be sure to return because they would feel that their old home would offer them security they needed. I believe that the Flathead claims should be settled before the responsibilities of Federal Government could be released and only portions of the fund from the claims should be individualized and the balance would be used for preparing the individuals to meet the responsibility of citizenship. I believe that the treaty of 1855, known as the Hell Gate Treaty, bound the tribe to the Government for protection as a powerful friend and that protection should not warrant destruction of the protected.

STATEMENT OF S. C. DEMERS, OFFICIAL DELEGATE REPRESENTING CONFEDERATED SALISH AND KOOTENAI TRIBAL COUNCIL, FLATHEAD RESERVATION, MONT.

My name is Stephen C. DeMers. I am a member of the Flathead Tribe and was born and raised on the Flathead Reservation. I have been authorized to speak in behalf of the tribal council.

Before proceeding with my discussion of the problem under consideration, I wish to say that there is no difference of opinion as to the need for some kind of reasonable legislation providing for ultimate termination of Federal supervision over our reservation. The question is (1) is such legislation needed at this time, and are the Flathead Indians ready in every respect for such legislation?

After thorough consideration of such a complex problem I am convinced that my reservation and its people are not ready for the proposals contained in S. 2750 and H. R. 7319 and the impact resulting therefrom.

I am sure that it will interest this committee to consider the impact of this legislation on the Indians, as well as county and State governments.

Example: One of the major problems on our reservation is health and with a combined annual appropriation of \$95,460, of which slightly over \$50,000 is tribal funds and the balance Federal expenditures, the question of how to avoid a tremendous impact by the severance of such appropriations remains entirely unsolved, the impact being on Indians, as well as county and State governments, by increasing a burden on health facilities and welfare caseload.

Example: Wherein nearly \$3,000 is annually appropriated from tribal funds under a tribe-county agreement for general relief and to terminate such funds would actually impose additional burden on both county welfare as well as Indians.

Example: Tribal money appropriated annually of approximately \$10,000 for Indian children in a parochial school and hot lunches for Indian children in public schools, plus an additional estimated \$10,000 over the past few years of tribal funds given to various schools for buildings and other school purposes. To cease such appropriation obviously would cause hardship on Indian children, as well as schools.

The foregoing examples are but a few of the many problems which must be recognized and solved and the proposed legislation does not offer the complete solution.

If there is a sincere desire to reach an honorable settlement with the Flathead people, I have no doubt that in time something could be worked out. I submit the following as reasonable minimum conditions which ought to be met:

- (1) Any agreement should be bilateral with no threat of coercion.
- (2) All claims by the Flathead Tribe against the United States be settled before any such agreement is reached.
- (3) The Federal Government should bring its roads up to minimum standards before transferring responsibility for maintenance over to the counties.
- (4) It should assist the tribe in negotiating with State government and subdivisions thereof for all transfers of services and should reach agreements with State and county officials for the payment of such services transferred.
- (5) It should cause to be made a complete survey and inventory of timber, mineral, and other resources on tribal lands and furnish such information to the tribe.
- (6) The tribe should be allowed a minimum period of 10 years in which to fully prepare its people for ultimate termination of Federal supervision and, if deemed advisable, to create a corporation and take over, without supervision by the Secretary, full management responsibility for all tribal property, the trust relationship to continue during such trial period, but the United States to be relieved in advance of any responsibilities for errors or failures of management.
- (7) Final severance of trusteeship to be accomplished by a declaration joined in by both parties, in which each party absolves the other of future responsibility.
- (8) Each party to have access to the court of appeals or comparable body to review performance by the other party under agreement.

I am certain that the bills now under consideration or anything less than the minimum conditions outlined above would result in chaos out of which order would be extremely difficult to restore.

Mr. McDONALD. I have one from an eminent Republican publication of Montana that I would like to submit.

And I have one from Dr. Carlyle Thompson, executive officer and secretary of the Montana State Board of Health.

And I have one from Mr. Martin Cross, chairman of the tribal council way up there in North Dakota.

Representative BERRY. I know Martin.
(The documents referred to are as follows:)

HASTE UNJUST TO FLATHEADS

There is now before Congress a bill to provide for the termination of Federal supervision over the property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

Because of the implications not only for Montana Indians but for Montana taxpayers, this bill is deserving of careful inspection.

On first glance the purpose of the bill, which the Bureau of Indian Affairs apparently drafted, seems to be to remove all legal distinctions now existing between Indians and other United States citizens—seemingly a desirable thing.

Scrutiny of the bill, however, brings to light many serious problems which have grown up over a period of years. Not only does the bill attempt to dispense with them at one fell swoop, but it also allows only 2 years for all this problem solving to take place. Because the drafters of this legislation recognize the impossibility of conducting in 2 years the comprehensive study and preparation necessary for wise and just solutions, a great deal of the problem solving is left to the discretion of the Secretary of the Interior, which, for practical purposes, means the Bureau of Indian Affairs, hence the Billings area office. The discretion of the latter has not always merited public confidence.

Under the terms of the bill, Indian lands would no longer be held in trusteeship by the Government, and Federal services to the Indians would cease. Economically this means that Indian property would become taxable, yielding an estimated \$145,000 annually. The value of services now received by the Indians is \$286,000. Only the State and local governments would remain to supply the difference.

Many other problems are involved, including the disposition of thousands of acres of timberlands, operation of an electric power and irrigation system, and the disposition of a contract with the Montana Power Co., whose Kerr Dam is located on the reservation.

Flatheads would then be left to manage their own affairs. Their tribal council feels that they are not yet able to do so successfully. Hardship and injustice would inevitably result. The United States has a long record of injustices to the Indians. We don't want to add more.

STATE OF MONTANA,
STATE BOARD OF HEALTH,
Helena, Mont., February 22, 1954.

To: Secretary, Joint Senate-House Committee hearing re S. 2750 and H. R. 7319.

DEAR SIR: Enclosed is the original copy of a statement which I was scheduled to present in person at a committee hearing on February 24, 1954.

Due to a public-health emergency demand I regret I am unable to appear in person and am, therefore, forwarding this statement for the committee's consideration.

Sincerely yours,

G. D. CARLYLE THOMPSON, M. D.,
Executive Officer.

JOINT SENATE AND HOUSE COMMITTEE HEARING ON S. 2750 AND H. R. 7319, A BILL TO TERMINATE FEDERAL SUPERVISION OVER THE PROPERTY OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD INDIAN RESERVATION IN MONTANA

My name is G. D. Carlyle Thompson. I am executive officer and secretary of the Montana State Board of Health, and in that capacity I am the State health officer. I am trained both as a physician and as a public-health medical officer. I have been requested by the tribal council of the Flathead Tribes to be present at this hearing.

First, I would like to make it clear that I do not testify in opposition to the principles or purpose of any legislation now before, or hereafter before, the Congress which concerns itself with the termination of Federal supervision over any of the Indian reservations in Montana. As the State health officer, however, I feel I have a responsibility to discuss Indian health problems in the State and the effect of any proposed legislation on those problems.

In Montana there is a long history of an attempt to deal with the local health problems without the necessity of confirming action to either the Indian or the non-Indian. In this there has been different degrees of success, the amount of success, however, being very closely related to the financial support for the maintenance or appropriate local public-health staff.

We believe that health problems do not recognize jurisdictional boundaries whether it be reservation, city, county, or State. We believe all must cooperate in handling these problems. But we also believe that the direct action to the solution of health problems is at the local government level. In Montana this is best done on a county or multicounty basis.

In considering any legislation which may affect Indian health problems in the State, there are four basic points that must be kept in mind:

1. The existence of health problems among the Indians that far surpass those among the non-Indians;
2. The existing Indian Bureau arrangements with State and local areas designed to resolve Indian health problems;
3. Previous and existing inadequate Federal provisions in meeting past and present Indian health problems; and
4. The time factor involved in any change of status of responsibility for the Indian.

Consideration of these four points reflects no opposition to, or conflict with, the principles of the proposed legislation concerning the termination of Federal supervision over Indian reservations.

The peculiarity and the severity of the Indian health problems has long been recognized. This fact is established through a review of specific Indian health problems in terms of commonly recognized standard public-health yardsticks for measuring the health status of peoples. Many Indian health problems could be discussed, but time permits only that two of them be reviewed. One is infant mortality, recognized as the most reliable index of the health status of peoples. Another is tuberculosis.

In 1952 the Montana Indian infant death rate was 61, compared to a non-Indian death rate of 25 per 1,000 live births. For the 30 years 1922-52 the Montana Indian infant death rate exceeded the non-Indian death rate from two- to threefold.

In 1952 the Montana Indian tuberculosis death rate was 163 compared to a non-Indian death rate of 9 per 100,000 population. For the 30 years 1922-52 the Montana Indian tuberculosis mortality rate exceeded the non-Indian rate from fifteen- to twentyfold.

The Montana Indian population in 1950 constituted 2.8 percent of the total population, yet they accounted for 29 percent of the tuberculosis deaths, 13 percent of the infant deaths, 4 percent of the total deaths, and 5 percent of the live births.

In connection with the Flathead Tribes, the problem is clearly demonstrated in a chest X-ray survey completed in 1953 when it was found that the percentage of tuberculosis among 69 percent of the adult Indians X-rayed was 4 times greater than the tuberculosis among 75 percent of the non-Indians X-rayed in Lake County. Furthermore, before the survey was completed, with only a very small fraction of the Lake County population being Indian, the number of tuberculous persons in the State tuberculosis register was greater for Indians than non-Indians by a ratio of 10 to 7. A more complete registration of tuberculosis in this county following the X-ray survey will further result in emphasis of the tuberculosis problem among the Indians in Lake County.

While these problems have long been recognized and attempts have been made to work with them, it is only in recent years that Federal, State, and local cooperative planning and activity have occurred. This effort is still inadequate, but two important advances have recently occurred in Montana because of Federal financial participation and because of improved cooperative relationships. This has occurred at the State and local level.

Thus in 1951, Federal funds, through the Indian Bureau, were made available to help support, in conjunction with State and local funds, the development of a full-time health department to serve the Crow Reservation and Big Horn County. In 1952 this was extended to Rosebud County and the Northern Cheyenne Reservation to form a health department district with Big Horn County and the Crow Reservation. In 1953, with similar funds from the Indian Bureau, a full-time district health department was established between Sanders and Lake Counties to include the Flathead Reservation.

The second principal improvement is the new wing at the Montana State Tuberculosis Hospital, which is nearing completion. This is a result of a contractual arrangement between the Bureau of Indian Affairs and the State of Montana. The arrangement was supported by Federal legislation and appropriations. Under this arrangement, 100 beds are to be utilized, if necessary, for the admission of Montana Indians with tuberculosis, the Federal Government providing payment for the care of such Indians at the daily operating-cost rate.

Thus, for the first time in Montana the Federal Government has utilized its funds in a coordinated manner with State and local funds to start programs designed to meet Indian and non-Indian health problems. While these health departments are still inadequate, they offer an opportunity to attack, cooperatively, health problems affecting these local areas. There will result a better understanding and recognition of health problems and needed action by both Indian and non-Indian citizens and by local, State, and Federal agencies. The public health department, furthermore, recognizes the Indian and the non-Indian as citizens of the same community to be served in accordance with the problem presented without regard to race, creed, color, or governmental boundaries within its jurisdiction. But there still remain five other reservation areas in Montana that do not have local health department service which is sorely needed.

The passage of legislation terminating Federal responsibility for any reservation without recognition of these developments and need, and without provision for meeting them will simply transfer the Indian health problem to either State or local jurisdiction.

The Congress, in providing specific funds for the inclusion of Indian reservations in the development and operation of local public health departments, and for the additional beds to the State Tuberculosis Hospital, not only recognized the seriousness of the problem among the Indians, but also recognized Federal responsibility. It is suggested that this recognition of responsibility be continued and that provision be made for a gradual transfer of financial responsibility for meeting the Indian health problems. In this way, the financial burden could be shared between the Federal, State, and local governments in proportion to the weighing of the health problems among the Indians to that of the non-Indians in the jurisdiction concerned.

It is difficult to predict the speed with which health conditions among the Indians would improve because of: (1) The operation of full-time health departments in areas of each reservation, and (2) the continued availability of additional hospital beds for tuberculous Indians in Montana. But it would be safe to predict that the health status of Indians as measured by infant and tuberculosis mortality rates and other standard yardsticks for measuring health status of peoples would definitely and continually improve. It is also probable that in a reasonable time Indian health status by these standard health measuring yardsticks would be comparable to non-Indian. In some areas this may occur in 5 years, in other areas it will undoubtedly take much longer.

It is suggested that any amendment to the legislation avoid any specific number of years. Rather it is suggested that general language be used to permit judgment to be exercised in agreement between the State and the Federal Government. Such general language might be based on 5 year average mortality rates for general, infant, and tuberculosis deaths and also for tuberculosis case rates.

In conclusion, I wish to reiterate no opposition to the principle or purpose of the legislation under discussion or similar legislation which may hereafter be proposed. I have pointed out specific practical effects of the present draft of the legislation from a health standpoint which merit further consideration. I recommend that appropriate provisions be made in the legislation to avoid the difficulties which I have enumerated. These changes should be consistent with the interest of the Federal Government, the State, and local governments, as well as the Indians. They should provide for carrying out programs already jointly operating between the Federal, State, and local governments.

This is nothing more than the fulfillment of health plans already cooperatively undertaken. It is a further recognition that such cooperative plans have had inadequate opportunity and time to fulfill the purpose and objectives for which they were developed. It also recognizes that there remain many areas in which such cooperative activity has yet to begin and is needed if the Indian health problems are to be satisfactorily resolved.

Failure to make provisions in the legislation for an effective means of resolving the special health problems of Indians will assuredly result in the continuation of their present poor health status in Montana.

FEBRUARY 25, 1954.

SUBCOMMITTEE OF THE INTERIOR AND INSULAR AFFAIRS.

CHAIRMAN BERRY: I am authorized by my tribal council resolution of the Three Affiliated Tribes of the Fort Berthold Reservation in the State of North Dakota. These tribes have instructed me to join as an ally with any Indian tribes to oppose the bills purporting to remove Federal supervision over Indian property of the Flathead Indians of the Flathead Indian Reservation, do hereby exercise that authority now by placing the opposition of the Three Affiliated Tribes in support of the Flathead Tribes.

MARTIN CROSS, *Chairman, Tribal Council.*

Representative BERRY. We will adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 5:05 p. m., the hearing was adjourned until 10 a. m., Saturday, February 27, 1954.)

TERMINATION OF FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS

SATURDAY, FEBRUARY 27, 1954

UNITED STATES SENATE,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS OF THE UNITED STATES SENATE; AND
SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

The committee met at 10 a. m., pursuant to recess, in room 318, Senate Office Building, Hon. Arthur V. Watkins (chairman of the Senate subcommittee) presiding.

Present: Senator Watkins, Representatives D'Ewart, Berry, and Haley.

Present also: Albert A. Grorud, member of the professional staff of the Senate Committee on Interior and Insular Affairs.

Senator WATKINS. The committee will be in session.

There are two witnesses who are ready to testify, who will be taken out of order for the moment. Probably we hadn't finished one of the other witnesses who had been testifying, but we will take these two witnesses now, and then we will call the other witnesses back later.

For the purpose of the record, please state your names, addresses, and occupations.

STATEMENT OF PAUL CHARLO, CHIEF, SALISH TRIBE, FLATHEAD RESERVATION, MONT., THROUGH HIS INTERPRETER, PETE PIERRE, ARLEE, MONT.

Mr. PIERRE. Paul Charlo, here, is the chief of the Flathead Reservation, our Flathead Reservation, in Montana. I, myself, am Pete Pierre, Arlee, Mont., of the Flathead Reservation.

I have here a statement, which I would like to read to you, and then you can ask him questions afterward.

Senator WATKINS. Does he speak the English language?

Mr. PIERRE. No, he doesn't. That is the reason why I am appointed as interpreter.

Senator WATKINS. You are acting as interpreter? And your name is?

Mr. PIERRE. Pete Pierre, member of the Flathead Reservation.

Senator WATKINS. And the chief's name, again?

Mr. PIERRE. Chief Paul Charlo.

Senator WATKINS. Spell it and pronounce it, please.

Mr. PIERRE. Charlo, C-h-a-r-l-o. He is the great-great-grandson of Chief Victor, the man who signed the bill of 1855, the treaty with the Government. He is here to testify for his group of members of the Salish Tribe.

Senator WATKINS. Proceed with his statement, then.

Mr. PIERRE. The group of his tribe, the Salish Tribe, asked Charlo to come to Washington and oppose the draft bill to liquidate the Flat-head Reservation. And at this present time, Charlo can't see where this bill would be fair judgment for his class of Indian people, if they are put in care of a guardianship. This would perhaps cost more than taxes itself.

Chief Martin Charlo, and other members of the Salish Tribe, served as Indian scouts for the Government in the war against Chief Joseph of the Nez Percé. When Chief Joseph came through Lolo and the Bitterroot at that time, there were more Indians in number than white people. The Salish Indians served voluntarily, because they were told that they were friends of the white people and always will be friends. So, up to this year of 1954, Chief Paul Charlo is asking the Government for an honest and fair consideration concerning his problems so that perhaps in time his people will have a better knowledge toward self-supporting. But the time set, to his estimation, is rather too short.

Are there any questions that you would like to ask?

Senator WATKINS. Has he been elected a member of the tribal council, under the Wheeler-Howard Act?

Mr. PIERRE. No, I couldn't say that. He was always chief. But he was present during the time that the Wheeler-Howard Act was discussed.

Senator WATKINS. Does he have any governing power now over the tribe?

Mr. PIERRE. Well, up to the time that the Wheeler-Howard bill was passed. He was kind of set back, like, and the tribal council has kind of took over.

Senator WATKINS. That is what I had in mind, that apparently he isn't running the tribe now. Is that right? He doesn't run the tribal business, doesn't make the decisions for the tribe?

Mr. PIERRE. Well, his class of people are all looking to his authority.

Senator WATKINS. Does he enforce tribal rules and regulations?

Mr. PIERRE. Among his people, yes.

Senator WATKINS. Do you know what those tribal rules and regulations are?

Mr. PIERRE. Yes, sir.

Senator WATKINS. Rather lengthy, aren't they? They don't have anything to do with the disposal of the property; do they?

Mr. PIERRE. Well, they have a say-so which requires a referendum vote, and usually it is handled by the council and then discussed with them. And that is where he comes in with his authority to represent his people.

Senator WATKINS. He doesn't give orders to the tribal council, does he?

Mr. PIERRE. Well, in a way, he has right, yes.

Senator WATKINS. Do they follow his orders?

Mr. PIERRE. When he is right, yes.

Senator WATKINS. Who determines whether he is right or wrong?

Mr. PIERRE. Usually when he is wrong, you know, they discuss things so it would be right.

Senator WATKINS. Well, who makes the decision whether he is right or wrong, when he tells them what to do?

Mr. PIERRE. Well, usually it is the council.

Senator WATKINS. In the end it is the council. They can do as they please as to deciding whether he is right or wrong.

Mr. PIERRE. Not exactly.

Representative D'EWART. Mr. Chairman, I would like to say that Chief Charlo is one of the very highly respected chiefs of these tribes. I have known him for a number of years. He is looked up to both by whites and Indians. We are glad that he is here today. He is a highly respected person, and we all admire his work for the Indians on that reservation.

Mr. PIERRE. Thank you.

Senator WATKINS. I am glad to hear Congressman D'Ewart say that. He knows you people in Montana better than I do.

Mr. PIERRE. According to this claim that he has, I think he should be considered as a friend, because he has upheld his promises to you people that he would be friends. And in the past he hasn't broken those promises at any time, during the years, for generations, back, and he always has tried to better himself and be friends with you people.

Senator WATKINS. Well, we appreciate that.

