

with the requirements of the bill. The uncertainty that such a provision could create in the minds of persons wishing to adopt children might make them reluctant to become adoptive parents.

Mr. Chairman, we do wish to point out that the Department is supportive of section 102(a) of the bill, which gives tribal courts jurisdiction over child placement matters affecting Indian children who reside on a reservation. However, we do not support section 102(c), which extends this coverage to children who do not reside on a reservation. The Department is also generally supportive of the provisions that require that notice of a child placement proceeding in State courts be provided to the family and tribe of the child.

Mr. RONCALIO [presiding]. Why do you feel that way, because of the basic jurisdiction of the court itself?

Dr. CARDENAS. Absolutely.

The Department feels that the goals of S. 1214 are laudable, but we continue to believe that we have an obligation to see them achieved within the framework of existing programs.

We realize that such a posture places major responsibility with us, to see that we are more effective in the administration of existing programs, and that services in fact serve Indian children and their families.

We have been grateful for the cooperative spirit shown by the staffs of both the House and Senate subcommittees in working with us as they developed this legislation. We hope that spirit of cooperation will continue—whether in the context of this legislation or existing programs—to insure that the needs of Indian children and their families will, indeed, be met.

That concludes my testimony, Mr. Chairman.

Mr. RONCALIO. That is a very good statement. I commend you on it. Do you have questions, Mr. Runnels?

Mr. RUNNELS. Thank you, Mr. Chairman.

Dr. Cardenas, let me make sure I understand. In your testimony you are against enactment of this bill as presently written?

Dr. CARDENAS. That is right.

Mr. RUNNELS. First, in your opinion, the bill would seem to move in the direction of separate social services for Indians?

Dr. CARDENAS. That is correct.

Mr. RUNNELS. Second, I think you say that you have a concern because there is a match between the capability of Indian tribes and the organization to administer the bill?

Dr. CARDENAS. If I could clarify that, sir, we are not in the business of blaming, but we do think we do need to put in place a number of efforts, and we have put in place a number of efforts to, in fact, improve and enhance the capability of Indian tribes and the organizations to administer such a program, and we hope to carry on those efforts.

Mr. RUNNELS. Third, the Department has a concern because you think it is unconstitutional with respect to Indians living off the reservation.

Dr. CARDENAS. We have been advised on that, and I am not a constitutional lawyer, but we understand an opinion is being sought on that issue.

Mr. RUNNELS. Is it your opinion that, working with the subcommittee and the staffs, a more adequate situation could be developed, rather than the enactment of this bill?

Dr. CARDENAS. Absolutely, sir, and we would want to insure that by a number of procedures, and the programs we now have in place as well, that we can progress.

Mr. RUNNELS. You will submit your recommendations to the committee in writing?

Dr. CARDENAS. Yes.

[Editor's note.—When received, the information will be placed in the committee's files.]

Mr. RUNNELS. Thank you, Mr. Chairman.

Mr. RONCALIO. The gentleman from Colorado.

Mr. JOHNSON. No questions.

Mr. RONCALIO. I have a profound respect for my counterpart in the Senate, Jim Abourezk, and, if we depart from what he thinks is a good bill, the burden of proof will be of those who want the change.

So if you and the BIA people want changes in the text, I will look forward to receiving them, but I think the burden of proof will rest on you folks who want the changes made.

That is only my opinion, however, and not the committee's.

Then the observation that the tribes may not have the capacity for administering the services, they are surely getting basic appropriations annually for foster care and family development.

Each of the tribes under the 1977 appropriations bill is getting some money.

We thank you very, very much.

Dr. CARDENAS. Thank you.

Mr. RONCALIO. Does the staff have questions?

Mr. TAYLOR. Yes.

I understand, Dr. Cardenas, that you are willing to work with the Bureau of Indian Affairs and the staffs of the House and Senate committees to develop this further?

Dr. CARDENAS. We look forward to continuing to work with the staffs of both committees and the BIA.

Mr. TAYLOR. I have no further questions.

Mr. RONCALIO. Thank you very much.

Dr. CARDENAS. Thank you, Mr. Chairman.

Mr. RONCALIO. The next panel will be Chief Calvin Isaac, Mississippi Band of Choctaws.

Are you here, sir?

Chief ISAAC. Yes; I am here, sir.

Mr. RONCALIO. Goldie Denny, director of social services, Quinault Nation, for the National Congress of American Indians.

And LeRoy Wilder, attorney, with the firm of Fried, Frank, Harris, Shriver & Kampelman.