Mr. PIERRE. Thank you.

Representative BERRY. The only thing that I might have to add to what has been said is that I wish that you would tell the chief that under this proposed bill, the older Indians will be taken care of.

Mr. PIERRE. Well, it states here that he does not agree or want the guardianship at all.

Representative BERRY. You mean he wants it terminated?

Mr. PIERRE. No.

Representative BERRY. He doesn't want it terminated?

Mr. PIERRE. He wants a length of time, so that his children could take care of him in time, so that these people would have better knowledge to take care of him personally, his own people. But at the present time, he doesn't see where it could be fair judgment to get somebody who is a stranger and doesn't know; and the chances are they would steal half of what he has got, what little he has got, or any at all.

Representative BERRY. Well, he understands, doesn't he, that through social security he will be secure, that he and all other elderly people will be secure, in their old age, the same as any other non-Indian who reaches the age of 65 years?

Mr. PIERRE. Well, his attitude toward that is that he doesn't trust anybody else but his own people.

Senator WATKINS. Thank you very much. We are glad you came to visit with us, Chief, to tell us your views.

Mr. PIERRE. He said he also is very glad to talk to you, and he hopes that you will consider his case in the right manner.

Senator WATKINS. The witnesses who were being interrogated by Congressman D'Ewart at the close of the session are advised now that

the committee hasn't anything further to ask of them. If they have anything further to add, we will give them another opportunity. Otherwise we will proceed along.

We will take Mr. Jerome Hewaukan, who wants to leave, and then we will return to you folks.

All right, Mr. Hewaukan. Tell us your full name and your address.

STATEMENT OF JEROME HEWAUKAN, COUNCILMAN, CONFEDERATED TRIBES OF THE FLATHEAD INDIAN RESERVATION

MR. HEWAUKAN. My name is Jerome Hewaukan, councilman of the Confederated Tribes of the Flathead Indian Reservation, and also I am a farmer. I may ask the chairman and the Congressmen at this time to kindly excuse me, as I am not a professional talker. I only have 1 year's schooling education in my whole life, and I don't have any tonguetwisters like you Congressmen and everybody else.

Senator WATKINS. We should have more of you in the Congress.

MR. HEWAUKAN. So I am asking if it is permissible to ask my friends, McDonald, DeMers, and Gardipe, to come and give me help, and then I will read my statement.

Senator WATKINS. All right. You heard your names read.

I will say, Mr. Hewaukan, that these men have been testifying, but if you want to turn to them and ask them for some information, if we should ask you questions, that will be all right. But we won't have them testify more than once. However, they can advise you in your testimony.

Now go ahead. Do you have a written statement?

MR. HEWAUKAN. I have prepared one, thank you, Mr. Chairman.

Senator WATKINS. You may read your statement.

MR. HEWAUKAN. Thank you, Mr. Chairman, and United States officials, for giving me this opportunity to express myself for my people, my Indian people.

This is from the honest, respectful, and agreeable fullblood Indians. In the beginning in the United States, when the whites first landed, it is said that they coveted this land, which they called North America. And when they landed, they saw nothing but Indians, and they told the Indians, "Move over further. I am going to place my white children." And with no argument or resistance, the Indians stepped back. And from there on, the Indians were pushed and pushed backward. And so the white men decided they should respect the landowner. That is when Governor Stevens was sent to visit all the Indians to the West throughout the country, making treaties with the Indians, and that is when the Indian reservation was established and recognized by this same Capital of the United States.

So the treaty was carried on, until someone violated the treaty. The Indian reservation was thrown open, and still the Indians offered no resistance. And now we are pushed back against a stone wall, so we have no further back to go. That is the reason why we are here to protest this bill.

They say, "Don't you want to be a fourth-class citizen?" I say at this time I am a first-class citizens of these United States before you ever knew there was an island here, and to say further that I am a

first-class citizen and I am a county taxpayer, a county and State taxpayer.

I own an automobile which is assessed by the county assessor for a license to be issued to Indians, and that money goes to the State highway department to upkeep the highways. And also the car owner has to have a driver's license before it is operated on the highways. We start on our car and at the first stop, at the gas station, there is a tax we have to pay.

And in hotels we have to pay taxes. And when we eat we have to pay taxes. And when we go into stores we pay taxes on everything.

So I don't know why you are accusing Indians of not taxpaying, when we are taxpaying.

The only place where we don't pay taxes is on our real property, 80 acres. On these 80 acres, held in trust, we derive good from the same, and this is our own, which means that is the only thing for our appetites we have left, and it seems like somebody wants it at this time.

And to conclude my statement, my position, as a councilman, my time was up last fall, and so my people urged me to run again. So I filed as a candidate for another term of 4 years. My Kootenai people voted, and I was reelected, on account of I opposed this proposed bill, and I still say that I oppose the bill. I am not segregating, when I say the Kootenai people. I am also representing all the fullbloods of the Flathead Reservation, about 400 Indians.

I thank you for this opportunity to expressing my opinion concerning this question. Jerome N. Hewaukan, Dayton, Mont., box 262.

Senator WATKINS. Any questions.

We have no questions. We thank you.

Representative D'EWART. Mr. Chairman, yesterday the question of vested rights in the tribal estate came before the committee.

During the recess, I have gone into that matter with the attorneys for the committee and am advised that there was no such thing as a vested right in the tribal estate by members of the tribe; that it is not a property right, cannot be sold, cannot be traded, and ends at the death of the Indian. There is an inherent right in the tribal estate that is gained when the Indian's name goes on the roll and ends when his name is taken off the roll on death. He cannot sell it. It is not in the true sense a property right.

The second statement I wanted to make was on the matter of Indian water rights. The Indian water rights are largely based on what is known as the Winters decision.

In the case of *Winters v. the United States*, on January 6, 1908, the Supreme Court held that there was an implied reservation in the agreement with the Indians establishing the Fort Belknap Reservation for a sufficient amount of water for the Milk River irrigation purposes, and the water of that river cannot be diverted so as to prejudice the right of the Indian by settlers on the public domain.

Following the Winters decision, the tendency of the courts up to the present time seemingly has been to be more liberal in protecting the Indians in their water rights.

And that is the basis largely of the court's decisions as to water rights.

I thought you would want that as a part of the record at this time.

Senator WATKINS. I think that is good information for the committee to have.

Mr. TUNISON. I would like to say, inasmuch as I was questioned on that, that I agree, as counsel for the tribe, 100 percent with the Congressman.

Senator WATKINS. I think that is generally accepted with regard to water rights. The same thing is true in my State and other States with which I am personally acquainted.

Do you have anything further to add, Mr. McDonald?

STATEMENTS OF WALTER McDONALD, CHAIRMAN OF THE TRIBAL COUNCIL; WALTER MORIGEAU, VICE CHAIRMAN OF THE TRIBAL COUNCIL; RUSSELL GARDIPE, TRIBAL LAND CLERK; AND STEVE DEMERS, TRIBAL MEMBER OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION—Resumed

Mr. DEMERS. Mr. Chairman and members of the committee, at the close of the meeting yesterday we were on the discussion, and I will complete in a short period of time the balance I had to say, regarding the possible impact of the Indians as well as the State and county governments.

I wish to add to what was stated yesterday that in November of 1953, a meeting was called in the capital at Helena, Mont., by Gov. G. Hugo Aronson, in which he called together the heads of his various State departments; namely, the health, welfare, education, highway, and unemployment compensation commission.

At that meeting, the proposed legislation under discussion here today was carefully analyzed by the heads of the departments and the Governor of Montana, and it was the sense of the opinion at that meeting that certainly there would be a very serious impact on the health problem in Montana. There would be an impact on the welfare load. There would be an impact to be considered on education, and certainly on unemployment compensation.

The highway department stated that they wished to further study the proposed legislation before committing themselves to any impact on the highway program.

Mr. Chairman, we submit to you that if there is a sincere desire to reach an honorable settlement with the Flathead people, I have no doubt that in time something could be worked out. I submit the following as reasonable minimum conditions which ought to be met.

- (1) Any agreement should be bilateral, with no threat of coercion.
- (2) All claims by the Flathead Tribe against the United States should be settled before any such claim is reached.

Senator WATKINS. Just a moment. You mean the ones they have in the Court of Claims?

Mr. DEMERS. Yes, sir; the ones in the Court of Claims and those that will be filed in the Court of Claims.

Senator WATKINS. You have had experience, have you not, with the following through of claims? Sometimes it may take 20 years, 16 to 20 years, I think, was involved in one famous case that was before the Court of Claims.

Mr. DEMERS. I appreciate that, Mr. Chairman, but it is still our position that those claims ought to be properly settled before any such agreement might be reached.

Senator WATKINS. Even though the bill itself exempts those claims and says it will not have any effect on them, that they can take their regular course, and that no right under those claims will be affected by this legislation?

Mr. DEMERS. That is correct.

Senator WATKINS. Your objection does not sound very logical, but you have the right to make it.

Mr. DEMERS. As a matter of fact, Mr. Chairman, we feel that the legislation is not very logical. We wholly disagree with the authors of the bill, but we will defend with our lives their right to propose it.

Senator WATKINS. We are directed to propose it. The Congress decided that.

Mr. DEMERS. We understand that, Mr. Chairman.

(3) The Government should bring its roads up to minimum standards before transferring responsibility for maintenance over to the counties.

(4) It should assist the tribe in negotiating with the State government and subdivisions thereof for all transfer of services and should reach agreements with all State and county officials for payment of such services transferred.

(5) It should cause to be made a complete survey and inventory of timber, mineral, and other resources on tribal lands and furnish such information to the tribe.

(6) The tribe should be allowed a minimum period of 10 years in which to fully prepare its people for ultimate termination of Federal supervision and, if deemed advisable, to create a corporation and take over without supervision by the Secretary full management responsibility for all tribal property, the trust relationship to continue during such tribal period, but the United States to be relieved in advance of any responsibilities for errors or failures of management.

(7) Final severance of trusteeship to be accomplished by a declaration joined in by both parties, in which each party absolves the other of future responsibility.

(8) Each party to have access to the court of appeals for comparable body to review performance by the other party under agreement.

Gentlemen, we feel that the bills now under consideration, or anything less than the minimum conditions that we have just outlined, would result in chaos out of which order would be extremely difficult to restore.

At this time, I will turn my time over to any others here who may have additional comments to make.

Representative BERRY. We do very much appreciate your testimony and your thinking.

You made a statement yesterday as to the amount that the tribe is paying in lieu of taxes to the school district and to the county. We have here an estimate that if the Indian lands of the Flathead Reservation were placed on the tax rolls, the tax income for educational purposes, exclusive of the timber and personal property, would be approximately \$74,772 or \$38,268 in excess of the present Federal contribution for educational purposes.

Now, in your judgment, would that be about right?

Mr. DEMERS. Mr. Congressman, certainly I would not be in a position at this time to estimate what the tax load might be on either the Indian property or the counties.

Representative BERRY. As I understand it, that estimate was made by the Department officials in cooperation with the county officials. There is quite a lot of land, is there not, that is owned by nonresident Indians, which is not on the tax rolls at the present time?

Mr. DEMERS. There is not a lot of land, Congressman Berry. There is land owned by nonresident Indians, but it does not fall in the category of being a lot of land.

Representative BERRY. What percentage? Would you know, approximately?

Mr. DEMERS. I think our land man might be in a position to answer that question much better than I. I will defer that question to him, if you please.

Mr. GARDIPE. Would you state the question again, please?

Representative BERRY. What I had in mind was the amount of land that is owned by nonresident Indians, which is still on a non-taxable basis.

Mr. GARDIPE. I will make a hurried estimation on this. Most of the land that is left in trust on the Flathead Reservation is what we call the so-called 1920 allotments. In other words, they are the timbered allotments. Now, it is the younger generation of the Flatheads that have moved off into other places, and there is approximately 38,000 or 40,000 acres, roughly guessing, of that land left. Under the tribal program of buying these allotments for timber sustained-yield management, it would not be long, I would judge, probably by next October, when most of that land will be back into tribal ownership. Therefore, that is a difficult question to really answer. I wouldn't be able to answer it until after a complete survey is made, probably next October sometime.

Representative BERRY. But there are some out of the timber area.

Mr. GARDIPE. Very few. In the 1920 allotments there were some farmlands allotted. And I can say from my knowledge of it that two sections of it were set aside in what we call the Round Butte country and Valley View. In the Valley View country, that one section, has approximately four-hundred-some acres left in it, and down in the Round Butte area I would say there is probably close to 500 acres. Part of it is under irrigation.

Now, that is about the extent of the 1920 allotments that are in the farmland area. There are some few others scattered out here and there.

Representative BERRY. I will ask Steve again: Aside from the matter of claims, if that were worked out, how long do you feel it would be before this tribe would be able to handle their own affairs? That is, as proposed in the bill.

Mr. DEMERS. In answer to your question, Congressman Berry, I will refer again to item 6 of our proposal, that the tribe should be allowed a minimum period of 10 years in which to fully prepare its people for ultimate termination of Federal supervision, and, if deemed advisable, to create a corporation and take over, without supervision by the Secretary, full management responsibility for all tribal property, the trust relationship to continue during such tribal period, but

the United States to be relieved in advance of any responsibilities for errors or failures of management.

Representative BERRY. Now, just for our information, how did you arrive at the period of 10 years? You mean 10 years for the ultimate? That is the final?

Mr. DEMERS. Yes, sir; that is correct. The 10-year period is arrived at on this basis, that first it would take nearly 2 full years, in our opinion, for a complete analysis and survey of the inventory of all of the assets, the timbered assets, our assets, and all of our properties. Now, such an inventory is not today complete, by any means. It would then take a period of time for the tribe itself to determine exactly which manner they wished to proceed in from that point.

Finally, it would take them an additional period of time in which to either dispose of the properties, if the tribe determined that that was the procedure that they wished to follow, or to create their corporation to, in effect, educate their own people as to exactly what this means. Certainly those people are not fully educated as of today, on the total impact of such legislation. We feel that an absolute minimum of 10 years is needed.

Representative BERRY. Some of those things could be done concurrently, and many of them could be done at the same time, though, couldn't they?

Mr. DEMERS. Yes, sir, they could, and certainly every effort would be made to do that.

Representative BERRY. And when that was done, it would tend to cut down that time, wouldn't it?

Now, I want to commend you men on the fine job that you are doing out there. And I believe—this is just my thinking—that if we work these things out all at the same time, that 10 years might be materially reduced.

Mr. DEMERS. Yes, sir, but we would certainly prefer to leave the 10-year period as the minimum, because it would be far better to accomplish this in a lesser period of time than to have the shorter number of years and then tend to run over.

Senator WATKINS. You heard the statement of Mr. Tunison, the attorney for the tribe, that the principal objection against this measure is that the property of the Indians finally will go on the tax rolls.

Mr. DEMERS. Yes, sir. I heard that statement.

Senator WATKINS. Ten years or twenty years or thirty years or forty years will not change that situation, will it?

Mr. DEMERS. Well, certainly nothing in our statement here or in any of our actions is intended as being in conflict with our counsel.

Senator WATKINS. Do I understand you to mean that if you were given 10 years, a program of this kind could be agreed to?

Mr. DEMERS. Mr. Chairman, we simply are offering what we feel would be a minimum alternative to take back to our people for full consideration.

Senator WATKINS. I take it that you have some authority in making this offer?

Mr. DEMERS. Yes, sir; we do have the authority to proceed on any basis we can to defeat the presently proposed legislation. We fully realize that ultimate termination is going to be inevitable.

Senator WATKINS. Does your proposal contemplate that if it were accepted, you would no longer object to having property placed on the tax rolls and paying taxes like any other American?

Mr. DEMERS. I think I would defer the answer to that question to the chairman of the tribal council.

Senator WATKINS. You are offering this. You ought to know what the terms of it are.

Mr. DEMERS. Yes, sir; I do offer it, and the tribal council are fully cognizant of the report I have made.

Senator WATKINS. What I am trying to get at is that if this were done, the principal objection made by your attorney would be removed.

Mr. DEMERS. That is true. We certainly concur with our attorney in his statement.

Senator WATKINS. Now, let's see. You concur in your attorney's statement as to the objection, and you will never consent to that. Is that what you mean?

Mr. DEMERS. Would you rephrase your question, please, sir?

Senator WATKINS. If the Congress should proceed along the lines you have outlined in what you call the minimum requirements, would you then be willing, at that period of time, to have the property placed on the tax rolls and pay taxes?

Mr. DEMERS. I think that our statement clearly answered that, Mr. Chairman, when we said that we fully realized that ultimate termination would come through; that we asked for the minimum period of 10 years before such ultimate termination were to take place.

Senator WATKINS. Well, you can answer that "yes" or "no" whether that is contemplated or isn't. It is important to know. We are not going to allow any hedging on anything of that kind.

Mr. DEMERS. I will be glad to answer that a second time, clearly. "Yes."

Senator WATKINS. That is what we want to know, if in that circumstance you would be willing to have the property placed on the tax rolls. We don't want any misunderstanding on that.

Mr. McDONALD. Mr. Chairman, to elaborate a little more on Steve's statement of yesterday regarding the State level, whereby we tried to consult different organizations which might be affected by termination of this reservation, we are thinking in terms of termination, and anything other than the other alternative of going to a corporation, because the people we mentioned who live off the reservation will probably, if the bill should become the reality, take a referendum vote. And in that case, we know that we will have some burden.

Day before yesterday, I believe, I read a letter from the Lake County commissioners in Polson, Mont., where they were not too much concerned about the burden of taxing, and so forth. In the meantime, about 2 weeks ago, before we left home, had a meeting with the irrigation districts up there, the 3 irrigation districts of that project, to see what their attitude was on the idea of terminating the Flathead Reservation, and what effect they would bear. And the Flathead district opposed termination. That encompasses the biggest portion of nonowned land on the reservation.

Senator WATKINS. What do you mean "nonowned"?

Mr. McDONALD. Non-Indian-owned. And Mr. Henderson, a member of the county commissioners, referred to the Ursuline Convent down there, the law and order, the hospitalization we pay, and he was going to go back and talk to his commissioners. He thought we were doing a job there in a very cooperative manner, and he also brought out the fact that "if this were terminated in a period of 2 years, or so, who would pay the taxes for the fullblooded Indian"?

It is very hard to school those fellows, and he said the Governor should have a supplemental fund, over a 3-year elapsed time, to take up the period when no taxes will come in.

Those are some of the things that we have to think about. And the reason I say 10 years is this: You have seen Chief Charlo sit here this morning. And I would say, according to a statistical report that was put out by the Bureau, the Department of the Interior, in 10 years a majority of the real fullblooded Indians will be gone. We have some fullblooded children. But that is why one cannot help but think of the time when the old blood is gone, as to meeting a problem like this.

We have a great fishing ground up there in the reservation, where we do not charge the State of Montana a dime for the thousands of dollars they take in for fishing licenses on our reservation. And I believe that one favor that we are doing should be respected by the State and is respected by the State, that we are contributing our natural resources for the recreation, as a fishing ground, of the State of Montana, tourists, and vehicles. So we have those things, and we cannot do away with them overnight, and it is a lengthy program.

I am not down here to argue. Because I can't argue. I just talk like a \$40 cowboy, and I am not a politician. But these are facts that you learn when you live on a reservation and among Indian people.

Now, we have got to think about power and those power sites up there. We know that I still have to take the stand that this will be terminated and our Indian people will want their money. But we have two factions in there. There is the Bonneville Power Administration and the Bureau of Reclamation and the Army engineers, who will want our Kerr Dam and our power sites.

Back in 1944 we were very instrumental, the tribal council was, in the treaty of 1855, in stopping the raising of Flathead Lake. Then again in the forties, there was the proposal as to Paradise Dam, on the west side of our reservation, to back waters over our farmlands and grazing lands on the Flathead River. We were very instrumental in stopping that deal.

Then the Army reports might say probably the Montana Power would be the only logical bidder on this. We have to think about those things, regardless of which way they go.

Now, for myself, I have a little place up there and try to make a living, and, after all, if the old Indians are compelled to pay taxes, I am, too, but I would rather see myself pay taxes than those old Indians. Because it just isn't in the books, from living with them.

Representative BERRY. Suppose this bill, instead of providing that everyone get a fee patent on a certain date, provided for those of fullblood or possibly halfblood, that the fee patent would not be issued

until the time of their death: What would you think of a suggestion like that?

Mr. McDONALD. Congressman Berry, that is certainly a lot better than the way the bill is written. I know, as Chief Charlo said this morning—I know what the chief meant, that he didn't want to have a trustee over him or his property.

Senator WATKINS. Well, he has already got one.

Mr. McDONALD. I think he figured maybe he might need a lawyer or somebody. And maybe many lawyers will get in this deal.

Senator WATKINS. It seems as though you folks must have some confidence in lawyers. I notice you have a very good one looking after you. It is like a lot of us used to be about doctors. Doctors weren't any good until we were ill. Then they were all right. And we can say this in defense of lawyers, that many people don't think lawyers are very much until they are in trouble, and when they are in trouble they need them awfully badly, and they want a good one.

Representative BERRY. What percentage of the members of the tribal council are fullbloods?

Mr. McDONALD. I believe we have only one, Jerome Hewaukan.

Senator WATKINS. Why don't you have the fullbloods run?

Mr. McDONALD. Maybe that is politics, Senator.

Senator WATKINS. I am discouraged the way you white people treat the fullbloods up there.

Mr. McDONALD. We still are trying to protect them.

Senator WATKINS. You are not a fullblood?

Mr. McDONALD. No, half.

Senator WATKINS. You are as much white as you are Indian?

Mr. McDONALD. I am still even up, Senator.

Senator WATKINS. I say you are as much white as you are Indian. You ought to be classed with the whites, on the other side of this question. You have just as much right to be there as you have on the Indian side.

Mr. McDONALD. I am not capable, Senator.

Senator WATKINS. I think you have shown considerable wisdom.

A lot of people I know would like to join the Flatheads, and you seem to be able to make the choice all right.

Mr. McDONALD. Another thing I wanted to bring out was that Jean Turnage, our county attorney in Polson, was stating, in a letter Congressman D'Ewart read, that this wasn't too much of a burden if this was terminated.

Representative D'EWART. I think I quoted from it. I quoted the pertinent points. I didn't put the whole letter in.

Do you want a copy of it?

Mr. McDONALD. No. I have something I would like to read for the record. This was on August 31, at Helena. These minutes were written by Assistant Attorney General Masman. It says here:

It was pointed out by Mr. Jean Turnage that effective and efficient law enforcement would be extremely difficult to attain if the State assumed criminal jurisdiction in Indian reservations in opposition to the wishes of Indians residing thereon. The people participating generally agreed that good law enforcement is dependent in a large part upon the cooperation and confidence of the citizens concerned; both would be lacking if the new law is adopted in Montana against the wishes of the Indians.

And he also brought out the matter of our contribution to law and order in Lake County. And I think it was mentioned in there that there wasn't too much law and order contribution from the tribe, in that letter. Why, we pay three deputies up there in Lake County, part of their salary, and they are under the county government.

Senator WATKINS. How many Indian officials try to enforce law and order, then?

Mr. McDONALD. We have a chief of police. He gets \$3,600. He is our top man. Then we have another man under him. He is the jailer, and working for the Government. And the other four deputies are in the different towns.

Senator WATKINS. They are deputy sheriffs of the county?

Mr. McDONALD. Yes, but we have a special officer authorized by the Department of the Interior.

Senator WATKINS. Well, you have mentioned three, and one of those, the third one, is on the Federal payroll. You have two. But you pay yourself, don't you?

Mr. McDONALD. There are no Federal officers there. We pay them all. There is a Federal Commisisoner, \$10,380. So we are cooperating in every way up there.

Senator WATKINS. You won't have to be doing any more. The county will take it from that point on, and you won't have to pay these taxes directly.

Mr. McDONALD. The only thing is that maybe they won't get the taxes out of the fullblood Indians to pay them.

Senator WATKINS. They only own one four-thousandth piece of this. That is as of now. If they wait 10 years, I don't know at what rate they are increasing, but they are probably increasing, and if you wait long enough you will have to divide it up into one ten-thousandth.

Mr. McDONALD. You know, we have an enrollment where you can't be enrolled if you are less than a quarter. And right now, that is not building up any.

Senator WATKINS. How did all these fellows get on?

Mr. McDONALD. At one time there was no restriction on the enrollment. Some were on as eighths and sixteenths, pretty low degrees of Indian bloods.

Senator WATKINS. The fullbloods made a mistake, way back, didn't they?

Mr. McDONALD. They might have, Senator.

Senator WATKINS. They should have made a rule that only Indians who had more Indian blood in them than white could be Indians.

Mr. McDONALD. Do you mean to insinuate they made a mistake by letting the white man in there? Is that it?

Senator WATKINS. Apparently, from what you said, the fullbloods are not running it any longer. You white fellows are, you who are as much white as Indian.

I lived in a reservation once, and I know how those things go.

Mr. McDONALD. I only have one thing more now, Senator. That is that we have 15,000 acres of unsurveyed land up on that reservation, in the mountaintops, and in previous bills introduced in Congress by, I think, Senator Malone, at that time it was felt that the tribe should pay for their appraisals. That isn't in this bill right now. Therefore, we see that there hasn't been a definite appraisal of how much we are

worth up on that reservation, And as the statistical report of the Army engineers has come out, we are setting the price of our undeveloped pursuits, and that is very hard to arrive at.

Senator WATKINS. You see, under this bill, you can engage anyone you want, the finest experts in the country, to come there and help you appraise your country. You wouldn't want to rely on our appraisal, anyway. You don't trust us very much.

Mr. McDONALD. Well, the last statement is that our election held up there on the Flathead last December, we have quite a number of people on the reservation that are for termination of the reservation, and another bunch for retaining our reservation in its present status.

At Arlee, Mont., this man was elected over there by about 70 votes. His 2 opponents had about 20 apiece. There were not any Indian liquidators over there, I think. Over in my district, I won pretty easily. I was unopposed. I got 62 votes. There was one write-in, but he was a farmer. And I based my stand before this election was held that the people there on the reservation knew how I stood, and I was against any termination at this time. And if I had had an opponent, there would have been a lot of people out there that day to protect me.

Up in the Ronan district, there were about four men up there, and there is a small percentage, I wouldn't say just how many, but there were two full-blood boys that ran on the council, and I don't have the actual figures now, but a very small amount, and another former councilman, and the man who is on there, and the man who won backs up the council the way we stand here.

In Polson almost 50 percent, I believe, would terminate the reservation. And up through there in the Dayton district, as Jerome has said, he won by 42 votes or something like that, and one of his opponents got 22, a rancher, and then we have a man for termination that got 9 votes, I believe. So I believe the overall percentage would be probably around 8 to 10 percent for termination of the reservation, out of the people who voted. Of course, a lot of people do not take part in elections.

Senator WATKINS. What was the total vote at this election?

Mr. McDONALD. There were 387. That is from recollection. Mr. Stone may have the figures with him.

Senator WATKINS. Three hundred and eighty-seven. And you have around 900 adults.

Mr. McDONALD. On the reservation?

Senator WATKINS. I mean in the Indian tribe.

Mr. McDONALD. Yes. Let's see how we figure that. There are a lot of children there. That is only half of the reservation, you see, because a part of them are off the reservation.

Senator WATKINS. I say, 387 out of 900 adults, probably, on the tribal rolls.

Mr. McDONALD. Some districts didn't run, you know, too. That is only five districts. There are ten districts on there.

Senator WATKINS. Do you object to the referendum provisions of this bill?

Mr. McDONALD. Well, I should answer "Yes" or "No," I suppose. I wasn't there when this Wheeler-Howard bill was adopted, and the people on the reservation were the only ones who voted that. Some stayed

there and tried to get along. Of course, we still think that we should have the vote. But then the people off the reservation, we realize, have an interest in the property, all right.

Senator WATKINS. You haven't answered my question yet.

Mr. McDONALD. No, I haven't. It is pretty technical.

Senator WATKINS. Not too technical. You could say whether you believe in the majority ruling or not.

Mr. McDONALD. I can't answer that right now, Senator.

Senator WATKINS. You think that is too technical? You wouldn't say, on the other hand, that you don't believe in the majority controlling the situation? And at least when they elected you, you wanted to go along with the majority vote that time.

Mr. McDONALD. I guess the people should have their vote on that in the referendum on tribal property.

Senator WATKINS. You would object very strenuously, would you not, as a member of that tribe, if the majority tried to pass some kind of a resolution which would not give you the right to say whether you would give up your property or not?

Mr. McDONALD. Yes.

Senator WATKINS. You wouldn't think that would be honest, would you, to say that the majority could decide whether you had to give up your property?

Mr. McDONALD. I think the majority is in control all right. That is true.

Senator WATKINS. Well, that is what was thought to be determined in this bill. So you wouldn't be opposed to that.

Mr. McDONALD. I think that should be the feeling of the people, all right.

Senator WATKINS. Of course, that is the law. You can't take property away from a man by majority vote. You can't do that. You can impose an obligation upon him to help carry the load, and use the property sometimes as security. But the tax is a personal proposition to be paid by the individual who owns the property on which the tax may become a lien. They use that as a basis, sometimes, for the computation. But at any rate, it is an obligation of the citizen when he is required to pay a tax.

Now, when it comes to property, no one will have his property taken away from him in this country without due process of law. That is part of the Bill of Rights. So what I have heard here today seems to me to be just a little contrary to the principles of the Constitution, that the folks on the reservation should have the management of this property, which, in effect, may be actually taking it away.

But Congressman D'Ewart has raised the question that none of you have any vested right in that property. If you are on the roll you have the right to some of the benefits coming from it, but you haven't anything that can be inherited. Your children can't inherit it. And if you happen to be living off the reservation when one of your children might be born, then that child couldn't get on the roll. Isn't that the way it is?

Mr. McDONALD. No, they are enrolled if they are born off the reservation now, through a later ordinance of the council. I don't know the year, but to stick by that constitution, it is stated specifically that you must be a resident of the reservation, but later on we got in a

little trouble with that enrollment thing. So they later made an ordinance to try to leave it wide open that anybody off the reservation could be enrolled if they make the degree of Indian blood and their birth certificates are presented in a proper time.

Senator WATKINS. I am glad to hear that.

Mr. McDONALD. Yes, that is taken care of, Senator, that part.

Senator WATKINS. I didn't know that.

Mr. McDONALD. I will turn this over now to Mr. Gardipe, Senator.

Mr. GARDIPE. I want to put this out on the floor, in regard to this voting thing. I was too young at the time that the tribes accepted this Wheeler-Howard Act, the constitution, and the charter. But one of the fellows, I think the secretary of the tribe, at the time it was adopted and drafted—I believe there was a vote taken on that charter and constitution, and that those people voted in favor of it. Therefore, I believe those people are now off of the reservation, some of them. They divested their own right to vote in that thing by accepting the charter of the constitution. I can't be quoted, to be sure, on it. I would have to dig back into the history, the minutes of their old meetings when those things were drawn up, but I assure you that is what I will do when I return to Dixon.

Senator WATKINS. In voting to accept the Wheeler-Howard Act on your reservation, were those whose names were on the roll who did not vote counted as "aye" votes?

Mr. GARDIPE. I really couldn't answer that. I don't think it was counted as any vote.

Senator WATKINS. It is my understanding that they were counted as "ayes." I cannot say positively of my own information, but that is my information.

Mr. GARDIPE. I don't have much more to say, but I do want to elaborate on this \$145,000 potential tax-value at Flathead. Now, I am assuming that that \$145,000 is if every bit of the taxes are paid on that land. In our county, in the State of Montana, a man may go for a period of 3 years without paying any tax without losing his property.

Now, suppose that there will be many of them that will do that, if this bill should go through. How is the county going to take care of that impact from those places that don't pay taxes, and those individuals that refuse, and their lands are taken away from them under these taxes? It appears that Lake County and Sanders County may become quite land poor, as they did in the depression of the early thirties.

Senator WATKINS. Well, it won't cost them anything to carry the land. You get land poor; that is true. But, after all, if you don't pay taxes on it—and the county certainly won't—it won't be any particular burden.

The matter of how much additional burden is going to be placed on the county by reason of welfare and a lot of these other things, of course, is worthy of consideration. But actually, when you get down to the detail, and the program has to be worked out, there can't be any great heavy burden that the Government is now paying, because the Government isn't paying a great amount at the present time. In some of the tribes of the United States they aren't paying anything. The tribes are carrying it alone. The Menominees are

carrying most of their financial burdens, health, roads, and other things. They are probably a little better off financially than some of you people are, of course. But if Congress knows that you have the property and you have income, whether you pay it in taxes or whether you have to make voluntary contributions yourself, eventually, if you are able to pay, you have to pay for those services, whether you pay it through taxes or whether you pay it by your own vote from your funds that come in to the tribe. So you can't eventually have a free ride on those services without making some contribution. It will be one way or the other. And, actually, when you get down to it your taxes will probably be not much larger than the voluntary contributions that you are required to make. So that shouldn't be any great obstacle in the way.

I rather like the suggestion made by Congressman Berry with respect to these fullblood Indians, these older people. Something might be worked out that the property could be placed in trust and held for them only. But as to all these other people who are fully able to take care of themselves, there shouldn't be any difficulty about that at all. And there is another alternative on that, as I wanted to explain to you folks while you are here.

We have in every State, I think, practically, a law covering what we call infants, or children, people under 21 in some States, sometimes under 18. I think the ladies have a little advantage in my State; they only have to be 18 to take charge of their property, but the boys have to be 21. No matter how brilliant they are, they can't handle their property in many instances without a guardian, and a guardian is appointed through the court. Bonds are put up, and that guardian has to go before the court before any sale can be made or any disposition of property, and the guardian has to render a full account of the moneys that come into his hands and all things connected with the estate, and it is protected by a bond. Now, in this particular tribe, there probably won't be too many people that would have to have that kind of protection. But they will not be relieved of protection if they are in fact incompetent.

Mr. GARDIPE. Mr. Chairman, in regard to the nonpayment of taxes, and citizenship, I believe there are some States that exempt veterans from taxation.

Now, is it the committee's opinion that those veterans are second-class citizens, too?

Senator WATKINS. In my State they have probably been given some classification. No, they are not second-class citizens. They gave the veteran that largely because the veterans are not in a position financially to pay. It was not on the theory that they were going to give them a bonus in that way.

Mr. GARDIPE. No; I didn't understand that that way, either. I understand that they did that as appreciation to those boys for volunteering their services or being in the Armed Forces of the United States, and that this tax exemption to Indians on their trust lands was given to the Indians for and in consideration of what the Indians had given to the United States Government.

Senator WATKINS. The reason for their not being on the tax rolls legally is because there can never be a tax against trust property held in the name of the United States. The United States won't

consent to it. That is the reason you would want to keep it in the name of the United States. It protects it.

Mr. GARDIPE. It was my opinion that under the treaty of 1855 the Indians bound themselves to a powerful neighbor for protection, and that protection did not warrant their destruction. And I believe through placing their lands without their consent on the tax rolls, you bring about their destruction.

Senator WATKINS. Well, of course, that opens up the question that I raised the other day, about the matter of accepting citizenship and all the benefits and so on without taking some of the liabilities as well. Now, that could be urged on the other side of this kind of a situation. But I think you people have to keep this in mind, that there has been a vast change in the country since the day of that treaty. I don't think you, yourself, if you went down to all the implications of that treaty, would want to keep it yourselves. I think you would want to take advantage of everything that could be taken. And I think that should be; and I think you have made progress by marriage and otherwise; you brought a lot of people into the tribe who were not probably contemplated at the time.

Now, that has all made for progress. And this concept of it being an independent nation has largely disappeared. I don't think any Indian group would want to claim now that they are an independent nation and have citizenship in that nation, which would make it almost impossible for them to be citizens of the United States at the present time. We do not permit dual citizenship. You can be a member of a tribe, but that is a different thing from being a member of a foreign nation.

The foreign nation concept has disappeared largely. You see, they had that originally. Each of these Indian treaties had to be ratified by the Senate. And we have made progress from that point on. And there has been an integration to a large extent of the Indians with their white neighbors. Instead of being two parties on opposite sides of the problem, they are now all citizens and on the same side of the problem. It is just a question of working out among citizens the best way to handle the matter in the future.

Mr. GARDIPE. I want to illustrate a fact. My family, back in the early days, was located in part of what is now Kansas City, and some of my ancestors before me had hired some attorneys to get their settlements out of what is now where the Union Depot is in Kansas City, to settle that thing. I did not enter into that contract with those attorneys, and it passed from one attorney to the other. But in the final disposition of it, I believe that I got a check which came through the Flathead Indian Agency in the sum of \$5. Now, they held us to their contract. I had my great-great-uncle sign the treaty of 1855 as a subchief, Antoine Moiese. He participated in that thing. And I believe as those attorneys held our families to it and took their fees and everything, we have a right to hold the United States Government under the same contractual agreement.

Senator WATKINS. You are not an Indian of the fullblood?

Mr. GARDIPE. No, I am a three-eighths degree. But I am a descendant of Antoine Moiese, a subchief, who signed the treaty of 1855.

Senator WATKINS. You have decided to be an Indian rather than a white man?

Mr. GARDIPE. I have so preferred. My heart has always been Indian, and that is the way it will always remain.

Senator WATKINS. You have, of course, the right to make that choice. But I just wanted to make the point that you have every right to be a white man on the basis of blood.

Mr. GARDIPE. After weighing both of them, I decided to take my Indian nationality.

Senator WATKINS. Anything further?

Mr. MORIGEAU. Mr. Chairman, I have just one or two small items here, one that has been discussed quite a bit here, and that has been the referendum vote. I don't think that it has been understood clearly why quite a number of people are reluctant to vote or have this vote come up. I am going to try to explain that.

The people who are living off the reservation—at one time the majority of those people had allotments on the reservation. They acquired patents for these lands and sold them, left the reservation. And all they have is a tribal interest back here in the reservation, a tribal interest and some inherited interest in some allotments.

Now, this referendum vote, if it was for the sole purpose of deciding the tribal property—I think it would be fair that the majority vote carry. I would say yes, it would be fair. But in demanding this referendum, here is the thing that hurts. In this referendum, the personal property of the people that are living on the reservation is tied in with this referendum to be liquidated along with the tribal assets.

Senator WATKINS. What do you mean by "liquidated"?

Mr. MORIGEAU. I mean the personal property of the Indians, the allotments.

Senator WATKINS. You have a thousand dollars in the bank. That is personal property.

Mr. MORIGEAU. That is right.

Senator WATKINS. And do you think that is going to be liquidated by this bill?

Mr. MORIGEAU. No, but the thing I am trying to get at is the referendum. Everybody gets to vote on the referendum. But, you see, the individual property is tied up in this referendum vote, too.

Senator WATKINS. The thousand dollars you have in the bank you are perfectly free to handle yourself today, aren't you?

Mr. MORIGEAU. I mean real estate.

Senator WATKINS. Now, you are talking about personal property.

Mr. MORIGEAU. I meant real estate, the allotments of the people. The people who are still holding allotments. I don't know whether I got that across.

Senator WATKINS. I understand the referendum applies only, by the terms of the bill, to tribal property.

Mr. MORIGEAU. Well, I didn't understand it that way. If the referendum applies only to tribal property, the majority should rule, because everybody would have an equal right in it, whether they live on the reservation or off. But if the individual on the reservation is tied under that referendum, I don't think then it would be fair.