Since I am leaving Congress at the end of the year I have been looking at the names of law firms.

[Laughter.]

Mr. RONCALIO. We look forward with more than ordinary interest in what you three have to say about this legislation that is before us.

You may proceed any way you would like, introduce your statements verbatim and comment on them, or any way you would like.

[Prepared statement of Calvin Isaac may be found in the appendix.]

**PANEL CONSISTING OF: CHIEF CALVIN ISAAC, MISSISSIPPI BAND OF CHOCTAW INDIANS, REPRESENTING NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION; GOLDIE DENNY, DIRECTOR OF SOCIAL SERVICES, QUINAULT NATION, REPRESENTING NATIONAL CONGRESS OF AMERICAN INDIANS; AND LeROY WILDER, ATTORNEY, REPRESENTING ASSOCIATION OF AMERICAN INDIAN AFFAIRS**

Chief ISAAC. Mr. Chairman and members of the committee, I am Calvin Isaac, tribal chief of the Mississippi Band of Choctaw Indians and a member of the National Tribal Chairmen's Association. Thank you for asking NTCA to appear before you today.

I testified before the Senate Select Committee on Indian Affairs last year on the importance to the Indian tribal future of Federal support for tribally controlled educational programs and institutions. I do not wish to amend anything I said then, but I do want to say that the issue we address today is even more basic than education in many ways.

If Indian communities continue to lose their children to the general society through adoptive and foster care placements at the alarming rates of the recent past, if Indian families continue to be disrespected and their parental capacities challenged by non-Indian social agencies as vigorously as they have in the past, then education, the tribe, Indian culture have little meaning or future.

This is why NTCA supports S. 1214, the Indian Child Welfare Act.

Our concern is the threat to traditional Indian culture which lies in the incredibly insensitive and oftentimes hostile removal of Indian children from their homes and their placement in non-Indian settings under color of State and Federal authority.

I shall now move to page 4 of our written testimony, the second paragraph.

Mr. RONCALIO. All right.

Chief ISAAC. The ultimate responsibility for child welfare rests with the parents and we would not support legislation which interfered with that basic relationship. What we are taking about here is the situation where government, primarily the State government, has moved to intervene in family relationships. S. 1214 will put governmental responsibility for the welfare of our children where it belongs and where it can most effectively be exercised, that is, with the Indian tribes. NTCA believes that the emphasis of any Federal child welfare program should be on the development of tribal alternatives to present practices of severing family and cultural relationships.

The jurisdictional problems addressed by this bill are difficult, and we think it wise to encourage the development of good working relationships in this area between the tribes and nontribal governments whether through legislation, regulation, or tribal action. We would not want to create a situation in which the anguish of children and

parents are prolonged by jurisdictional fights. This is an area in which the child's welfare must be primary.

The proposed legislation provides for the determination of child placements by tribal courts where they exist and have jurisdiction. We would suggest, however, that section 101 of the bill be amended to provide specifically for retrocession at tribal option of any preexisting tribal jurisdiction over child welfare and domestic relations which may have been granted the States under the authority of Public Law 280.

Mr. RONCALIO. May I ask a question about that, sir?

Chief ISAAC. Yes, sir.

Mr. RONCALIO. The reason I have to ask it is that I do not know the meaning of the word "retrocession."

Does that mean going back to rewrite a court order giving temporary custody of a child?

Mr. WILDER. If I may clarify that, we are requesting an affirmative jurisdiction to States, by virtue of Public Law 280, we are allowing the tribes to go back and retrocess that.

Mr. RONCALIO. Would you draft language on that?

Mr. WILDER. That is in the bill.

Mr. RONCALIO. You are suggesting that section 101 be amended to provide this. So obviously it is not in the bill now. Or something is wrong.

Mr. WILDER. I am sorry, Mr. Chairman, I was not paying close enough attention. Strike what I said.

Mr. RONCALIO. All right.

Go ahead.

Chief ISAAC. The bill would accord tribes certain rights to receive notice and to intervene in placement proceedings where the tribal court does not have jurisdiction or where there is no tribal court. We believe the tribe should receive notice in all such cases but where the child is neither a resident nor domiciliary of the reservation, intervention should require the consent of the natural parents or the blood relative in whose custody the child has been left by the natural parents. It seems there is a great potential in the provisions of section 101(c) for infringing parental wishes and rights.