Senator WATKINS. Let's read it. Section 5, page 3, of the bill:

Upon request of the tribe approved by a majority of the adult members thereof voting in a referendum called by the Secretary, the Secretary is authorized to transfer within 2 years from the date of this act to a corporation or other

legal entity organized by the tribe in a form satisfactory to the Secretary title to all or any part of the tribal property, real and personal * * *

That is on the tribal property, real and personal.

Mr. MORIGEAU. What does it say about the individual's property?
Senator WATKINS (reading):

* * * or to transfer to one or more trustees designated by the tribe and approved by the Secretary title to all or any part of such property to be held in trust for management or liquidation purposes under such terms and conditions as may be specified by the tribe and approved by the Secretary.

It is dealing only with the tribal property, not your personal property, that belongs to individuals. That doesn't affect them at all. I think it is largely, if I may say so, a misunderstanding of just what this bill provides.

Mr. MORIGEAU. As I understand it, it is going to liquidate the personal property.

Senator WATKINS. No. The tribe probably owns some typewriters. It may own some automobiles. It may own quite a number of different types of personal property, as distinguished from real estate. That belongs to the tribe, and every tribal member has an interest in that personal property, as well as in the real estate that belongs to the tribe. It doesn't have anything to do with your individual ownerships.

Mr. MORIGEAU. Well, I made a mistake there, again. I said personal property, but I meant real estate.

Senator WATKINS. This deals directly with tribal property, both real and personal property.

Mr. MORIGEAU. Now, what happens to our personal property under the bill?

Senator WATKINS. Your own?

Mr. MORIGEAU. Individual property.

Senator WATKINS. Nothing happens to it. It is yours.

Mr. MORIGEAU. What status will it be in?

Senator WATKINS. The same status as it is now.

Mr. MORIGEAU. It stays in trust?

Senator WATKINS. Your personal property is not in trust now.

Mr. MORIGEAU. I mean the real estate, individual real estate.

Senator WATKINS. Oh, your individual real estate will be conveyed to you by patent in fee.

Mr. MORIGEAU. Well, it will go the same way, then, that the trust goes?

Senator WATKINS. But no referendum can touch that. That will go to you individually. Nobody can take away from you that right.

Mr. MORIGEAU. I understand that.

Senator WATKINS. And it will go to you.

Mr. MORIGEAU. I understand that.

Senator WATKINS. It will not be liquidated unless you want to sell it, and that is not a liquidation but changing the property you own. You change it over to money or whatever you get for it. It simply says to you that the allotment has been given to you, and it was contemplated at the time that was assigned to you that eventually you would have the complete control of it, the right to sell it, mortgage it, or give it away, if you wanted to give it away. You might have a child you wanted to give it to or someone else you wanted to give it to.

I think there is a misunderstanding of some of the provisions of this bill. Otherwise some of these arguments would not be made. It is intended to be for your benefit. It is intended, as I have said repeatedly, and I want to emphasize it, for your good. And I am quite amazed when I get so many reactions when we try to give you the freedom and the right to control your properties. I am quite amazed to find the reaction among quite a number of you. Although I think if it were explained fully to you, you would have an entirely different view of it.

I didn't want to interrupt your statement, but I wasn't here yesterday afternoon, when you men were giving the bulk of your testimony, so I probably am retreading the ground again.

Go ahead, if you have something further to say.

Mr. MORIGEAU. I have one thing more. I think it was brought up yesterday, something about grazing lands. Under this bill, there was no provision in the bill for any stock association or any individual to buy the remaining grazing land, the tribal grazing lands, at the time of the termination.

Senator WATKINS. Just what do you mean? You mean for the tribe to go on and buy some more?

Mr. MORIGEAU. No, no; for the individuals to buy, or the stock associations. We have about 7 or 8 stock associations there, and these people use these tribal grazing lands.

Senator WATKINS. Under lease?

Mr. MORIGEAU. Under lease, from the tribe. And they are very important to those people, the fact that their homes, their home ranches, are only small acreages, probably 80 acres or 160, with nothing more than hay raised on them. They depend on this grazing for their stock. And under this bill, where that grazing land would be sold right out from under them—

Senator WATKINS. The bill doesn't say it has got to be sold.

Mr. MORIGEAU. No, but we are thinking about that referendum carrying. We are thinking about the worst that is going to happen.

Senator WATKINS. Well, of course, there are always two parties to the lease. There has to be the lessor and the lessee, the man who leases it and the man who takes it and pays the rent. And it is always understood that the lessor usually can say whether he finally will give a lease or not. He has control of his property. So, it is up to the owner. The corporation would go on with the lease just the same as in the past. But you can't compel any man to lease his property if he doesn't want to lease it.

Mr. GARDIPE. I will explain what Walter means there; that these Indian stockmen depend on the tribal lands to round out their economical units and their cattle-raising industry. Now, as you say, we don't say anything about liquidation in the bill. But there are two alternatives there, and we have to look at both alternatives as to what the results would be if this legislation were passed. And you can't blame us for looking at the liquidation side as well as the corporation side of it.

Senator WATKINS. I don't blame you, sir. You have every right.

Mr. GARDIPE. Now, suppose it would go to the liquidation side of the bill.

Senator WATKINS. The word "liquidation" is very misleading. Suppose it should go to the point where each individual would be given a share of the reservation in his own name.

Mr. GARDIPE. No, sir.

Senator WATKINS. Or it would be sold if you folks didn't want to exercise any of the options. Then the Secretary might be forced finally to sell it and give you a share of the proceeds.

Mr. GARDIPE. That is right. Now, if this land were sold to large companies—we know they are standing around, their tongues hanging out, looking at our timber, our water—that would come in and buy up this stuff in a great big block, about 75 percent of our present Indian cattlemen would have to liquidate their present herds of cattle and go and seek some other means of making a living. They would not be able to operate. In other words, they depend very much, today, on those tribal lands to raise their cattle and maybe lease some lands from their Indian neighbor, or something like that, to exist. Now, if this stuff is sold—as I say, we look at the liquidation side as well as the corporation side of it—those fellows don't have the means or the ways to raise a sufficient amount of money to go in there and buy that stuff up themselves. They just don't have the stuff at home to put up to probably get enough money to buy that thing. In other words, it wouldn't be that they wouldn't buy it. It would be that they probably couldn't raise the funds to buy it. You can't buy anything without being able to pay for it. At least, I never have been able to. That is what we mean by those people being hurt by this.

Senator WATKINS. You assume that those people are going to turn down the alternatives other than the sale by the Secretary?

Mr. GARDIPE. No, I don't say that, Mr. Chairman. I say we have to look at both sides of the question.

Senator WATKINS. Yes. I say you are assuming, to get to this position, that the Indians have not accepted any of the other alternatives offered, so that the Secretary is compelled, then, in carrying out this measure, to sell the property.

Now, he can provide in his regulations the way that will be sold, and if the individuals themselves want to buy back their own property, it is merely an exchange of a piece of paper to do that. They can buy it individually and could have a prior right to do that very thing. If the individual right would be worth \$10,000 and the company would bid for that, he can get it for \$10,000, and he doesn't have to take a dollar out of his pocket. He could merely take his right and offer that as the bid, the purchase price.

Mr. GARDIPE. I understand what you mean there.

Senator WATKINS. So, actually, if you folks didn't want it to go, you own it, you Indians, all you have to do is say, "We want it that way and we will take it that way."

Representative D'EWART. These grazing preferences, as we call them, in Montana, are very important to the economy of that area. And I will agree with you that there should be a preference to you people in taking over these grazing lands. I don't see how you could run your stock industry without them.

We recently had the transfer of certain public lands adjoining irrigation districts in Montana, from one branch of the Government to the other, whereby the preference of the small irrigators to graze on those

lands adjoining the irrigation district could not be recognized under the new department to which these lands were transferred. We passed a special act of Congress here, to protect those preferences of the small irrigated farmer to adjoining public domain land transfer, and that is what you would have here. I think it is important that that should be recognized.

Mr. McDONALD. Mr. Chairman, it has been a pleasure to come down here and try to give you the highlights of our reservation and to look on both sides of the question. It is one of the first times that the Flatheads have been back up against the wall, I guess, to make a decision. And we have 4,200 people on our rolls. We have those who have sold their lands and have gone. And as for us local people who see the fishing grounds and that big local area of timber, as I say again, we have had instructions to play for time and oppose this bill.

Once again, I say it is a pleasure to meet you folks. And thank you.

Senator WATKINS. Well, we are very glad to have had you here, and the fact of the matter is that I assume whether this bill passes or doesn't pass—if it does pass, we will have some of the members of the committee come out and talk it over with you people further in working out the problem, and if it doesn't pass, we will certainly be out there to talk about a measure that will do the job. But we want you to get this in mind. The Congress is indeed earnest about this matter of giving you people more freedom. That is why they passed those resolutions.

Mr. McDONALD. I have a lot of freedom, Senator. The only freedom I have got is right now.

Senator WATKINS. The Germans used to think they had freedom over there, you know. They rather liked it, you know. They had to endure it. First, it was forced on them. Then they got so they really liked it. Everything was "verboten." They kind of liked it that way.

I think you enjoy spending your money the way you want to spend it. You don't want to have to go to the Indian agency. Eventually, I think you will be very happy to run your own property or manage it or dispose of it or do whatever you want to do with it the same as other people do. You would feel very bad if you had to go to the Indian agent to find whether you could sell your automobile or spend the money you have in your bank. We want to give you a little more freedom in the matter of being able to spend your wages and so on.

Mr. McDONALD. I am fighting for my freedom now, Senator.

Thank you very much.

Senator WATKINS. Father Byrne? Father Byrne, will you state your full name and your place of residence, your post office address?

**STATEMENT OF REV. CORNELIUS E. BYRNE, S. J., JESUIT FATHER,
ST. IGNATIUS, MONT.**

Reverend BYRNE. My name is Rev. Cornelius E. Byrne, B-y-r-n-e, member of the Society of Jesus, a Jesuit Father, and my address is Jesuit Fathers, St. Ignatius, Mont.

Senator WATKINS. You may proceed and make your statement in your own way. Do you have a prepared statement?

Reverend BYRNE. I have a prepared statement, and I did it carefully and completely on my own. I am not speaking for anyone but myself, and the feelings that I have should be proper for consideration.

Senator WATKINS. May I ask you: Are you a member of the tribal council?

Reverend BYRNE. No; I am not. I am a white person. I was born in Spokane, and my father was born in New Rochelle, N. Y., and my mother in Savannah, Ga.

Senator WATKINS. The reason I asked that question: I was advised by someone that one of you Fathers who were here was a member of the tribal council, or a delegate, rather.

Reverend BYRNE. There is a Father Brown, but he is not a member of the tribal council. He is down at Coeur d'Alene in north Idaho. I was there for a while.

Senator WATKINS. Is he a delegate here?

Reverend BYRNE. No. We are just here for the little explanation we can give to the Flatheads.

Senator WATKINS. Are you a delegate?

Reverend BYRNE. No; I am not.

Senator WATKINS. I wanted to clear that up.

Reverend BYRNE. That is right. I am completely on my own.

Senator WATKINS. Will you proceed, then, Father?

Reverend BYRNE. Thank you.

I wanted to state that I speak as one of the Jesuit missionaries on the Flathead Reservation, Mont. I have been especially assigned to the spiritual welfare of the Flathead Indians of St. Ignatius Parish district which embraces the town of St. Ignatius, Arlee, and Dixon. In the Arlee district there is a church at Jocko, the site of the old agency. The Salish people from the Bitter Root Valley, or who formerly were in the Bitter Root Valley, attend the church at Jocko for the most part.

As regards my work with the Indians, I spent 16 years among the Coeur d'Alene Indians of northern Idaho, starting in 1934. I was assigned to the work I presently perform in 1950.

Now, while my spiritual administration is confined mostly to the care of the Indians living at St. Ignatius, Arlee, Jocko, and Dixon, I have dedicated myself to the welfare of the entire Confederated Tribes by trying to understand their problems and associating myself with the tribal council in those matters that pertain to the entire tribe's social and economic welfare. For I firmly believe that the Christian life of any group, especially a minority group, is founded upon Christian justice and charity. And I think that a decent respectable and dignified way of life is an essential accompaniment of truly Christian living.

Consequently, when I take my stand on behalf of the Flatheads, I do so for no political or legalistic purpose but solely to preserve to the members of the tribe what I sincerely believe is for their welfare. I believe that Mr. George Tunison is fully capable of handling the legal aspects of the tribe's position in a way that perhaps no other legal authority on Indian law could equal, certainly not surpass. And the integrity of Mr. Tunison was attested to by the members of the subcommittee during the hearings on the rough draft preparatory termination bill at Dixon, Mont., on October 16, 1953.

Likewise the devotion of Mr. Walter McDonald, chairman of the Confederated Tribal Council and his associate councilman, Mr. Walter Morgineau, and advisers Mr. Stephen DeMers and Mr. Russell Gardipe, to the best interests of the Flatheads cannot successfully be challenged.

Today I have the honor to appear before your honorable joint committee to express to you what I consider fundamental in the discussions taking place or at least highly desirable of attainment if the Flatheads on the reservation are to preserve and develop the opportunities of a dignified way of life which they already possess to a considerable degree.

First of all, I consider it fundamental that the tribal property of the tribe be preserved intact.

Mr. Joe Garry, president of the National Confederation of American Indians, made a statement some years ago to the Coeur d'Alenes. He told the young men who came back from the service, who were careless in getting back into the ordinary life of the community, that they must, above all things, preserve their property. He told them, "If you get drunk and go to jail, and you have 160 acres, you are still a gentleman. But if you lose that 160 acres and go to jail, you are a bum."

Secondly, I urge that the tribal holding be held in trust by the Government until there is highly reasonable security that they will not be lost to the tribe through the imposition of taxes directly or indirectly. I say this very advisably, because outside of their tribal holdings, the Flatheads are approaching the status of landless Indians. For example, they retain only 16 percent of their personal irrigated holdings. That statement was made by Mr. Dennis Dellwo, on October 16, 1953; and on my own, I went through the tribal census. It is a little bit under-date, or hasn't been brought to date. It is 1949. But going over the pages of the members of the tribe, I noticed that the usual number of names on the page of allotments where they were recorded was about 12. And I found, on an average, that the Indians, 5 to 12 of them, have holdings that are still under allotment. And many of those allotments are fractional holdings. I am not in a position to say how much. But it is indicative that the tribe is not very secure in its holdings, considering themselves as personal property.

Third, I am not opposed to a properly understood withdrawal under trust status. I heartily agree that if there is to be withdrawal, it should first be under a trust status. It should go on, and it should be agreed on, over the board, with the tribal council and the tribe's representatives and the representatives of the Government, and gradually come to a point where the Government will take the position as an adviser. I think that would be the proper procedure. And I think that this tribe would be very willing to accept that position.

Fourth, I was surprised that Superintendent Stone seemed to suggest that the tribe was now prepared to take over its own affairs under State laws and regulations and taxes. With due respect to the members of the tribal council, I think that it is apparent that much of their success in management is due to the substantial help and guidance they receive from the Superintendent and other Government officials.

Fifth, it is my observation and conviction that the tribe is far from being ready to assume the responsibilities of managing their own af-

fairs on a free competitive basis. I have observed an appreciable apathy on the part of the tribal members toward the activities of the tribal council and an almost equal disability on the part of the council to arouse that necessary interest. There is need for much education in tribal management before the tribe can successfully manage their own affairs.

The late Alfred Smith once gave expression to this story, or remark. He said that if the leader of a band gets too far out in front, he will lose his band. I say the same. No matter how efficiently the council operates, unless the people are with them, unless that operation goes down to the very people, to their roots, you cannot say that those people are managing their own affairs. To have an upper level management, that would be successful in any cooperative undertaking, which would be necessary if the people took over, the people themselves would have to be ready to assume that management and assume the responsibility of seeing to it that they get the proper management.

Now, the mission plans, with the assistance of the University of Montana and the University of Gonzaga in Spokane, Wash., to remedy this situation in the immediate years to come, of course with the cooperation of the tribe.

Now, I must say this: that our work to a certain extent in the mission was successful, up to 1910, when the reservation was thrown open. And then, because of much topheavy work, we did not have the personnel to get in and to solve the situation that had taken place. We are somewhat belatedly doing that now, or hope to do it. And I think that if you give us time, we will put our Flathead Indian people, with their cooperation, on a basis that will not be a reflection upon either the American Government or those that work with them on the part of the Government, or those that have been associated with them as missionaries, or in any other way. They will be ready, when that time comes.

Sixth, I believe that the credit, the life blood necessary for building up personal holdings, should be restored. I almost think there should be an investigation as to why this credit was withdrawn. You can't get your people solidly formed without credit.

Seventh, while I personally believe that there is no equitable basis for a land-based tax on "retained" land, I believe that there is ample room for a partnership of mutual assistance between the States and counties and the Flathead Tribe. And from the report given both by the Government officials and the tribal delegates or witnesses, the Flathead Tribe in this respect is certainly far from being remiss.

I have been 4 years now, almost, in Lake County, and I don't think that Lake County appreciates the amount of cooperation that this tribe is giving. And I think it is very smart on their part to show that they resent them having the opportunity to come out in a position where they can hold their own on a competitive basis.

Eighth, to prepare themselves for further responsibilities.

I believe that an increased interest in the political life of the communities in which the Flatheads live should be urged. They should gradually take over offices. They should run for offices. They should be justices of the peace.

Mr. Walter Morigeau, I understand, is on the school board at Arlee. I think there is another member of the school board on the board at

Dixon. But until they can take their place not merely as voters but as officials of the community in which they dwell, they are not prepared to resist the encroachments of those who would have all the power.

Ninth, I believe that the American people will suffer culturally if by hasty action they bring about the destruction of that way of life which the Indians alone possess.

Tenth, I believe that the Indian has a right to maintain his identity in our complex cultural society, and therefore I strongly maintain that integration and not assimilation into our American life is the proper goal of attainment.

In everything that we have, our coffees, our tobaccos, our breads—we don't want America to be an assimilated thing. We want it to represent the best that our people possess. If you take the word "assimilation," it means disappearing, and I don't think the Indians should disappear. They should retain those qualities that Will Rogers so well expressed when they asked him on what boat his ancestors came over, and he said, "My ancestors came over on no boat. They met the boat when it arrived."

Eleventh, I believe that the Flatheads could do more in the way of offering scholarships for those capable and worthy of them. I see no reason why the Indian cannot retain his identity when those scholarly attainments are realized. And we have an example of Mr. D'Arcy McNeickle here, and we have another example of Mr. Archie Finney, who was the superintendent of the Northern Idaho Tribe, when I was there. And when Mr. Finney passed away, I said the mass and offered the prayers and preached the sermon. And he was buried with a Nez Percé blanket about his shoulders. And no one could say Mr. Finney wasn't a scholar and—an Indian.

Twelfth, I believe that only the Indians themselves can, in the ultimate, solve their own problems. And therefore we should respect their judgment in dealing with them. And in respect to the old people, I say that they are the only ones that should be responsible for their old people. And I give a great deal of credit to these young men like Mr. Walter McDonald and the others, who could easily go their own, and they could take the money. It would almost cost them nothing, but they are willing to sacrifice themselves for the good of their people. And I say it is their job, and not the job of outsiders. And I say it is their job, too, to take care of their people. It is a mixture of families. You can't break them up and accept them like cattle. They have to be together. And only the Indians will really take care of the Indians.

Thirteenth, I believe that the Government may be better acquainted with the mind of the Indian people and may secure and hold their confidence, the National Advisory Board should be restored.

I understand that the President, during the campaign, had a National Advisory Board. I believe Mr. Stephen DeMers was on that board. He is from the State of Montana. And I believe that that would be a very excellent thing, that some forum or advisory board should be on hand to advise. And I also believe that the Government should keep in touch with the National Council of American Indians.

Now, in closing, may I just make this remark: This year St. Ignatius will be celebrating its centennial jubilee among the Indians. It is our

intention to consider the missionary years as far as they look to the past a completed picture. We are now preparing to look forward toward the years ahead in which we hope and expect that the Flatheads will cooperate with us more closely so that together we can work out our common problems with a minimum of outside help. But during this transition period, we are prepared to take up the slack when necessary. In working toward a stable future, we do not desire that our Indians should become paupers through any hasty act on the part of the Government.

If the Government will work with the tribal leaders as they gradually withdraw from unnecessary supervision toward an advisory position. I believe that the Flatheads can prepare themselves to be a model of gradual integration into our common American life, a model which the Government and the missionaries and the Flatheads themselves can point out and hold up as an aim for other Indian groups and tribes, a model in which we will find the best of Indian life with its dignity and picturesqueness and artistic accomplishments, joined to all the values that make America what it is.

Now, I have nothing further to say, except that I hope that your committee will have confidence in this tribe. They are not trying to avoid anything. They are trying to solve their problems. And I hope that you will respect that intention.

I thank you.

Senator WATKINS. Thank you, Father.

Any questions?

Representative D'EWART. I would like to thank the Father for a very thoughtful statement.

Reverend BYRNE. May I also say that we would like to invite, at least as formally as we can, all of you to our centennial jubilee on the 24th and 25th and 26th of September, this fall, especially Mr. D'Ewart, who belongs to us, and we hope, others who are here. Of course, most of our Indians will be, but others we hope will be present. We are going to try to end something, and to start something that will be more preparatory for the future.

Representative BERRY. I would just like to add: Thank you very much for the invitation, Father. Some of us are quite a little ways away. We may be a little bit busy along about that time, but we do appreciate what you people are doing and have done, not only on the Flathead but elsewhere.

Senator WATKINS. I, on behalf of the Senate side, the House Members having expressed themselves, would say that not all of us on the Senate side have to run this year. We are not too much in politics. So you may see some of the Senators out there to visit you, and I hope, personally, that I can be there on one of those dates at least.

Reverend BYRNE. Thank you very much, Senator.

Senator WATKINS. I know we do intend to visit the reservation.

Mr. Higgins?

Representative D'EWART. Dave Higgins informed me he would like to file a statement. Is that correct, Dave?

STATEMENT OF DAVID HIGGINS, MEMBER, BLACKFEET RESERVATION, MONT., AND MEMBER, HOUSE OF REPRESENTATIVES, MONTANA LEGISLATURE, ACCOMPANIED BY MRS. FREDA BEAZLEY, SECRETARY, INTERTRIBAL POLICY BOARD OF MONTANA

Mr. HIGGINS. I would just as soon read it, if you will allow me.

Senator WATKINS. Does Mrs. Beazley wish to appear with Mr. Higgins?

Representative D'EWART. Let me ask: Is Dan Madrano in the room?

(No response.)

Mr. HIGGINS. Mr. Chairman and members of the committee, I have just been informed that time is running out, and I know it is, after sitting here for 3 days, although I haven't been in here all the time. And to clear the record, I had voiced the opinion that I might just file my statement, as I had other business to do and didn't think I would be here. But as the hearing was over for today, I did have the time.

I have been called first here to read my statement or testify. But, as Mrs. Beazley is here with me, and we do like to have the ladies precede us, I will ask if she will not proceed first.

Senator WATKINS. Let's find out. Does Mrs. Beazley wish to testify?

Mr. HIGGINS. Yes, she does. She has a short statement.

Mrs. BEAZLEY. I might state my position, Mr. Chairman, to the committee. I am here representing the Intertribal Policy Board of Montana, as the secretary of the group, and that takes care of all of the Indians of Montana, all seven reservations.

I have a written statement which, if you are running short of time, I would just as soon offer to you for the record rather than taking up your time.

Senator WATKINS. It will be accepted for the record. And we are going to have to read this record anyway.

Mrs. BEAZLEY. All right. In the interest of time, I will file it.

Senator WATKINS. It will be printed just the same as if you had given it verbally.

Mrs. BEAZLEY. Mr. Higgins is the chairman of that board, and he probably will do a better job anyway.

(The statement referred to is as follows:)

My name is Mrs. Freda Beazley.

I am an enrolled member of the Assiniboine Tribe of the Fort Peck Reservation in Montana. I am also the secretary of the Intertribal Policy Board of Montana.

The United States assumed the affirmative obligation to educate the Indian people of the Flathead Reservation to be at least an equal to non-Indians. The United States Government has never fulfilled this obligation, as has been previously stated, and it now wants to liquidate its responsibility toward the Flatheads.

The Flatheads, as you have heard, are capable of taking care of their affairs when run by competent men in a council. If the Bureau of Indian Affairs or whoever wrote the above-named bill is feeling unhappy about this and wants their immediate liquidation, why not ask the Bureau to just go away?

There still should be a feeling of indecision on the part of the Bureau and Indian Affairs and the Congress also as to what to do in regard to the withdrawal. Federal protection, through treaty responsibilities, provides the answer to the difference between Indians such as the tribes of the Flathead in Montana and the landless, homeless Chippewas and Crees who reside in the outlying districts of Great Falls.

I have here for your review the magazine section of the Great Falls Tribune of February 21, showing what is happening to the landless Indians in that area. This can happen to the Flathead people if the withdrawal program is put into effect prematurely.

Therefore, gentlemen, I am quoting a resolution adopted by the Intertribal Policy Board of Montana on February 1954, reading as follows:

"Whereas there has been introduced in the Senate of the United States, Senate bill 2750 and in the House of Representatives, H. R. 7319, which bills provide for the termination of Federal supervision over the property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation of Montana and the individual members thereof, and for other purposes, and

"Whereas these companion bills fail to consider and recognize all treaty obligations of the United States Government to the Confederated Salish and Kootenai Tribes of the Flathead Reservation of Montana, and

"Whereas the consent of Confederated Salish and Kootenai Tribes of the Flathead Reservation has not been obtained for the introduction of this legislation even though President Eisenhower and various members of his Cabinet have repeatedly implied that such advice and consent of the Indians would be secured prior to the introduction of any legislation affecting the Indians, and

"Whereas these bills purport to solve Indian problems without considering the tremendous impact upon the Indians and State and local governments: Now, therefore, be it

Resolved, That after careful and deliberate consideration and discussion, we, the Montana Intertribal Policy Board, representing all seven Indian reservations and the landless Indians, hereby vigorously protest and oppose the passage of the above legislation."

WASHINGTON, D. C., *February 25, 1954.*

Mr. HIGGINS. Mr. Chairman, I will try to make this brief. And may I afterward enter the whole statement in the record? It will save some time. I would like to hit the high spots.

Senator WATKINS. Hit the high spots, if you will, and then put it in the record.

Mr. HIGGINS. I would like to, before I start the statement, make a brief comment as to degree of Indian blood, that seems to come into the picture here pretty much, and my background as to degree of blood. My father was a white man. And I might state at this time that he was also a full-blood—but he came from County Cork in Ireland.

Senator WATKINS. There are Irish people, too.

Mr. HIGGINS. The finest in the world, incidentally. And incidentally, I derive my Indian blood from my mother's side. My great-grandfather was a Blackfoot chief.

As to the status of an Indian in the State of Montana, which I am a representative of, in the code, section 71,211, Revised Codes of Montana, a ward Indian is—

hereby defined as an Indian living in a reservation set aside for tribal use, or a member of a tribe or nation accorded certain rights and privileges by treaty or by Federal statute.

This is the law that we abide by. So, being on the reservation, regardless of degree of Indian blood, I am recognized as an Indian.

To go on with my statement, this pertains to Senate bill 2750, and H. R. 7319, a bill for the termination of Federal supervision on the Flathead Indian Reservation of Montana.

My name is David Higgins. I am an enrolled member of the Blackfoot Tribe on the Blackfoot Reservation in Montana, member of the House of Representatives of the Montana Legislature, and chairman of the Montana Intertribal Policy Board, which is composed of representatives of the seven Indian reservations in the State of Montana and the landless Indians.

I might clarify that point at this point: That all Indians without land in Montana that never have been allotted are the landless Indians, and that also includes hill 57. It was erroneously reported here that they were not, but they are.

I appear at this hearing to represent both the Intertribal Policy Board and the Blackfoot Tribal Council as well as the State of Montana. The Montana Intertribal Policy Board has considered all aspects of the termination of supervision bill for the Flathead Indian Reservation and we have unanimously concluded that the bill is not worthy of our support and endorsement for the following reasons:

The Flathead Reservation treaty rights are rights guaranteed the Flathead Reservation Indians in the bilateral agreement between the members of the Confederated Salish and Kootenai Tribes and the United States Government. This is a bilateral agreement and any changes in the original treaty should be by bilateral conet. The termination of supervision bill was drafted by the Bureau of Indian Affairs officials without consulting the Flathead Reservation Indians or the tribal council.

I understand there was some intimation of consultation after the legislation was drafted. As the chairman of that board, inasmuch as the Flathead Indians are members of the board, that came to our attention when the matter was handed to them, and we talked it over at Helena. And to clear the record as to the fact that there were no objections offered back here from the Indians, so that the bill could have been stopped by the challenging of the bill on the floor of the House or anywhere else, or challenged here before committees, we did send resolutions that were mailed to many Members of the Congress and Senators. So we were in agreement altogether that we didn't want it, and we tried to stop it that way.

The council was the legal representative of the members of the above-mentioned tribes. The approach to this problem has been taken without any consideration of the wishes of the second party to this treaty. The courts of the land have constantly held that treaties with the American Indians have the same dignity as treaties with foreign nations. We insist that the enrolled members of the Flathead Reservation have a right to accept or reject termination of their treaty rights.

My next statement isn't of much importance. I will go on down.

Referring to memorandum of January 29, 1954, House Concurrent Resolution No. 108 developments, issued by the area office of the Bureau of Indian Affairs, Billings, Mont., we quote:

Officials of the State of Montana at the time that they were consulted did not commit themselves to a definite position with respect to the proposed bill, but they indicated that they saw no reason for objection to the preliminary draft as long as arrangements are made to protect the elderly full-blood Indians who might not be capable of looking after themselves. In separate conferences, the chairman of the board of county commissioners of the two counties primarily

involved likewise indicated they saw no reason for objection to the preliminary draft. They, too, urged that care be taken not to hurt in any way the elderly full-blood Indians.

A question arises in my mind at this point, when you talk of full-blood Indians, whether it necessitates that he be aged or young. We have on the Blackfoot Reservation a number of Indians, and some of them possibly have just been born, but they aren't full-blood Indians. And if you are going to protect a full-blood Indian, I would insist that they be brought into the picture, too, that young full-bloods are of great importance along with our older full-bloods.

We wish to continue our opposition to the above bill as drafted on the basis that it will create a hardship upon the Indians of the Flathead Reservation, the communities in which these people live, and upon the State of Montana. We have not arrived at the stage in health improvement where we can cure tuberculosis by an act of Congress. The recent X-ray survey by the National Tuberculosis Association indicates a greater number of cases of this disease than was ever anticipated. The cost of treating each case of this disease will average \$4,500 at the Montana Tuberculosis Sanatorium at Galen.

I might add at this point that the State of Montana hasn't got that kind of money.

In the case of the Flathead Reservation Indians, this cost will fall entirely upon the county and the State after termination of supervision. These communities cannot bear this burden. At the present time these people from the Flathead Reservation have priority for admission to the sanatorium. After termination of supervision, each member of the Flathead Reservation will be required to take his turn on the waiting list along with the non-Indian applicants. There is a 2-year waiting list at present. The officials of the State of Montana realize the problems which will arise in the field of health and cannot approve a termination of Federal supervision which will remove the health services which have been planned for the Flathead Indian Reservation. This situation is more ironic since the new Indian wing to the Montana Tuberculosis Sanatorium is now ready to accommodate 100 patients of Indian blood. The construction of this wing was financed jointly from Federal and State funds. That is, we matched funds with the Federal Government in building the wing down there especially for Indians. I believe Mr. John Harrison has testified here a while back that the rate of tuberculosis among the Indians is higher than among the whites.

There are similar impacts in other areas which have never been considered under the present bill. Several witnesses at these hearings will propound similar situations. This is an indication that the bill is not well planned and has not been carefully thought out. This situation will continue to be extremely embarrassing until the program is developed as a bilateral effort by both parties to the treaty agreement.

The termination of supervision does not solve the problems confronting the communities where there is concentration of Indian population. The problem is merely transferred from the Federal Government to the local community and the State. These problems have their origin in the reservation system of administering the Indian problems and are definitely a Federal responsibility. This is

merely an effort to transfer the burden of these problems from the Federal Government to the State and local community and leaving the task for the solution of the problem to them. The Federal Government is trying to walk out from under its responsibility. I insist the State of Montana cannot assume this burden without the proper legislation.

What I mean is proper legislation of State laws, that will concur with Federal law. If you will recall, in the case of House bill 280, the law and order bill, as we call it, the President of the United States took exception to the bill itself, as it did not concur with the Indian's thought nor his right to vote or accept the treaty's guaranty.

Now, I know that the bill that is, you might say, under fire here, has the provision in it that the referendum would be conducted. But after the passage, I understand, of the legislation. We are getting the cart before the horse. We had better have the referendum first. If they want this type of legislation, it would be the proper way to do it.

As a representative of the State of Montana, I have argued Indian problems pretty much at Helena. In fact, I am the only Indian down there. They call me an Indian down there, too. Sometimes they use a little stronger language. But nonetheless, the fact remains that I have tried in every way at all times to pass legislation that would help the Indians and bring the Government into this as a coworker, and to help us pay the costs. I still insist, as a member of the State Legislature of Montana—and I am very greatly concerned with the affairs of the State of Montana—that we cannot accept any further financial responsibility, and as there is no clear indication that the amount of taxes we would derive from the liquidation of Indian reservations by putting all the real and personal property on the tax rolls, is not the solution, as we are now assessing in the State of Montana under a dubious law distribution from Oklahoma. And the State is still insisting, and this I can assure you is the profound truth, that they cannot assume the burden of the Indian. In my county of Glacier, where 60 percent of the land has gone to the outsider, and others have bought it up, and it is now on the tax rolls, all of my land is patented, and practically all of it on tax rolls. The county still will not assume that burden. They say they are not responsible for Indians, even Indians that under no consideration could possibly pay taxes, due to the fact that they have no property left. They will not assume the burden of those people.

And I might drag Hill 57 back here again. The State of Montana welfare does not want to take care of these people, because they are Indians; not because they have property they are not paying taxes on. They don't own property and are very hard up. But the fact is that they don't want to do it because they are Indians, and they figure the Federal Government, regardless of any 10-cent treaties or anything else, are still responsible for the Indians. We cannot dodge that responsibility, because that is one that we assumed when we conducted the conquest of the Indian. And, if you please, a lot of it was done by arms, the force of arms. Let's not dodge the issue.

Representative D'EWART. Would you yield for a moment?

Mr. HIGGINS. Certainly.

Representative D'EWART. Two or three years ago, the director of the Montana Welfare Department was here in Washington, and then it

was brought out, by him and also the Directors of the Welfare Department in Washington, that there was not and could not be discrimination in the use of welfare funds because of blood, inheritance, religion, or any of those things, and that if that was happening in Montana, the Federal Government would immediately cut off all funds until it was corrected.

Now, if you have proof that there is any such discrimination as you have just described, then I am sure Mrs. Hobby would like to know of it, and she would immediately take action that would be very drastic.

Mr. HIGGINS. Thank you, Congressman. I will furnish the proof.

Senator WATKINS. I would like to ask: Federal funds go into your welfare department in cooperation with the State funds?

Mr. HIGGINS. That is right, about 51 percent.

Senator WATKINS. You seem to know about this, now. Do the Indians get help out of that fund? Is Montana helping them?

Mr. HIGGINS. They do get help. I might explain the setup of our welfare organization. We match funds with the Federal Government. Of the 51 percent that the Federal Government sends us, we match that with State funds, and then the State sends that down to the county. But there is where we hit the road back. The county then tells us where the Indians are located; that they cannot put in any funds, because the Indians do not pay taxes; although in our case, in Glacier County, the reservation is furnishing more than 50 percent of the tax money to the county now.

Senator WATKINS. You realize that in Arizona and New Mexico, the same problem came up, and they finally had to take care of the Indians or have the Federal fund cut off completely. They couldn't have it both ways, enumerate the Indians as a part of their population, and then at the same time refuse to give them anything out of that State fund, to which the Federal Government had made a contribution.

Mr. HIGGINS. You mean you were able to bring the counties around by taking away the Federal fund? Is that what you mean?

Senator WATKINS. I don't mean that. I mean that under the law the Indian was a citizen just the same as anyone else, and Federal funds were appropriated for American citizens, and if they wouldn't allow the Indian to come in on the same basis as the others they wouldn't get the Federal funds.

Mr. HIGGINS. What did you do about the counties?

Senator WATKINS. The States themselves take care of what the counties do.

Mr. HIGGINS. If the county says they don't want to do it, then what do you do?

Senator WATKINS. Then they just won't get the fund, under the ruling of the group that was handling it, the welfare group in Washington. They went into court, I think, finally.

Mr. HIGGINS. What you mean is that we should shut the counties off from funds until they do yield?

Senator WATKINS. I don't mean that. I am merely telling you that the money appropriated by the American Congress for these American citizens had to be used for all American citizens, and Indians should not be cut off because they are Indians.

Mr. HIGGINS. That is right. We understand that. What I am trying to explain is that the old-age recipients in our community off the reservation get about \$12 a month more than they do on the reservation. In the county, this year, and only this year, have they started to contribute, and on a 3-to-1 basis. The tribal council furnished \$30,000, and the county came in under a special levy for \$10,000. But this is the first time it has happened. Up to this time they have denied us that. We have taken care of it on general relief. But they have not yielded as yet on old-age recipients.

Senator WATKINS. That is a local problem you will have to work out, but I think it is very clearly the intention of the Congress and the Federal Government that if they appropriated the money for the American citizens and the States are going to take it on the cooperative basis, they have to treat all American citizens alike, whether they are Indian, whether they are Negro, or whether they are white.

Mr. HIGGINS. I have been at it about 4 years, Senator. We are going to have legislation that says we will do it.

Senator WATKINS. I am not following the enforcement of it, but I know that that was one of the issues they had down in the two States I mentioned, and they finally came to an agreement, and they are now enforcing it in my State. The Indian receives his welfare check from the county and the State, including the part which is Federal funds, the same as any other person. And that is right. He should so receive it.

Mr. HIGGINS. That is perfectly all right. But do they get the same amount?

Senator WATKINS. And that will continue. As long as white people get assistance, the Indians will get it, too.

Mr. HIGGINS. The same amount?

Senator WATKINS. I hope so.

Mr. HIGGINS. Not in our State, it doesn't occur.

Senator WATKINS. In your State you had better get busy and enforce the law.

Mr. HIGGINS. We are trying very hard, we can assure you.

The administration of the liquidation of the assets of the Flat-head Indian Reservation is authorized without consultation with local communities and the members of the Confederation of Salish and Kootenai Tribes or their representatives. There are several power sites which are owned by the tribes which are difficult to appraise. The timber resources should be sold under restriction of the sustained yield plan to protect the watershed for these communities and the irrigation in this area. The wildlife program in this area will be affected by the program that is adopted. The entire program needs more careful study before final plans for the termination of supervision have been made.

In this community, the record indicates that school loans to be repaid through recoupment have been made as follows on the Flat-head Indian Reservation. I understand from the record at Helena that: Arlee School District No. 8 jointly in Missoula and Lake Counties—\$40,000; unpaid balance \$18,444.50.

The same conditions exist at school district No. 2, at Polson, Lake County. There is still a balance there of the unpaid \$40,000 that has not been paid.