There will also be difficulty in determining the jurisdiction where the only ground is the child's eligibility for tribal membership. If this criterion is to be employed, there should be a further required showing of close family ties to the reservation. We do not want to introduce needless uncertainty into legal proceedings in matters of domestic relations.

There are several points with regard to placement proceedings on which we would like to comment. Tribal law, custom, and values should be allowed to preempt State or Federal standards where possible. Thus, we underscore our support for the provision in section 104(d) that the section is not to apply where the tribe has enacted its own law governing private placements. Similarly, the provision in section 102(b) stating that the standards to be applied in any proceeding under the act shall be the standards of the Indian community is important and should be clarified and strengthened.

The determination of prevailing community standards can be made by a tribal court where the court has jurisdiction. Where the tribal

court is not directly involved, the bill should make clear that the tribe has the right as an intervenor to present evidence of community standards. For cases in which the tribe does not intervene reasonable provisions could be devised requiring a nontribal court to certify questions of community standards to tribal courts or other institutions for their determination.

The presumption that parental consent to adoption is involuntary if given within 90 days of the birth of the child should be modified to provide an exception in the case of rape, incest, or illegitimacy. There appears to be no good reason to prolong the mother's trauma in such situations.

Section 103 establishes child placement preferences for nontribal agencies. Most importantly, the bill permits the tribe to modify the order of preference or add or delete categories. We believe the tribes should also be able to amend the language of the existing preferences as written. The bill should state more clearly that nontribal agencies are obliged to apply the tribally determined preferences.

The references in section 103 to "extended Indian family" should be amended to delete the word "Indian." The scope of the extended family should be determined in accord with tribal custom but placement should not be limited only to Indian relatives.

S. 1214 provides that upon reaching the age of 18, an Indian adoptive child shall have the right to know the names and last known address of his parents and siblings who have reached the age of 18, and their tribal affiliation. The bill also gives the child the right to learn the grounds for severance of his or her family relations. This provision should be deleted. There is no good cause to be served by revealing to an adoptive child the grounds for the severance of the family relationship, and it is bad social practice. This revelation could lead to possible violence, legal action, and traumatic experiences for both the adoptive child and his adoptive and natural family.

Mr. RONCALIO. You do not object to the right to find out who his siblings and parents are?

Chief ISAAC. We do not object to that part.

Mr. RONCALIO. I agree with you 100 percent.

Chief ISAAC. Further, we do not believe it is good practice to give the adoptive child the right to learn the identity of siblings. This could result in unwarranted intrusion upon their rights and disruption of established social situations. In general, we recommend that the rights provided in section 104 not be granted absolutely, but rather that individual tribes be permitted to legislate on this question in accord with their custom.

Mr. RONCALIO. That is awfully difficult to do in a national law governing all the tribes. We will surely take a look at it and see what we can come up with, though.

Was this exactly the same statement you gave on the Senate side on the same legislation?

Chief ISAAC. Yes, sir.

Mr. RUNNELS. I believe I was informed that this has been deleted on the bill. His testimony was evidently prepared on an old copy.

Mr. RONCALIO. That is not in the Senate bill now?

Ms. MARKS. No; that has been deleted, and section 280 has been added to the bill.

Mr. RUNNELS. I wanted to clarify the record.

Excuse me, Mr. Chairman.

Mr. RONCALIO. I am happy to be straightened out.

Chief ISAAC. I think these are the major points we wanted to emphasize; and that would conclude our testimony.

Mr. RONCALIO. Thank you.

Do any of the rest of you have anything to add?

You have a separate statement? Fine.

Mr. JACKSON. Mr. Chairman.

Mr. RONCALIO. Yes, Mr. Jackson.

Mr. JACKSON. Mr. Isaac, on page 7 of your testimony, in the third paragraph, it seems like you have two statements which are contradictory.

The first says: "S. 1214 provides that upon reaching the age of 18, an Indian adoptive child shall have the right"—excuse me. I misread your testimony.

Mr. TAYLOR. That is the section in the existing bill that was changed so it now reads that the child shall be able to obtain the information necessary to assert his tribal affiliation, and in the section-by-section analysis it is pointed out that, if the information supplied by the court, short of the names and addresses of the natural parents, are not sufficient to qualify him, then he would be entitled to return to the court and seek that information.

Mr. RONCALIO. But not the information on the basis of the separation?

Mr. TAYLOR. No.

Mr. RONCALIO. So the objections you have, have been met in the Senate bill.

Ms. DENNY. Mr. Chairman and members of the committee, my name is Goldie Denny.

Let me first speak for the National Congress of American Indians, and then I will follow that as a person who is out in the real world as director of social services on the Indian reservation of the Quinault Tribe in the State of Washington.

Honorable members of the committee, the National Congress of American Indians, representing 141 tribes throughout the United States, thanks you for this opportunity to testify on S. 1214.

At the 1977 convention of the NCAI held in Dallas, Tex., the general assembly voted unanimously to continue to support this very important and long-overdue piece of legislation along with a few recommendations which will be included at the end of this statement.

It has been just over 3 years since the Senate held oversight hearings on Indian child welfare in December 1974. It has taken that long to get to the important phase of rectifying the numerous situations which have created the shameful destruction of Indian families in the past and which continue to the present time.

There are no viable alternatives to the passage of S. 1214 to remedy the current situation. No practical actions of any relevance have been taken by any Federal or State agencies or court systems to alleviate the socially undesirable practices identified in the 1974 Senate Indian child welfare oversight hearings.

S. 3777 introduced in 1976, and further documented by the American Policy Review Commission report, AIPRC, studies conducted

by the Department of Health, Education, and Welfare and the Denver Research Institute have consistently demonstrated the necessity for legislative action to halt the wholesale abduction of Indian children from their family and culture. There can remain no doubt in anyone's mind that these practices have had destructive effects on Indian family and tribal life. As long as the status quo remains, Indian families will continue to lose children.

Because of the unique legal trust status relationship that exists between Indian tribes and the Federal Government, it is the responsibility of this committee to support the legislative protection set forth in S. 1214.

Public and private agencies who now have the responsibility of providing child welfare services to Indian families have been content to allow these well documented and identified negative services to continue. S. 1214 addresses remedies to the fact that the Bureau of Indian Affairs has grossly neglected their responsibility in the preservation of Indian families. The BIA has done nothing to improve or change the problems testified to in 1974 and continue to promote the theory of acculturation and assimilation.

Every member tribe of the NCAI has had an opportunity to study and comment on S. 1214. Indian tribes have worked hard to promote this type of legislation. The BIA has repeatedly demonstrated that they can do little but choose to misinterpret the bill and cloud the issues with bureaucratic blockades. Indian self-determination is a concept that is a threat to the BIA. Their repeated resistance to this legislation is a clear example of the irresponsibility of that agency to act within the best interest of Indian families. Until such time that the BIA can demonstrate some responsible and sincere concern for the welfare of Indian children, the NCAI requests that this House committee listen to the Indian people's testimony rather than our "trustee" who has little or no real knowledge of the problem.

General child welfare legislation, no matter how well meaning, does not address the unique legal, cultural status of Indian people. Rather, they tend to promulgate the existing problems. One of the major barriers is the present funding mechanisms which allow direct funding to States only for provision of service to Indians. Very few services are actually delivered to Indian people and the negative child welfare services provided by State and county welfare workers have resulted in the problems outlined in this bill. The NCAI continues to go on record as supporting the concept that child welfare services to Indian families can best be provided by Indians.

We are aware that some Members of the House of Representatives are presently challenging the rights of tribal governments and treaty rights which have been part and parcel of the U.S. Constitution, and as such are sacred rights. However, we are asking that House committee members today put aside any negative philosophical and political considerations that may exist and concentrate on the basic intent of S. 1214 which is to remedy the destructive practices that have resulted in the breakdown of many Indian families.

We ask that you demonstrate your concern and compassion for children and families by supporting S. 1214. We ask that you make the future welfare of Indian children your paramount consideration in making your decision.

In conclusion, the fate of a relevant and practical solution to the damage being done to Indian children and their families is in the hands of the House of Representatives. We sincerely ask that you pass S. 1214 for which Indian people will be extremely appreciative. Your demonstrated respect for our children and family life will strengthen our faith in our Government's responsibility toward Indian children and families in particular, and in fact all children and families in the United States.

We offer these final specific recommendations. This is the concern we have of confidentiality. In the event a mother living off the reservation should desire that her tribe not be notified of her adoption plan, she should be able to petition a court to have the notification clause nullified. The court after hearing her case could rule on the basis of her testimony. However, there should be developed a method whereby the agency placing the child would be bound to the placement standards outlined in S. 1214. Some sort of monitoring system would necessarily have to be developed. This would protect the rights of the mother and the child. Perhaps we could explore confidential enrollment procedures. Could be a tribal option, et cetera.