This is our record now, and not one from the Indian department. At Ronan School District No. 28, Lake County, \$60,000 unpaid balance, \$27,666.67 has not been paid.

This is an indication of the carelessness and haste used in drafting this legislation.

I don't think there is any provision, or possibly it has escaped me in reading the legislation, that these unpaid balances will be paid and will have to be assumed by the State of Montana. And we are very short on school money also, I might inform you, as we have not received our tuition this year. That has ended up in an argument for correct legislation.

The Montana Inter-Tribal Policy Board hereby goes on record as opposing Senate bill 2750 and H. R. 7319 as being unfair with very little thought of what might become of the Indians.

These statements, some of them, are pretty broad. But after you have lived on a reservation for 52 years, as I have, you get to the point where you can make a pretty broad statement, and you just chop the tree down and let the chips fall where they may.

It is necessary that we use broad statements to express the thoughts that we have. If we were to dig into records, we could possibly fill this room with records of things that happened to Indians and have never come about or never been fulfilled. But to bring all the records here to show what has happened—there is another thing I noticed here, in the testimony, on the matter of the school fund. I believe there are some \$10,000 given to the Catholic institution on the Flathead Reservation. We all know that is a parochial school. And as to those funds, if they are not just contributions outright, the State gives them no money, and I think it goes for the whole United States, that we cannot give school funds to a parochial school, that they are conducted by the organization that picks up the check. And if we are to take this money away from them, they are going to have to pay this themselves, this organization is. And I might add at this point, gentlemen, that they are carrying a very heavy load in Montana in our schools. And one representative from Butte, Mont., from that county, during the legislature, made the statement on the floor of the house, and I quote:

If we were to close the parochial schools in my county, we would be just completely out of luck. We would have hundreds of children that wouldn't go to school, because we haven't got the tax money to conduct and pay for those children. We have got to have the money.

And as a member of the State legislature, I am going to do all I can to protect my State. It comes second to the Indian, of course. But it is necessary that these things be given careful thought.

We are not asking too much. I, as a member and the chairman of this board, and as a member of the legislature, and as a Montana citizen, and overall an American citizen, contend that all we are asking now is common counsel, before these things are drafted, before this type of legislation is drafted. We want common counsel. We want to be part of it. We want to furnish our part of the drafting and the advice. That is all we ask. That is not too much. We will accept these tax responsibilities only if we can pay taxes. We cannot pay them now. A thing like this should happen: I am only looking at the dark side, as one of the gentleman from Flathead has

said here. Because it has been intimated that the Indian could just as well buy it back himself. With what?

Representative BERRY. At that point, may I interrupt you?

How big a ranch do you have.

Mr. HIGGINS. Oh, including leased land, about seven or eight thousand acres.

Representative BERRY. How much land do you own?

Mr. HIGGINS. I own about 1,200 acres.

Representative BERRY. And how much of that is deeded, and how much in trust status?

Mr. HIGGINS. My wife's land is in that, and there is about 280 acres, I think, that is trust status.

Representative BERRY. About a thousand acres?

Mr. HIGGINS. Not quite that much. No; I think I paid taxes on about seven or eight hundred acres. Anyway, the tax load is quite heavy.

Representative BERRY. Give me the breakdown, will you please? Can you give me the breakdown on your own ranch?

Mr. HIGGINS. Yes; I think I could, although it is a little unusual. There is about, let's see—520 acres that is deeded at the present time, and there is another 320 acres that we are making application for patent for so that we can use it in the way of borrowing money on real estate, as a real-estate mortgage.

Representative BERRY. How many acres did you say—320?

Mr. HIGGINS. Three hundred and twenty. That is right. The balance of it is trust status. I have 80 acres that is still trust status. It is not adjacent to my ranch, and I just didn't bother about getting a patent for it, as I do not care to sell it. And my wife has, as I said, 280 acres.

Representative BERRY. You have about 920 acres in your own name that is in trust status, then?

Mr. HIGGINS. No, no. There is 400 on that that we have made application for patent on.

Representative BERRY. But I mean as of now.

Mr. HIGGINS. No; 520.

Representative BERRY. Five hundred and twenty in trust?

Mr. HIGGINS. No; that is taxable. That is land I have bought.

Representative BERRY. That is fee title?

Mr. HIGGINS. That is right. Incidentally, gentlemen, some of this land was adjacent to my ranch, in fact, adjoined it, and it was Indian land that was in danger of being lost through tax sale. I took a tax title to it. A lot of that has happened up there. Indians have gotten patents and are unable to pay taxes, and different ones have assumed tax titles.

Representative BERRY. Do you have any applications in to buy other land and retain it in trust status?

Mr. HIGGINS. No. Any land I would buy, I would buy only when the patent was issued.

Representative BERRY. You don't have any application in for purchase under trust status at the present time?

Mr. HIGGINS. No. You can't do it that way. That is impossible.

Representative BERRY. Well, it isn't impossible for an Indian to do it.

Mr. HIGGINS. It is.

Representative BERRY. I just happened to run through about a hundred of them in the last year that I know of.

Mr. HIGGINS. I don't like to argue with you on this issue, Congressman, but we cannot. A patent has to be applied for before we can.

Representative BERRY. Before you can what?

Mr. HIGGINS. Negotiate with another Indian.

Mrs. BEAZLEY. That is right.

Senator WATKINS. Congress has authorized certain Indians to sell their property before it is patented.

Representative BERRY. Exchange, transfer, sell.

Mr. HIGGINS. No, you have to get a patent on this before you can sell. If I am to get this trust land, I have to get a patent before I can sell.

Senator WATKINS. Or get an authorization from Congress authorizing you to sell.

Mr. HIGGINS. I suppose so.

Senator WATKINS. We have very little time left. I don't know how we are going to handle the rest of these witnesses.

Mr. HIGGINS. I would like to sit here and talk with you for a week.

Representative D'EWART. I would like to say that Mrs. Beazley has an oil well.

Mrs. BEAZLEY. I got a patent for it on the land, though, before I negotiated a lease.

Senator WATKINS. You were very glad to have the right to get your property?

Mr. HIGGINS. For your information, though, that is not why she is up here.

Senator WATKINS. You did tell us something about your Indian blood. What is the degree of Indian blood that you have?

Mr. HIGGINS. I am an eighth. I am also an eighth Scotchman. But they don't call me a damned Scotchman.

Senator WATKINS. They probably don't. It is just one of those things that we are interested in, when we have some of these Indians that are more white than Indian claiming all the rights that Indians have, it raises some interesting questions.

Mr. HIGGINS. I am very proud of my Indian blood, no doubt, but I am very proud of my American citizenship and my Irish and French and Scotch blood. But I am proud of the fact that I am American very much.

May I enter this in the record?

Senator WATKINS. We will take the portions you haven't read. The reporter will delete and take that part you didn't read and insert that at the end of your statement. But the part you read I don't want to have printed twice.

Representative BERRY. We are Scotch, too.

Senator WATKINS. Thank you very much, Mr. Higgins and Mrs. Beazley.

Mr. HIGGINS. Thank you.

Senator WATKINS. Mrs. Lorena Burgess, Mrs. Vera Voorhies, and Mrs. Anna Wievoda?

Mrs. Burgess, you have a prepared statement, do you not?

STATEMENTS OF MRS. LORENA BURGESS, PERMA, MONT.; MRS. ANNASTASIA MORIGEAU WIEVODA, RONAN, MONT.; MRS. VERA VOORHIES, POLSON, MONT.; AND MRS. LULU G. CHARRIER, WASHINGTON, D. C.

Mrs. BURGESS. Yes, sir.

Senator WATKINS. We only have a short time left today. I am awfully sorry. But if you could give us a brief statement orally and then insert the statement in the record, it will be printed the same as the rest of it. There are only a few members of the committee here anyway out of the House and Senate committees.

Mrs. BURGESS. Suppose I let the other ladies talk and bring their statements out, because I have mine all written out, and I believe that theirs is oral.

Senator WATKINS. Just move the microphone over to them, and we will proceed with one of the others.

Mrs. BURGESS. Would it be permissible, then, for me to enter my statement and all the inserts along with it? As I have mine all written out, and I believe the other ladies haven't.

Senator WATKINS. All right. We will permit you to put your statement in the record.

Mrs. BURGESS. Thank you.

Representative D'EWART. I might say, Mr. Chairman, I have looked over Mrs. Burgess' statement, and it is very informative. It goes into a good deal of background in regard to a number of matters before this committee, and I think it is an excellent statement that deserves the attention, at least, of the whole committee. It has a brief of the letter from Senator Wheeler that goes into several vested property rights, that brings a different thought into this discussion than I have seen anywhere else.

Also, Mr. Chairman, I am advised that these people came down at their own expense, and it was a little difficult to raise the funds.

Mrs. VOORHIES. My name is Vera Voorhies, and my residence is Polson, Mont., the place of my birth, where I attended high school, and have spent nearly all of my life.

I am an enrolled member of the Confederated Salish and Kootenai tribes. I was my father's secretary when in high school and, later, during the period my father was chairman of the Tribal Council of the Confederated Salish and Kootenai Tribes, I was secretary of the tribal council.

On the demise of my father, I finished his term of office, taking his place as a member of the tribal council.

Those relations with the tribal council terminated in 1932. My interests in tribal affairs since 1932 have been the personal interests of myself and my family as individual participants in tribal affairs and tribal property.

I claim that Mrs. Burgess, Mrs. Wievoda, and myself represent the wishes of the majority members of the tribe.

Dated September 14, 1953, a rough draft of a bill was mailed to the adult members of the Confederated Salish and Kootenai Tribes. The purpose therein was the termination of Federal administration on and liquidation of the Flathead Reservation.

A preliminary hearing on the matter was held by the Subcommittee of the Interior and Insular Affairs Committee of the House at the Flathead Agency, Dixon, Mont., on October 16, 1953.

In order to meet a deadline of November 1, 1953, individual Indians participated in drafting a bill which was placed on record with the above named committee.

Because more time was available, more and more study was given the subject, the range of interest increased, and the number of participants in a "nonexclusive group of individual Indians" steadily grew. Thanks to the Flathead Courier and the Ronan Pioneer, our local papers, the press became interested and gave all the angles and problems publicity and sought to inform everyone of their particular relation to our very unusual situation. Apparently, the tribal council held the theory the matter should be ignored.

Continued study pressed home the stubborn and important realization that none of the proposed legislation, including S. 2750 and H. R. 7319, proposed for a definite termination of Federal administration and a defined and conclusive liquidation of the Flathead Reservation and its assets.

A redeeming provision set forth in all of the proposed legislation is the termination of the Wheeler-Howard Act. The socialistic composition of the Wheeler-Howard Act, its functions and jurisdiction, are not compatible with democracy and progress. Therein, the individual Indian is hampered, and his individual ideas are not applicable to his well-being. Fifty percent of the enrolled members of the tribe are gone from the reservation and are making a livelihood in other places.

As proof of the inadequacy and frustration of the operative provisions of the Wheeler-Howard Act, we cite the following:

The Hot Springs Enterprise, representing an investment of \$500,000, shows a net annual income of \$2,200, less than one-half of 1 percent.

Blue Bay Lodge, a fine development on a nationally famous site, an investment of \$150,000, was rented for \$1,600 per annum; \$1,900 of tribal funds were spent on the property within the same period. Income, less than three-fifteenths of 1 percent.

Outstanding loans, \$330,423.

Net cattle owned, 740 at \$65, \$48,100.

These few random items of investment authorized by the Wheeler-Howard Act total \$1,285,000.

I have a copy of the annual budget of Lake County, Mont., for the year ending June 30, 1954, which also shows expenditures for the preceding year. Lake County has 1,506 square miles, of which 53 percent is tribal trust land. About 75 percent of the total of tribal trust lands are in Lake County.

For the purpose of study and comparison, I also have a printed copy of the financial statement of the Tribal Council of the Confederated Salish and Kootenai Tribes for the year ending June 30, 1953.

Now, in behalf of the majority members of the Confederated Salish and Kootenai Tribes who desire a complete liquidation of the Flathead Reservation, I most sincerely and respectfully present and propose for enactment a bill patterned after S. 1313 of the 79th Congress, heretofore introduced for the record by Mr. Wade Crawford of the Klamath Tribe of Oregon.

We also asked the committee for immediate action on the repeal of the Wheeler-Howard Act.

I submit the following for the record and for the files of the committee.

Thank you.

Senator WATKINS. Thank you.

What degree of Indian blood do you have?

Mrs. VOORHIES. Seven-sixteenths.

Senator WATKINS. The next lady?

Mrs. WIEVODA. I am Anastasia Morigeau Wievoda, an enrolled member of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont. During my entire life, I have been a resident of the Flathead Reservation. My present address is Ronan, Mont.

I want to express my sincere appreciation for the opportunity given by this committee to the individual Indian to appear here in person and feel welcome to express our personal convictions.

I represent, I think, a majority of the ward Indians who are supporting a proposed bill for termination of Federal supervision of the property of the Confederated Salish and Kootenai Tribe of Flathead Reservation, Mont. These ward Indians of the Flathead Reservation financed out trip to Washington by small donations, and many of these Indians could not afford to make these donations. It was necessary that they do this, for the reason that a request for my being a delegate was made to the tribal council, who supposedly are our representatives, and who are the guardians of our money.

The tribal council refuses to recognize us, because we are favoring the Federal termination in general. Our council have financed others who are not members of the council, when they speak in opposition to the termination bill.

Having these facts in mind, we believe that this committee should give only such credit to the opposition as one would give to a party that is unfair in his representative capacity. We believe that they have not given this committee all of the information to which it is entitled and the tribal council has not properly presented the true sentiments of all of the Flathead Indians.

We were told that a referendum would be taken to determine the sentiments of the Indians for or against this proposed legislation and that because of the Wheeler-Howard bill, those Indians who are living off of the reservation and who are not under the economic control of the tribal council, would not be permitted to participate in this referendum. We do not believe that coercion or unfairness should be permitted in any respect in determining what the Indians really want. The Indian has been for a number of years the subject of bureaucratic control and he has never been permitted to express himself freely, but, to the contrary, always some committee or some spokesman made up his mind for him, and we believe that he should have been permitted to express his sentiments freely and without reserve before this committee and in all other questions determining his welfare.

The deep responsibility involved in the termination of the Federal supervision is a matter worthy and deserving of careful consideration of every point concerned, and the requirement of utmost honor, respect, and wisdom in consideration of the United States, your honorable committee, and ourselves, to confer complete citizenship upon such Indians and for other purposes.

Senator WATKINS. You have a report, Mrs. Burgess, the John H. Holtz report, that you wish to submit?

Mrs. BURGESS. I have the John H. Holtz report right here, and I would like to have it made a part of the record.

Mr. Chairman, I also have the State of Montana education program here, in regard to the Indian children of Montana. And I would like to have all in this report made a part of the record.

Senator WATKINS. Who is John H. Holtz?

Mrs. BURGESS. He was in the Interior Department at that time. I believe he was an attorney.

Senator WATKINS. Is he retired now?

Mrs. BURGESS. I don't know whether he is still there now.

Senator WATKINS. I am advised that he is retired.

We will make this part of the file and if we think it is of sufficient importance, we will make it a part of the record as well. It will be filed with the committee for our information.

Representative D'EWART. Are you going to read your statement?

Mrs. BURGESS. I was going to read it and then bring in the inserts if we had time.

Senator WATKINS. Is this entire file inserts?

Mrs. BURGESS. That is right.

Senator WATKINS. I am afraid we can't print all of that.

Representative D'EWART. I suggest we let her read her statement, which will take about 20 minutes, and then such parts of inserts as are directly pertinent may be made a part of the record and the rest filed for reference.

Senator WATKINS. That will be the ruling, without objection.

So you may proceed to read your statement, and we will know from that.

Mrs. BURGESS. Thank you.

My name is Lorena Burgess and I reside at Perma, Mont. On behalf of the people whom I represent, I wish to thank the committee for this opportunity to speak about the proposed bills, S. 2750 and H. R. 7319. We believe that the time has come to give the Indians of the Flathead Reservation complete control of their own affairs by liquidating all tribal affairs and assets and giving individual Indians their just share. The officials of the Indian Office will give the committee the facts and figures about land holdings, tribal assets, et cetera, so I will not recite them here. In this statement, I wish to call the attention of the committee to some of the many problems which exist and, if permissible, to make certain recommendations for legislation.

It seems to me that on the Flathead Reservation, we have every type of problem that arises under Indian Bureau administration of Indian Affairs. Our land is held in every status—from tribal lands and lands for the use of Indians, to fee patent allotments with fractionated heirship land and restricted trust allotments, all checkerboarded with white-owned lands and Government lands. We have timber contracts, irrigation projects, mineral rights, power sites, a tribally operated health resort, fishing, hunting, and water rights, a disputed tribal roll, and the Indian Reorganization Act to further complicate everything.

When Congress passed the Flathead Allotment Act of April 23, 1904, the intention to finally and forever dissolve the Flathead Reservation and the Flathead Tribes was clearly indicated. The Secretary of the Interior was authorized to make the necessary surveys and appraisals of all property, to prepare a final tribal roll of those entitled to participate, to allot the certain lands individually, to reserve the power sites, to purchase from the Indians and convey them to the State of Montana for school purposes, to sell the timberlands, to sell the residue of lands to the highest bidder but at not less than the appraised value, and to divide the proceeds among those whose names appeared on the final roll of 1908. I have with me one of the original allotment deeds, signed by Theodore Roosevelt, then President of the United States, which I thought, perhaps, the committee would be interested in seeing. That deed states specifically that at the end of 25 years we would be released from wardship, and at the end of that time 10 years were added by Presidential proclamation. And then came the Indian Reorganization Act, which continued the reservation. So that shows that if we were in the status that we could have been turned loose at that time, I don't see why we couldn't be turned loose now.

In 1920, when considerable land still remain unsold, Congress adopted further legislation which added to the roll the names of about 800 children who had been born since the roll was prepared. These children received allotments from the timberlands and the poorer lands that had neither been allotted nor sold. The allotted lands were to be held in trust for 25 years. Before the time expired the trust period was extended for another 10 years, and before that 10 years expired, the tribe was organized under the Indian Reorganization Act of 1934 which automatically extended the trust period on all allotments and tribal land.

Under authority of the Allotment Act, per capita payments from tribal funds were paid to the Indians whose names appear on the final amended roll of 1920 or their heirs until 1943. But in 1944, under authority of the constitution adopted under the Reorganization Act, the tribal council changed the roll to include, as equal beneficiaries, all the Indians who were then living and who qualified under the terms of the Constitution as members of the tribe. Some of the allottees and heirs could not qualify under these terms and were cut off the rolls while the other heirs and some who were not heirs were added to the roll to participate on an equal basis. This was done in accordance with a decision of the Solicitor of the Interior. I served as chairman of the committee which prepared the 1944 roll. We were given a set of instructions by the Bureau officials and had to prepare the roll in accordance with those instructions. The committee was not entirely in agreement with the instructions, nor was the tribal council. But the people were clamoring for their annuity payments which the Bureau claimed it had no authority to disburse until authorized by the tribal council and a roll prepared under the constitution. It was a case of either having no payments or adopting a new roll. I do not have a copy of the syllabus which was issued on January 31, 1944, No. 35026, signed by Fowler Harper, by which we had to make our decisions but I believe the Bureau officials can supply one for the use of the committee.

To indicate the disagreement with the instructions, the roll committee adopted a resolution which was presented to the council. This resolution stated:

In order to state and clarify the responsibilities and functions of this committee the following resolution was adopted:

"Be it resolved, by the committee appointed on April 1, 1944, by the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Tribes to prepare a 'per capita roll' for the distribution of a tribal payment that the roll so prepared and recommended to the council for adoption is not intended for any other purpose or use. This committee does not wish to be held responsible for the loss or gain of any rights, tribal or otherwise, which may result from the adoption of this 'per capita roll'."