The NCAI thanks you for listening to our testimony and will be happy to answer any questions you may have.

Mr. RONCALIO. We thank you for coming and giving us your testimony.

Has the BIA discussed this bill with the NCAI Child Welfare Committee?

Ms. DENNY. They have never approached us at any time to ask the opinions of the 141 tribes in the United States about this bill.

Mr. RONCALIO. I would say the two of you are not in other than what you might call polarized positions.

Is that a pretty good description?

Ms. DENNY. Yes.

I think in their statement they say they are going to rewrite this bill. At the Senate hearings, they promised to sit down with members of the NCAI and other Indian representatives and get some Indian input or some amendments to Senate bill 1928 at that time, and we had them prepared so that there would be something addressing the special status of Indian children.

They have failed to contact anybody or sit down and do anything about that particular piece of legislation, and their promise to rewrite this bill, I have no confidence in the Bureau's ability to write anything or draft anything that makes any sense, and I refer you to page 2 of their testimony. The part that says, "We are assuming, however, that the Indian child is a person under 19 who is an Indian rather than a child of an Indian."

I may be a dumb Indian, but I sure as hell don't know what that means.

[Laughter.]

Ms. DENNY. Mr. Chairman, I would like to talk as director of social services of the Quinault Nation, State of Washington.

I gave testimony at the Senate hearings citing the Quinault Tribe as a tribe that has been able in isolation to do the very things that are outlined in this bill.

Mr. RONCALIO. Why do you not let us hear Mr. Wilder's statement first and complete the panel and come back to you.

Ms. DENNY. All right.

Mr. RONCALIO. We may have to go to the floor, too.

Mr. WILDER. Thank you, Mr. Chairman.

Mr. RONCALIO. You can have your statement put in the record and comment on it.

Mr. WILDER. Yes; I am going to summarize my statement.

I will speak without the aid of the microphone. I feel strongly enough about this bill to speak loudly.

Mr. Chairman, members of the committee, my name is LeRoy Wilder. I am an associate attorney of the law firm Fried, Frank, Harris, Shriver, & Kampelman in Washington, D.C. I wanted to get that name.

Mr. RONCALIO. Yes. And would you let Sargent Shriver know that I could not answer his phone call because I am here in a hearing?

Mr. WILDER. Yes. [Laughter.]

I am here today to present testimony in support of S. 1214 on behalf of the Association on American Indian Affairs, for which our law firm serves as general counsel. The association has worked extremely hard over the years to prevent the unwarranted breakup of Indian families and to bring into existence a law to protect the welfare of Indian children.

I would like to acknowledge in the hearing room Mr. Bill Beiler and Mr. Bertram Hirsch, people who have worked hard on this bill.

Before joining Fried, Frank, I was in practice in California and retained by the association to represent Indian families fighting attempts by nontribal agencies to remove their children. I am a member of the Karuk Tribe of California Indians and was raised in my ancestral homeland. I believe that I am qualified to speak in support of this bill on behalf of the association specifically and Indian families generally.

The need is unquestionable for an Indian child welfare bill such as that passed by the Senate last November and which is now before you. The Association on American Indian Affairs revealed to the Senate during oversight hearings in 1974 that an alarmingly high percentage, in some areas as high as 35 percent, of Indian children were being separated from their natural families through the actions of nontribal agencies.

In States where figures are available the association has found that adoptive and foster placement of Indian children occurs at rates up to 19 times greater than rates for non-Indian children. These placements, for the most part, are made into non-Indian homes.

The breakup of Indian families has been exacerbated by the absence of local day schools in many Indian communities and on many Indian reservations. Without convenient facilities available to them, many Indian families are forced to send their children to boarding schools.

On the Navajo Reservation, for example, nearly all of the grade school children are attending BIA schools. Of these, 94 percent must attend boarding schools. I urge each of you to read the article entitled, "Kid Catching," which is appended to this statement. It conveys the

sense of loss Indian families suffer as the result of the lack of day schools in their communities.

I might point out that this is not to say that in all cases BIA boarding schools are bad and that they should all be abolished. What we are saying, however, is that adequate day facilities should not be denied Indian families on the basis that BIA boarding schools are available.

Title IV, I believe it is, of the bill has provisions to eradicate this evil.

Apart from the statistics which graphically support the need for this bill, the association is able to state categorically that the abuses this legislation is intended to prevent have occurred longer and more often than any statistical data may show. The association's long involvement with numerous desperate families seeking to be reunited with lost children, parents and siblings, has revealed a frightening, pervasive pattern of the destruction of Indian families in every part of this country.

We believe strongly that the bill before you, with some minor modifications, is a logical, comprehensive and humane approach to eliminating this tragic state of affairs. Moreover, we believe that if Congress fails to confront this demonstrated evil with this kind of strong remedial legislation, it will have not fulfilled its obligation to the Indian people. This bill deserves your utmost attention.

We have heard a number of objections to this bill about assumptions on what the bill will do. Those are erroneous.

I would like to go through them:

It will not infringe on States rights. The bill will, however, serve to clarify within the limits of present law jurisdictional divisions between State and tribal authorities. Moreover, it will force State courts to recognize cultural and social standards of Indian tribes and require courts to inquire more deeply into Indian family relationships.

For example, Indian cultures universally recognize a very large extended family. Many relatives of Indian children are considered by tribal custom to be perfectly logical and able custodians of Indian children.

This bill will require State agencies and courts to recognize this extended family when considering placement of an Indian child.

If you look at the pictures on the wall and look at the houses occupied by those people, if you turned a welfare worker loose in there, he would remove every child from those homes because the homes were unfit.

By imposing such duties on State courts, Congress legitimately will be exercising its authority to protect the interests of Indian people. If a State considers these standards to be unreasonable, we question whether that State can honestly claim that it administers Indian child placement matters with the best interest of the child in mind.

This bill does not condemn Indian children to abuse and neglect in the name of tribal sovereignty. It does, however, recognize the legitimate interest of the tribes in the welfare of their children under certain specified circumstances. Furthermore, it will make available to tribal governments and organizations resources that they need to strengthen Indian families.

I would like to treat some of the specific objections raised by the Bureau of Indian Affairs, and I would like to start by saying that the statement presented by the witnesses from the BIA is irresponsible.

First they say there is a need for the bill, and then they ask for more time to submit their own bill, when they have been aware of the problems at least as far back as the oversight hearings in 1974.

They have had plenty of time to prepare and submit a bill if they were interested. I don't think they want more time. I think they want to subvert this effort by delay.

That is not to say that we would not support a legitimate bill submitted by the BIA, but I think asking for more and more time is not responsive to the legislation.

Moreover, they come up with asking for more authority for title II. If they have the authority, why have they not done something besides ask for more time?

They assert that S. 1214 would interrupt the jurisdictional lines. That is not true.

The BIA objected to the provision in the bill requiring the court to make a determination whether a child is an Indian.

Mr. Chairman, you are asked not to support this bill because a court will have to determine an issue. What on Earth are courts for if not to determine issues?

State courts do not have any trouble determining whether a child is an Indian when it participates in the ripoff of Indian children.

The definition of the child placement is a tempest in a teapot.

If the Bureau believes it is limited to voluntary placements, that could be amended.

Moreover, in any State, there is no such thing as a purely voluntary placement. Some court action is required in order for a custodian to have authority to do a number of things, such as, in California, to enroll a child in school. You have to have a court order to admit a child to a hospital, in some cases. You have to be the legal custodian.

This bill would allow the private placement mentioned in the BIA statement, and the Senate bill; the court could turn that voluntary placement in the termination of parental rights.

The statement of the BIA that nowhere is the best interest of the child a standard is sheer nonsense. The entire bill is designed to achieve that end; unless the BIA is prepared to say that maintaining contact with parents and tribes in all cases is not in the best interest of the Indian child, their statement cannot be supported.

The guidelines in the bill would protect where such contacts are not appropriate. Both the Bureau and the HEW object that the tribe should be notified and given the opportunity to intervene.

Obviously, the BIA has not read what the significant contacts are. I would like to read them into the record:

For the purposes of this act, whether or not a non-reservation Indian child has significant contact with an Indian tribe shall be an issue of fact to be determined by the court on the basis of such considerations as membership in a tribe, family tribe, reservation domicile, the statements of the child demonstrating a strong sense of self-identity as an Indian, or any other elements which reflect a continuing tribal relationship.

The example cited by the BIA would not apply. If the Indian woman goes off the reservation and has a child, the child has to have contact.

The BIA raises one legitimate point. We acknowledge the need for counsel to be appointed to represent the child in most cases. We have suggested an amendment be included to take care of that matter.

We want to emphasize, however, that welfare workers should not be able to place a child in an adversary position with its parents without good cause.

As to the BIA's objection to title II, I am appalled that a Government agency can come up here to testify and oppose remedial action for a need they admit exists, when they have powers already to take care of part of the problem.