In the official opinion of Mr. Fowler Harper, Solicitor of the Interior Department, dated February 1, 1944, it is stated on page 8 that:

"If the tribal council agrees that a per capita payment should be made, a constitutional roll for the distribution of the payment must be adopted. That roll may not include persons whose names appear on the 1920 roll and who died prior to April 9, 1943, nor may it include non-Indians or other persons not entitled to be recognized as members under the rules set forth in the constitution."

The roll this committee is recommending for adoption by the tribal council will be prepared in accordance with the above statement.

(Signed) LORENA M. BURGESS.
ELI GINGRAS.
ENEAS GRANJO.

As chairman of that committee, I cannot truthfully say that all decisions made by a majority vote of the committee members were just and equitable. Neither do I know whether or not we had the authority to make such a roll for the distribution of per capita payments from tribal assets in which the original 1908 and 1920 allottees had a vested right. The Solicitor of the Interior said that we did but the best attorney whom I know, and who has had long experience in Indian affairs, Hon. Burton K. Wheeler, at that time Senator from Montana, holds otherwise. In a letter addressed to Mr. Lewis Lemery, secretary, Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, dated June 29, 1943, the Senator said:

* * * The substitution of an Indian Bureau approved roll for a roll carefully prepared under an act of Congress for the protection of the vested interests of the individuals whose names appear thereon is clearly illegal and does not serve the ends of justice either in law or equity. * * * That roll was approved by Congress and so were the additions of names to it made later in 1920. Since the roll was made for the purpose of reimbursing the assets of the tribal residues, and since that process is not yet completed, only Congress can add to or subtract names from the 1920 roll.

The letter cites the provisions of the Allotment Act and then states:

It would seem from the above that there is some question as to whether legally there is any longer a Flathead Reservation or Flathead Tribes as such, and that the relations of the Government are with the individual that the relations of the Government are with the individuals who were living at the time of the preparation of the roll of January 22, 1920, and whose names were accepted and approved by Congress on that roll.

The admission of 800 or any other number of names to share in any residues of income to the former tribes of the former Flathead Reservation through the authority of a constitution which has no authority over any form of assets belonging to members of former tribes is an unwarranted assumption of bureaucratic prerogative. * * * It would also seem that the recent per capita payment is questionable from a legal standpoint, and if so, a gross manipulation of funds contrary to the wishes of the Indians themselves.

From information which I have received from time to time, there is a great deal of dissatisfaction among the Flathead Indians concerning the tribal council

in regard to its handling of the affairs of the Indians. The subject of this letter is an instance which indicates that at least some of these complaints are well founded—the judgment of the council in too many instances yield to the dictation of the Indian Bureau officials whether or not it is for the best interest of the Indians.

I would like to have this entire letter printed in the record of this hearing at this point, so the information it contains about the Allotment Act and all of the reasons why the present tribal council has no legal authority over the tribal assets will be available for everyone, including the Indians.

If the tribal council has no authority over the assets accruing from the residue property on the Flathead Reservation, it certainly is making free with other people's money.

I enter in the record for the use of the committee the financial report, July 1, 1952, to June 30, 1953, submitted by James J. Swaney, secretary-treasurer of the tribal council and approved by Forest R. Stone, superintendent, dated September 1, 1953, and I request that page 5, showing the expenditures authorized by council resolution and by council motion, and page 6, the condensed statement of collections and expenditures, be printed in the record at this point.

I call the attention of the committee to the total collections of \$367,872.75 from tribal assets and the total expenditures by the council of \$255,058.51.

I also wish to point out the item on page 5 under the title, "Expenditures Authorized by Council Resolution" of "purchase of 1920 allotments—\$100,000." This is a case where the council is extinguishing fee title to individual property holdings of the 1920 allottees by purchasing the land with money which rightfully belongs to these allottees in the first place and which they should receive by per capita distribution. In my opinion this is about as slick a trick as could be devised for depriving people of vested rights and making them pay for it with their own money.

The complaints against the tribal council are constant; many of them justified, I shall not enter into a discussion of them except to say that the operation of the Indian Reorganization Act has been to deprive people of individual rights of ownership and heirship, always with a view to communal enterprise and ownership. The Indians are well aware of this. I have heard an ex-service man remark, "You bet I'm a Communist. I hate it but what can I do? My Indian Bureau makes a Commie out of me in spite of my beliefs for freedom." And a high school boy says, "I don't want to be a Communist, but I have to be. When I am out of school, I will go away from home, among strangers, and be free."

We were promised self-government under the Indian Reorganization Act but there is none. For example, in 1908 when the first allotments were made, the tribe legally adopted 8 white women who were married to Indians and they were placed upon the rolls and received allotments and per capita payments. But under the new roll they have been cut off. The council passed a resolution requesting that their names be added to the per capita payment roll but the Secretary of the Interior refused to authorize it. These women, Lulu Allard Charrier, Rosa Gadbout Couture, Emma Pierce Douglas, Mary House Saunders, Maud Larrivee Murray, Alice R. DeMers, Susann S. Maillett

Prongus, and the late Cora Dupuis Moxley, have lived with us all of their lives, raised their children, been good neighbors, and entered into all of our activities. They have shared their lives and are as much a part of our tribe as any with Indian blood and we feel that in all justice they should share in the per capita distributions. But the Secretary says not. And that is a good indication of how much self-government there is in the Indian Reorganization Act.

My purpose in bringing all of this to the attention of the committee is to lay the foundation for my recommendation and pleas. The people who live on the Flathead Reservation in Montana are ready to accept the full responsibilities of citizenship as individuals. The State of Montana is ready to accept us as citizens of the State. In support of which I offer for the record at this point House bills Nos. 221, 268, and 368, adopted by the State legislature in 1951.

In the last session of the legislature, the following were adopted, House bill 62, repealing State law prohibiting sale of liquor to Indians and House bill 124, permitting Indian wards to be admitted to State institutions.

The processes of amalgamation have long been in operation on the Flathead Reservation. The biggest majority of us are mixed bloods of varying degrees, we are self-supporting and our income and mode of living compares favorably with those of our white neighbors. Many of our members have left the reservation and are making their own way with honor in communities all over the United States. We believe that the affairs of the tribe should be finally terminated. We do not believe that the bills before this committee as now drawn will accomplish this. With your permission, I would like to make the following recommendations to either amend these bills or to draft new proposals:

1. Repeal the Indian Reorganization Act. When that legislation was before the Congress for consideration, Indians opposed it and tried to make clear that it would promote communism among the Indians. I was one of those who opposed it. I was also one of those who came before the Senate committee to tell how the act was operating on our reservation and to ask that it be repealed. Without going into lengthy discussions, I have again tried to point out to the committee some of the results of this act upon the Flatheads. We are loyal Americans and we cannot believe that it was ever the intention of Congress to make Communists out of the Indians. We hope that this Congress will justify our faith by repealing the entire act as it applies to all Indians.

2. The proposed bills contain no provision for dividing the property up individually. We are very weary of having our tribal assets dissipated. Our position would be to have Congress enact legislation directing the Secretary of the Interior to liquidate all tribal assets and give each individual Indian his or her share immediately. We see no need for the appointment of trustees to do this work. The Government has employees enough to complete the work started by the Allotment Act of 1904 without further expense to the tribe. We certainly want no more "corporate" experiments.

3. We wish the Congress to either reopen the 1908 and 1920 rolls or to direct preparation of a new roll which shall include all the original allottees and their heirs and all members of the Flathead

Tribe living at the time this new act is passed. We want this stated clearly in the bill and not left to the discretion of the Secretary of the Interior. We want the right of appeal from the decisions of the Secretary to either the Federal district courts or the State courts of Montana, with a limitation of the time for filing such appeal stated in the bill.

4. We want protection of our claims retained in the bill.

5. We want all gas, oil, and mineral rights, water rights, hunting and fishing rights on individual allotments reserved to the owners of the allotments.

6. I would like to offer an amendment to S. 2750, page 4, line 2:

Provided, however, That all power sites on the reservation and all income from the lease of such power sites shall be held in trust by the Secretary of Interior and the funds be distributed annually to the allotted Indians.

7. We believe that the Federal Government should continue to help the State educate the Indian children in public schools by extending the application of the Johnson-O'Malley Act for 10 or 15 years.

8. We believe that the older Indians should have the right to hold some land tax-free during their lifetime, or until they choose to sell.

9. In the event the proposed bill contains any questions which must be submitted to a referendum vote of the tribe, we wish this referendum election to be held in accordance with the laws of the State of Montana and to include all absentee members of the tribe.

On the statement there that I have just read, I had written a few other little items on the back. These items should be included. Mrs. Charrier is with us, and she is also an enrolled member of the tribe. She has a very few words to say, but I think that she should be entitled to say them.

Mrs. CHARRIER. I am Lulu G. Charrier, C-h-a-r-r-i-e-r, 3210 Terrace Drive SE., Washington, D. C.

Mr. Chairman and members of the committee, I appreciate your hearing me, because you have had a strenuous time. So I won't say very much, just a little bit.

I am not authorized to represent any particular groups, but I would like to mention the eight white women who were adopted and allotted on the Flathead Reservation.

In 1905, I was married to Charles Allard, a Flathead Indian, and I began my mature life then. I made my home on the reservation, and his people became my people.

There were seven other white women who had married members of the tribe, and they also lived there.

One of the 8 is dead, 3 still living on the reservation, 1 at Deer Lodge, and 1 at Kalispell. I live here temporarily, as my husband is in active service with the Armed Forces.

All of us were married long before the reservation was opened to settlement and before there was any thought of a tribal inheritance.

The reservation at that time was far from what it is now. There were no roads and no cars and no radios. There was 1 small store at Polson and 1 at Ronan and 1 at St. Ignatius. Transportation to Kalispell was an all day trip by boat over the lake.

The Indians, at that time, were somewhat isolated. They were governed by one Indian agent, and they were individually engaged in the cattle industry.

The eight white women made their home and raised their families in these rather lonely surroundings, and because of this they were accepted and made welcome by the people, and were treated as members of the tribe, a fact that was proven in 1908 when we were adopted into the tribe and given allotments.

I believe it was the intention of these people who adopted us that we should share equally with the tribe in every way. This we did until January 1, 1935, when we were removed from the annuity rolls. However, we were still carried along until 1942, when we were officially dropped. Our names still remain on the roll—but receive no annuity payments.

During this time, we made inquiries as to what was going on regarding our payments, and no one of us ever received a satisfactory reply.

The tribe have, to current census, recognized the seven of us white women but we no longer participate in the tribal assets. Our legal rights have never been tested by law, but our moral rights have always been recognized by the Indians.

I have no children, and I do not know if the children of the Flathead inherit from their mother or from their father or from both, but the removal of the mothers of the children from the annuity roll may affect the inheritance of their children.

We believe that we eight white women were legally adopted and made full members of the Flathead Tribe, and that our heirs should participate fully with the tribe.

Senator WATKINS. Thank you.

We thank you ladies for your appearance here. The matters will be given consideration with all the other evidence before the committee.

Representative BERRY. First I want to commend the ladies for this appearance and this very helpful information. Certainly it is helpful to this committee, in trying to work out these problems.

I was just wondering, Mrs. Burgess: Were you employed by the tribe or by the Government at the time the Wheeler-Howard constitution was approved by the reservation?

Mrs. BURGESS. No; I was not.

Representative BERRY. Well, do you know that it was a majority of those voting that voted in the Wheeler-Howard constitution?

Mrs. BURGESS. Well, I know that I did everything in my power to defeat the act—to keep it from becoming a law.

Representative BERRY. But do you know whether any “no” votes were counted, and if a person didn’t vote it was considered a “yes” vote?

Mrs. BURGESS. Superintendent Shotwell, I believe it was, told me, “If you don’t go and vote.” I said, “I don’t believe I am going to vote, but I am strictly against it, and there are so many of us that are against it.”

And he said, “All those who don’t vote, their votes will be counted ‘yes.’”

Representative BERRY. But you don’t know of your own knowledge whether that actually happened?

Mrs. BURGESS. No; I couldn’t prove that. Only he said that those who did not vote, their votes would be counted “yes.” That is all I know.

Representative BERRY. You definitely feel that the tribal organization has not been beneficial?

Mrs. BURGESS. No; I think that according to that patent that you have there, if that had been followed to the letter, it would have never been needed. At one time, before the Wheeler-Howard Act came in there, there was no such thing as a poor Indian; there was no such thing as a needy one; there was no State relief—no welfare of any kind. The Indians were independent—strictly independent—before the opening of the reservation, and after the reservation was opened and the Wheeler-Howard Act became effective, it just seemed to break all incentive for being successful citizens. They just seemed to be held under control and supervision and all desired to go along in the independent way that they formerly had.

Representative BERRY. How much time do you think should be taken in working out the provisions of this bill?

Mrs. BURGESS. Well, I think the bill should be passed as soon as possible.

Representative BERRY. And how much time do you think it would require? Do you think that 2 years would be sufficient time to work out the problems under the bill?

Mrs. BURGESS. Oh, yes. Indeed, it should be.

Representative BERRY. What percent of the eligible voters of the Flathead Tribe do you people represent? How many people feel the same as you do? What percentage of them?

Mrs. BURGESS. Practically everyone that I have talked to, and I have talked to several who said they would like to go along with us, but they were authorized not to.

Representative BERRY. You mean they were afraid not to?

Mrs. BURGESS. That is right.

Representative BERRY. Do you think it would make any difference in the outcome whether the vote was simply those who live on the reservation or those who are enrolled?

Mrs. BURGESS. I think that every enrolled member should have a vote, an equal say, whether they are on the reservation or whether they are off.

Representative BERRY. They all have an equal interest in the property?

Mrs. BURGESS. That is right.

Representative BERRY. That is, the adult members?

Mrs. BURGESS. That is right, the enrolled members, those of voting age.

Representative BERRY. Do you know, Mrs. Voorhies, about the vote on the Wheeler-Howard constitution?

Mrs. VOORHIES. No, just what Mrs. Burgess said, that that was told all over the reservation.

Representative BERRY. That if you didn't vote, it would be counted as a "yes" vote, but you don't know whether that is true or not?

Mrs. VOORHIES. No. But I think it is.

Senator WATKINS. Do you know whether absentee members did vote on the constitution?

Mrs. VOORHIES. No, I don't think they voted. And I think those were the votes that were counted "yes," the absentee votes. At least, that is to my best knowledge.

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Representative D'EWART. I am very glad you ladies were able to come down here and appear today. I think you have made a real contribution to our understanding of what is before us. We were very happy to hear you.

Senator WATKINS. You may be excused, then.

Thank you very much.

At this point the chairman will direct that a letter under date of February 16, 1954, addressed to Hon. J. Hugo Aronson, Governor of the State of Montana, by Paul L. Fickinger, area director, for the Indian Bureau, will be made part of the record.

(The document referred to is as follows:)

BILLINGS AREA OFFICE,
Billings, Mont., February 16, 1954.

HON. J. HUGO ARONSON,
Governor, State of Montana.

MY DEAR GOVERNOR ARONSON: Within the last 3 or 4 days, I have had the privilege of discussing in considerable detail with Mr. Fouse, State director of welfare, and Dr. Renne, president of the Montana State College, various provisions and their effects, if enacted into law, of the pending bill to terminate Federal trusteeship and supervision over the affairs and property of the members of the Confederated Salish and Kootenai Indians of the Flathead Reservation.

There apparently has been a great deal of misinformation circulated relating to the possible effect of the provisions of this bill upon the Indians, State, and counties. One of the great concerns appears to be that the enactment of this bill would mean "dumping" a heavy welfare load on the local counties. This, of course, does not appear to be in accord with the facts.

At the outset, let me say that the members of the Confederated Salish and Kootenai Tribes of the Flathead Reservation are not an improvident people. On the contrary, they have rather valuable resources in which all members of the tribe share equally. One of these resources can be listed as good merchantable timber which at present is being cut on a planned sustained-yield basis. This particular asset we value at something near \$40 million. The members of the tribe collectively also own important power sites, one of which, as you known, has already been developed and is known as the Kerr Dam, for which the tribe currently receives a rental of \$200,000 per annum. We have not made any attempt to evaluate these properties nor some of the other properties that the tribe holds in common but it will amount to several million dollars additional.

Under the provisions of section 5 of the bill, the members of the tribe are given the opportunity to vote by referendum on several methods of handling these tribal assets. For example, should the tribe vote to liquidate these tribal holdings, it would mean that each of the some 4,000 members of the tribe would receive probably somewhere between \$10,000 and \$15,000 as their share of the proceeds of such a sale. On the other hand, should the tribal members determine on an alternative, the management of their tribal resources under a trust-management agreement and on a continued sustained-yield basis for the timber cutting as is now being done, they would realize, after the cost of management was deducted, a substantial annual per capita income.

Illustrative of such an income would be in the case of the timber cutting. It is our very conservative estimate that 15 million board-feet should be cut each year (it is probable that the figure should be nearer to 20 million). A weighted average of the value of the stumpage is \$21.60 a thousand, which would mean a gross income of \$324,000 for timber. Added to this, of course, would be the \$200,000 annual payment from the Montana Power Co. for the Kerr Dam license plus any other income from any other tribal resources that might be developed. These above incomes, of course, would be over and above any income earned by individuals from their own personal businesses or employment. Again, I say emphatically, that these people are not improvident.

Now, let us consider the people themselves. There are approximately 4,200 individuals enrolled as members of the Confederated Salish and Kootenai Tribes of the Flathead Reservation ranging in degree of Indian blood from a little less than 300 fullbloods down to some with very small degree of Indian blood, in some instances, I believe, as low as one sixty-fourth. The present tribal ordinance

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no longer permits enrollment in the tribes where the degree of Indian blood is less than one-fourth.

These 4,200 individuals represent approximately 1,300 families of which one-half no longer reside on the reservation. This one-half, for the most part, do not even reside in the State of Montana, but live in various parts of the United States where they have found homes for themselves as other citizens do throughout the country. Thus, the State of Montana and respective counties have no concern about this group whatsoever. The remaining one-half, or 650 families, generally reside within the exterior boundaries of the reservation. Some of them are farming and ranching, others are gainfully employed in lumber mills, stores, restaurants, construction work, and, in a number of instances, are in business for themselves. A few, just as we find in any other group of people, may not be industrially inclined or may be less fortunate than some of their neighbors.

On the other hand, of these 650 families, there are a sizable group who have in years past been issued patents in fee to their allotments and, as such, are not currently eligible for special aids and assistance from the Federal Government because of being an Indian. Consequently, such individuals are already in the same category as non-Indians. As one of our Justices has stated in connection with a court case involving a fee-patent Indian, "The color line has faded out." You can readily see from this analysis that the situation with reference to the particular counties involved becomes much less complicated than might have appeared without making an analysis of this kind.

Of course, I want particularly to call your attention to section 11 of the bill wherein specific provision is made to properly protect the assets of those individuals who may need such protection through the establishment of private trusteeship or such other means as may prove to be adequate.