Mr. Chairman, we are not talking here about minority children. We are talking about Indian children. They want to study existing programs to see how they help in these matters. Existing programs have not worked. That is why we are here, and inserting the name "Indian" into an existing program is not a commitment on the part of HEW.

A closer look, as they term it, will not provide meaningful help, and providing more State control over Indian child welfare is not the answer.

The States' record in that regard has been made clear and will be made more clear as the day goes on.

If, by passage of this bill, a reluctance to adopt Indian children is created by the requirement that an Indian child's tribal background be considered, then so be it.

This bill is not designed to make the adoption of Indian children easier.

I would like to clarify a couple of points in my prepared statement.

With respect to the preference guidelines for placement, the bill states these guidelines will be utilized absent good cause. It is not possible in every situation to determine what that good cause might be.

We are talking about here, Mr. Chairman, about the guidelines for placement in an Indian family, home, and that kind of thing.

These guidelines do not have to be followed if there is good cause to the contrary. That might be a situation where a handicapped Indian child will not be placed in an Indian home because no facilities to take care of the handicap existed.

You might have a child with a health problem that required special treatment. The standards cannot be imposed without deference to these kinds of unique needs.

In conclusion, Mr. Chairman, the association implores you to pass this bill with all of its provisions intact. A weak bill would not recognize the best interests of the Indian child or the Indian family and would only open the door for greater abuses. A weak bill, therefore, would be a breach of Congress' trust responsibility to Indian people. The only reasonable approach and one strongly urged by the association is passage of a bill which establishes standards strong enough and clear enough to eliminate illegal, ill-advised and immoral Indian child placements. Furthermore, a bill is needed which gives Indian tribes and communities that means to deal with the problems faced by their families.

Mr. Chairman, members of the committee, the association suggests that you consider the cultures and philosophies of the country's Indian tribes as national resources which have been mismanaged, squandered and, in some cases, nearly destroyed by inadequate and

poorly conceived Federal and State policies—not the least of which has been the forcible removal of Indian youth from Indian family and tribal influences. The bill before you is a well conceived, essential piece of legislation which can insure the preservation of a national treasure—the proud cultural integrities of its Indian tribes. The time has come to give the responsibility for protection of the Indian family back to the Indian people.

Mr. RONCALIO. Thank you, Mr. Wilder.

Do you have a copy of the bill handy?

Mr. WILDER. Yes.

Mr. RONCALIO. Your statement recommends we drop subsection (h), and I assume that is on page 15.

Mr. WILDER. I am referring to my testimony where it occurs in my written statement. The section is section 102(h).

There was language in the bill at one time, Mr. Chairman, which would require any movement of an Indian child off the reservation to be reported to a number of agencies, and a number of programs objected that this would eliminate the benefits of their program.

However, that language has been dropped, and therefore we feel the need for this provision is no longer required.

Mr. RONCALIO. I am not sure I follow that.

Let me ask you this question, Mr. Wilder.

Does this bill, as referred to this committee for action from the Senate, prohibit the adoption of an Indian child by a non-Indian family?

Mr. WILDER. No.

Mr. RONCALIO. That is all I wanted to hear.

Thank you very much.

You wanted to add something, Ms. Denny.

Ms. DENNY. I wanted to add as a person who works daily with this problem. We continually hear the Bureau and HEW say that Indians do not have the capability, they do not have the training, they do not have this, and they cannot do it. So our response is to enforce the States in providing the services. In the State of Washington, Indian people were able to amend the Washington administrative code in October 1976, and that code now contains an Indian amendment that outlines the same placement standards as set forth in S. 1214.

However, this leaves the responsibility of the State welfare workers to adhere and abide by those placement standards, and, believe me, they have found 1 million ways to deviate and go around. There is no way to monitor to be sure these placement practices are truly carried out, because their attitudes are set, and you cannot change attitudes.

So this Washington administrative code has had very little impact in the State of Washington as far as what is happening when welfare workers and non-Indian social workers are dealing with Indian children.

So it is very important that this committee recognize that Indian people do have the capabilities. They do not have to have a master's degree in graduate school.

Mr. RONCALIO. I know of two master's degrees, at least, on each of my two reservations.

Ms. DENNY. Even if you have those degrees, I do not know any graduate school of social work that can teach one to go on the reservation

and provide relevant child welfare services. In fact, I am not sure they teach anybody how to do anything with people, not just Indians, but with anyone.