I think a little further analysis may be helpful to you and other members of your staff in seeing just what may be involved in the counties in the way of income and outgo by virtue of the enactment of this pending bill. In 1951, we completed a detailed study of Indian real trust property that was not on the tax rolls in the State of Montana and by applying the same yardsticks, county by county, that is applied against non-Indian real property, we arrived at a figure which represented the potential tax income to each county in the event the Indian lands were assessed and placed on the tax rolls. We further developed a breakdown by the various items normally appearing on the tax duplicate in the respective counties. For example, in the case of the four counties involved on the Flathead Reservation, we arrived at the following potential tax figures:

Item	Sanders	Lake	Missoula	Flathead	Total
General ¹	\$8,075	\$9,965	\$2,752	\$589	\$21,381
Roads and bridges.....	6,750	10,871	1,768	261	19,650
Poor (health included).....	4,823	5,073	1,180	337	11,413
Bond (interest and sinking).....	2,049		157		2,206
Fair.....	723	689	177	25	1,614
School (all).....	27,259	36,300	9,505	1,708	74,772
State.....	3,617	5,435	1,474	251	10,777
Airport.....		1,450	393	15	1,858
Weeds.....		797		10	807
Library.....			197	36	233
Total.....	53,296	70,580	17,603	3,232	144,711

¹ County commissioners, county clerk, county treasurer, county auditor, State examiner, county assessor, district court, sheriff, county attorney, justice courts, coroner, elections, board of health, care of prisoners, county superintendent of schools, public administrator, county agency and farm bureau, home demonstration agent, other miscellaneous expense.

From the above, you will note that the total tax potential if only the Indian land that was nontaxable in 1951 was placed on the tax rolls, would amount to nearly \$145,000 in the four counties concerned, most of it going, of course, to Sanders and Lake Counties where the bulk of the Indian population resides. In addition to this potential tax income, the personal property of the Indians is now taxable and will produce, according to our estimates, in the neighborhood of an additional \$30,000. Then, of course, there is the tax potential from sales of timber stumpage. In the event the timber was purchased by the United States Government and added to the forest reserve, I believe the practice is that 25

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percent of the stumpage income reverts to the State, and counties and 10 percent is used within the forest reserves for construction and maintenance of the necessary roads within the forest area.

It has also been held that income of Indians is likewise taxable and this is an added tax resource. From the above, you will note that the tax potential to the respective counties and the State becomes a very material item and is far in excess, as you will note later, of the expenditure by the Federal Government and the tribe for legitimate special types of services that are normally provided other citizens through various county and State agencies.

Let us look at some of these expenditures; first, of the Federal Government. Let us take, for example, the matter of education. The Bureau of Indian Affairs assists the State from public funds through a State education contract to help to meet the cost of education in those districts where qualified Indians attend and where there are bodies of nontaxable Indian land. The proportionate share of the State education contract that was distributed in 1952 to the four counties of the Flathead Reservation, together with the amount of the potential tax income for education purposes if the Indian trust lands were placed on the tax roll, shows up as follows:

County	1952 allowance State contract	Potential tax income	Potential tax income in excess Federal expenditures
Sanders.....	\$8,923.91	\$27,259	\$18,335.09
Lake.....	26,227.11	36,300	10,072.89
Missoula.....	1,353.19	9,505	8,151.81
Flathead.....		1,708	1,708.00
Total.....	36,504.21	74,772	38,267.79

Thus, it will be noted that the potential tax income for educational purposes in the 4 counties concerned, totals \$38,267.79 in excess of the amounts included in the State contract for these 4 counties for education purposes and the counties would benefit materially by having the trust land on the tax rolls. It should be pointed out here that one of the factors involved is that a considerable number of Indian families who do not reside on the reservation or even in the State still own trust land in these counties yet their children are attending schools in other States where they have earned residence and have become a part of their local communities.

Other expenditures on the Flathead Reservation by the Bureau of Indian Affairs from public funds, for example, include some \$47,000 for forest and range management and fire suppression. This is not the kind of an expenditure that the county or State would be required to make because when title to the timber vests in the Indians themselves the cost of management of the forests, if managed by a trust on behalf of the Indians, would be paid for from the proceeds of sales. The same is true also under Federal management because a certain percentage is levied against timber sales which goes back into the Federal Treasury to compensate for the appropriation made by Congress for the management of these trust timber properties. The same situation applies to certain other expenditures by the Federal Government in connection with the management and supervision of the trust properties of the Indians.

There are certain other expenditures that are made by the Federal Government on behalf of Indians that fall in the category of special services. For example, during the current fiscal year, some \$2,600 is spent for foster home care and miscellaneous welfare services on behalf of the reservation resident Indians. Also, something like \$30,000 is being spent for health and hospital services, including a \$5,000 contribution to public health district No. 2 contract. These figures, however, are very materially reduced through the application of charges against individual Indians who can afford to pay for these services and it is expected that such services will be provided only to such Indians in the future as may be determined to be indigent and unable to pay for their own hospitalization. It is assumed that the counties would apply this same principle in the event of the passage of this bill.

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Now, in connection with certain expenditures that are being made from tribal funds by the tribal council, we find that the tribe is spending funds for items such as the following:

Hot lunches for schoolchildren-----	\$2, 000
Relief-----	3, 000
Hospitalization-----	50, 000
School tuition-----	6, 480
Burial-----	4, 500

and something in the neighborhood of \$13,000 for law and order purposes. Certain other expenditures are, of course, also being made from tribal funds but they do not involve community services, but, rather, involve matters of tribal resources management, such as, land and leasing work, and tribal government which includes the salary and expenses of tribal officers and tribal committees, etc., all of which, of course, would have nothing to do with any county responsibilities.

But let us analyze briefly the expenditures for the community services mentioned above. In the case of hot lunches for schoolchildren, we have insisted that we will pay for the hot lunches for only those Indian children who qualify and in those instances where their parents are unable to pay for the school lunch. Such determinations are to be made in the same manner and by the same individuals determining the indigency of non-Indian children. The tribal council, however, has immediately stepped in and decided to provide sufficient tribal funds to take care of the lunches of those children whom we have cut off the rolls. Thus, such a tribal expenditure is wholly unnecessary and could not be considered as a need that the counties would be expected to meet.

In the case of the \$3,000 expenditure from tribal funds for relief, assuming that this may be a fully legitimate expenditure and the needs of the individuals are properly certified by competent welfare workers, it should be pointed out from the earlier table that the tax potential to the counties for welfare would amount to \$11,413.

In the case of the \$50,000 for hospitalization, this represents a contract that the tribe has executed with the Catholic Mission Hospital. In this instance, however, the \$50,000 contract is not restricted in any way to those individuals who are unable to pay for their own hospitalization. It is a blanket contract and open to all members of the Flathead Tribe who reside on the reservation. Thus, we have the spectacle of one member of the Flathead Tribe who is worth \$250,000 lying in a bed in the hospital alongside another member of the tribe who may really need financial assistance for hospitalization. It is our insistence that individual Indians who can pay for their own hospitalization should do so and not be paid for from tribal funds that belong to all of the members of the tribe.

In the case of the \$6,480 for school tuition, this represents a contract that the tribe has made with the Ursaline Mission School at St. Ignatius. Here, again, little attention has been paid to requirements. For example, there are some 32 Indian children from the Flathead Reservation who are covered under this particular contract. Every individual in this group in January of this year received a \$200 per capita payment, consequently, were financially able to pay their own cost at the mission if any payment is necessary, and it is our program that where individuals are able to pay, they should pay and not be using funds that belong to all members of the Flathead Tribes for a small handful of people. Exactly the same principle applies in the case of the \$1,080 for care in the Home of the Good Shepherd.

In the case of the \$4,500 for burial purposes, the tribal council simply makes available this amount of money from tribal funds to be used as an allowance of \$100 per capita whenever there is a death occurring in the family of a member of the Flathead Tribe, without regard to whether or not there is any need on the part of the family for such financial assistance.

The matter of maintaining law and order on the reservation would, of course, become a responsibility of the respective counties and the State in the event this bill becomes law, but, here again, the potential income for these purposes to the respective counties and the State would exceed the amount now being expended by the tribal council for such purposes.

I realize that this has been a rather lengthy letter. I had hoped before leaving for Washington in connection with the hearings before the Congress on the pending bill, that I could have had an opportunity, as we have discussed on several

occasions, to meet with you and your department heads for a full discussion and explanation of some of the facts involved in the situation. I am hopeful that you will find time to read this and analyze it in some detail and that perhaps it will serve the purpose for you until such time as we can get together for a detailed discussion.

I am taking the liberty of sending a copy of this letter to Mr. Fouse and to Dr. Renne in view of the fact that I have, as explained earlier, had some discussion with them along this line and I trust that you do not mind my doing so.

With best of personal regards.

Sincerely yours,

PAUL L. FICKINGER, *Area Director.*

Senator WATKINS. Mr. Lazarus, we have assured you that you could have an opportunity to present the views of yourself and your organization on this matter.

You are a resident here in Washington, aren't you?

STATEMENT OF ARTHUR LAZARUS, COUNSEL, ASSOCIATION ON AMERICAN INDIAN AFFAIRS, WASHINGTON, D. C.

Mr. LAZARUS. Yes, I am, Senator.

Senator WATKINS. You can see very clearly that we are running way over the time schedule. Would you prefer to make a short statement now or have the opportunity to come before the committee at some future time and finish up the matter as far as your statement is concerned?

Mr. LAZARUS. Either one that is agreeable to you. I am perfectly agreeable to come back or perfectly willing to make a short statement now.

Senator WATKINS. How long would you take now?

Mr. LAZARUS. I have prepared this analysis of the bill, which I believe has already been made part of the record. So right now, I would just like to take up, I think, four points. These are really technical legal points, and I would just like to call them to the attention of the committee. And that, together with the written presentation, I believe will be sufficient, unless you wish to question me further on the other points brought up.

Senator WATKINS. You may go ahead then. How long will it take? Ten or 15 minutes?

Mr. LAZARUS. No more than that, Senator.

Senator WATKINS. All right. Proceed.

Mr. LAZARUS. The first thing I want to say is that I am testifying here today just on the actual provisions of S. 2750 and H. R. 3719, looking toward making certain amendments so that the provisions of the bill would be in line with what I believe is the intention of the committee. I am just restricting myself today to those four points, which I believe will carry out the purposes of the committee which you have already stated.

The first of these deals with the problem of giving the tribe an option; that is, section 5 (a). It has been stated by the Bureau, and I believe it is the intention of the committee, that the tribes' wishes, in forming a corporation, a legal entity, or transferring property to trustees, under section 5 (a) should be the decision of the Flathead Tribe.

I would like to call your attention to the language of the bill itself, and that is, in section 5 (a), that the Secretary of the Interior is au-

thorized to transfer the property to a corporation or other legal entity organized in a form satisfactory to the Secretary, or to trustees approved by the Secretary.

Section 5 (b), which deals with the alternatives, says that the Secretary of the Interior is directed to take certain action.

Now, I believe that language difference, the difference between "authorized" and "is directed" leaves the implication that the Secretary of the Interior need not make the transfer under section 5 (a) if he does not in his discretion see fit. I call your attention to that, because you do have this verbal distinction, which I think becomes important when you get to a legal analysis.

In addition to that, you have the two clauses, one "satisfactory to the Secretary," and the other "approved by the Secretary."

Now, with regard to trustees, it would be the opinion of the association that if the association qualifies under State law, that should be sufficient, that the object of this, the basic premise upon which this is based, is that the tribe is capable of picking their own people. And that would just remove the supervisory power of the Secretary as long as the trustee is qualified under State law.

With regard to the provision of a corporation satisfactory to the Secretary, I should think that a corporation which met with the requirements of State law would be sufficient, without having the Secretary have what is tantamount, under the language of section 5 (a), to an absolute veto power over what the Indians are trying to do.

Representative D'EWART. Would you yield for a question?

Would it be your view that if a trustee who was qualified under State law was chosen and then failed in his trust, the Federal Government would then be liable?

Mr. LAZARUS. I would imagine not, under such a situation. Now, this is assuming that all of the other things under the bill take place.

Representative D'EWART. That is correct. I am perfectly willing to assume everything else is all right. But that question is raised in my mind. Of course, that approval of the Secretary is to protect him from suit after a while because of the failure on the part of the trustee to act as he should?

Mr. LAZARUS. That will lead into one of the next points that I am going to make, Congressman.

But, just to get back, my primary point here is that there is no mandatory obligation on the part of the Secretary within the 2-year period to transfer the property, and that just to conform to the intent of Congress on his thing, I think, it should be made clear that it is a mandatory requirement.

The second point that I would like to bring up deals with the question of treaty rights under the proposed bill.

Now, I understand there was some discussion on that yesterday morning, at a time when I was not present at the hearings. But I would like to call the attention of the committee to article 3 of the treaty of July 16, 1855, which was signed by the Flathead Indians in the United States. That treaty guarantees the members of the Flathead Tribe certain fishing, hunting, grazing, and other rights both within and without their reservation.

In the case of Samson Toole against the State of Washington, a comparable provision was held by the Supreme Court to prohibit the

State of Washington from exacting a license from a member, I believe, of the Yakima Tribe. I am not positive of that, but the provision in the treaty was the same.

In the case of the State of Idaho against David Arthur, it has just been held with respect to a comparable provision in the Nez Perce treaty that this meant that a member of the Nez Perce Tribe outside of his reservation within a national forest, I believe, did not have to conform to State conservation laws.

Now, these are vested rights given to the members of the tribes under the treaty.

As I read sections 14 and 20 of the bill as now phrased, that right would disappear. The exact provision, if you will give me a minute to find it—

Senator WATKINS. I think we will have the full treaty in the record.

Mr. LAZARUS. I am talking now about the provision in the bill which says that the laws of the several States—

shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

Now, it seems to me that this provision would abrogate the special right that the Flathead Indians have under their 1855 treaty, which has been consistently held in the courts to be a valid vested right.

Do you have any questions on that?

Representative D'EWART. No. I recognize that that is rather a tough proposition to handle. It should probably be negotiated before a final decision is made.

Mr. LAZARUS. That is right.

The third legal point that I would like to make here—and again I say I am just concentrating at this point upon particular legal provisions in the bill—is that section 17 of the pending bills declare that nothing in the proposed legislation shall—

affect any claim heretofore filed against the United States by the tribe.

Now, the claims that I believe the Flathead Tribe has filed are all before the Indian Claims Commission, and they deal with wrongs that were committed prior to August 13, 1946.

Under the same act, the Indian Claims Commission Act, section 24 to be specific, the tribe has the right to sue in the Court of Claims for all wrongs occurring after August 13, 1946.

Now, this reference to claims heretofore filed, in section 17 of the proposed bill, together with section 20, which declares that all acts inconsistent with this act are hereby repealed, I believe would take away the right of the tribe to sue on a wrong committed after 1946 for which no claim has as yet been filed.

It might also be interpreted to take away that same right with regard to any wrong done the United States after passage of this bill, yet prior to the termination date, which gets back to your point about the trustees, Congressman D'Ewart.

So the representatives of the Indian Bureau have testified here that it was not the intention of the Department to take away this right for filing claims after 1946, but it is our belief that the bill should be amended to make that very clear.

The fourth point I would like to take up at this time deals with the preparation of the tribal roll. There has been a considerable amount

of discussion on that so far, so I will not burden you with repeating what has gone before. But there is one thing that, at least while I have been here, has not been brought out, and that is that there is no appeal from the Secretary's decision. Under section 3, the Secretary's decision as to inclusion or exclusion from the tribal roll is deemed final and conclusive.

Now, the committee has mentioned, on repeated occasions, that there is a property right involved here. Specifically, section 4 says that the rights and interests in tribal property are a tribal right. Now, it is our belief that if a property right is involved, there should be an appeal to the courts, as is provided, I might add, in the Menominee bill, for protesting or contesting the inclusion or exclusion of any individual from the tribal roll.

I might say that that right to appeal might be given to individuals. It might also be given to the tribe. Because if one individual is included, to the extent that he is included, it takes away a certain amount of rights of every single other member of the tribe, so that in such a situation the tribe might be deemed a representative of all its members. But I think there, in this situation, you were dealing, as the committee has said, with property rights, there should be an appeal to the courts, where there is a possibility that some person or group of persons may be deprived of such rights.

Senator WATKINS. You heard the statement this morning that we would be wrong if we so indicated that it was a property right? The appeal opinion has been to the contrary, as it was given to us today. But no matter how that may be resolved, it will all be considered by the committee.

Mr. LAZARUS. I might say that one other factor, on the preparation of the tribal roll, is that there are no standards set down, as I see it, in the bill, to control the, shall we say, discretion of the Secretary to add or take off names in the event that an appeal is brought, and it would be the feeling of the association that the Secretary, in taking such action, should abide by the rules laid down by the tribe. Under their constitution they have the right to make rules as to membership. And that the Secretary's power, shall we say, shall be limited to a factual determination, whether an individual falls within the general classification laid down by the tribe, but not that the Secretary have power to put on the rolls people that the tribe has determined should not be on the roll, or take off from the roll people the tribe has determined should be on; and also that the tribe should have a voice in consideration of such matters.

Now, you have my statement, and I have a good number of other legal points brought up in there, but you have been very gracious in giving me your time today.

If, upon review of the record, there are any questions that you would like to ask me, I am available here in Washington at all times to answer such questions.

Senator WATKINS. Thank you very much.

That concludes the schedule of witnesses who have been interested.

We had a request from the National Congress of American Indians to submit their resolutions.

We will be glad to receive those Monday, when we meet to begin the hearings on still another bill.

We will allow them, also, to have 10 minutes in which to present a short oral statement on the resolution.

Congressman D'Ewart has a statement to make.

Representative D'EWART. Mr. Chairman, I would like to say that overall I think this has been one of the finest Indian hearings that I have attended, and I have served on the Indian Affairs Committee for nearly 10 years.

The witnesses have been, for the tribe, the Department, and those who appeared in their behalf, most cooperative. I think the information this committee has gained during the course of this hearing will be most helpful, and I hope that those Indians who have listened in, and others, to the presentations that have been made over the last 2 days have found very much that will be worthwhile, that they can take home to their reservations, as an explanation of this proposed legislation, and also with regard to Indian law.

I feel this has been a very fine hearing, and I wish to compliment the members of the tribe, the members of the Department, and the ladies that appeared here, for the fine statements that have been made all the way through. I know I have heard a lot. I know you of the audience also have learned and have gained because of this hearing.

Senator WATKINS. May I say as chairman of the Senate subcommittee, that it has been a great pleasure to have the House Member join with us in this joint hearing. Congressman D'Ewart has been connected with Indian work I know as long as I have been here, and that is a little over 7 years. He has given a great deal of time and attention to studying the problems, has been very sympathetic, and I am sure you people from Montana regard him as a real friend. At times we disagree on methods, but the objective, after all, is to bring about the greatest development for the American Indian. I don't think anybody can quarrel with the objectives. The methods may be open to dispute. Someone will think his or her method is better than someone else's. However, in the good old American way, we sit and listen. We have the witnesses come in. They clash sometimes. We have the clash of opinions. Then we finally evolve some kind of legislation if any is indicated at all.

We are acting under the direction of the Congress, passed unanimously, to move in this direction, whether we wanted to or not, if we wanted to discharge our duty. I mean, whether we had any personal aims to solve or to further or not, we at least have a duty to perform in accordance with the resolution adopted by the Congress.

Thank you all for coming. You have been very considerate and very fair, and we hope eventually to get some kind of a report to the Congress, and we will determine then, when the report is made to the full committees of both Houses, just what kind of legislation will be reported out, if any.

Thank you very much.

Mr. TUNISON. Mr. Chairman, before you adjourn, may I ask if this concludes the hearings, then?

Senator WATKINS. Except for the short statement from the National Congress of Indians. We gave them 10 minutes on Monday morning for the resolutions which they wanted to introduce.

Mr. TUNISON. Would it be proper for me, as attorney for the tribe, to at this time formally enter my request in the record that the committee please advise me of any action it takes on these bills?

Senator WATKINS. If that is the desire of your clients, that you be notified directly, we will do that.

Mr. TUNISON. Thank you, sir.

Senator WATKINS. And I will ask the committee secretary and the staff members of both committees to keep that in mind.

Mr. TUNISON. Thank you, Senator.

Senator WATKINS. Thank you.

The committee will now be in recess until Monday morning at 10 o'clock.

I think we will meet in this room.

(Whereupon, at 1:55 p. m., the hearing was recessed until 10 a. m., Monday, March 1, 1954.)

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