The placement standards and the foster care system throughout the United States is a total disgrace anyway, not only for Indian people, but for all children. The foster care program has been abusive for many years in allowing the children to remain away from their natural parents, and no services have been provided to anyone to return the children.

The whole intent of foster care has been totally ignored, and now HEW and all of the people concerned feel the child welfare have taken, flipped the coin over, and have gone off on a tangent in the other way.

They free up adoptions, and, "Get that child adopted in 30 days."

In my way of thinking that is a very poor practice. Adoption is a serious matter and should be well thought out and well planned. I do not see any necessity for, "Hurry up and get that child adopted in 90 days."

I think we are going to find a lot of unfortunate children who wound up with parents who really were not ready to accept the responsibility of that adoption.

The trend is going the other way now, and I think that is very dangerous.

I would like to cite a couple of individual cases, because people question, "Do these things really happen?"

I am going to cite a couple very quickly on the Quinault Reservation.

A mother was deprived of her two children for 6 years. They were placed off reservation in non-Indian foster home, and the parents and relatives were denied any visitation or any contact. It was discovered by my Social Services Department that the parents had never been notified of any original deprivation hearing.

The deprivation order has been set aside, and the children, now ages 8 and 10, are at home with their parents again.

This is a case where Indian rights were just totally violated. They never had a deprivation hearing, and lost the children for 6 years.

The other is a 10-year-old Quinault boy who was adopted and taken away from his mother at an early age, about 2 months old, and adopted into a Catholic home, who had their own little United Nations going, and the child developed at 10 years of age serious identity problems which required psychiatric treatment. This condition remained unchanged through a period of 2 years of treatment from the age of 8.

A year ago, the non-Indian adoptive parents stated they could not cope with the child's behavior and requested that he be sent back to the "Indians."

The child has been returned to his family. His identity, including his original name, has been restored, and the child has made a remarkable adjustment within a short span of time and has exhibited none of the behavioral problems that he had prior to his return.

The parents of this child are in the unique process of adopting back their own son.

Another case I would quickly like to refer to is a public record of the Quinault Tribe. Those children remained in foster care for 6 years, and through the efforts of my paraprofessional staff, we uncovered through a period of 6 years, this case was taken to the Supreme Court, as you might recall, and the Quinault Tribe repeatedly lost the case.

So those children by Supreme Court order foster remained in non-Indian foster care for a period of 6 years.

My staff was able to recover these children because they had been, and were being, abused in the foster home for a period of 6 years.

Mr. Chairman, Indian people are capable. With paraprofessional staff, the Quinault Tribe has been able to do this, and there have been more positive results than have happened on any Indian reservation in a long time, and the Quinault Social Services Department is being asked to come to other reservations and tell them how we started our program using paraprofessionals.

So Indian people do want to provide services, and they certainly are very capable.

I thank you for your time and patience and for the opportunity to testify.

Mr. RONCALIO. We thank all three of you very much for your contribution to our work this morning.

Bobby George, Mel Sampson, Mona Shepherd, and Faye La Pointe. [Prepared statement of Mona Shepherd before the Senate Select Subcommittee on Indian Affairs and the prepared statement of Faye La Pointe may be found in the appendix.]

**PANEL CONSISTING OF: MONA SHEPHERD, SOCIAL SERVICE COORDINATOR, ROSEBUD SIOUX TRIBE; VIRGIL HOFF, ATTORNEY FOR THE ROSEBUD SIOUX TRIBE; MEL SAMPSON, CHAIRMAN OF THE HEALTH, EMPLOYMENT AND WELFARE COUNCIL OF THE TRIBAL COUNCIL, YAKIMA TRIBE; AND FAYE LA POINTE, COORDINATOR OF SOCIAL SERVICE FOR CHILD WELFARE, PUYALLUP TRIBE OF WASHINGTON**

Mr. RONCALIO. We had a very important bill for the Sioux Tribe here, but we have taken it off the calendar. It is the old question of taking without compensation.

Who would like to begin? Ladies first? Go any way you like.

Does each of you have a separate statement, or is one going to speak?

Ms. SHEPHERD. Mr. Chairman, I am Mona Shepherd from Rosebud Sioux Tribe, and the administrative lobby has reviewed S. 1214, the Indian Child Welfare Act of 1977, and as designated representatives of our tribe, we are here to state that the Rosebud Sioux Tribe gives its full support and approval of the contents of S. 1214.

The provisions of the act pertaining to the transfer of cases from State to tribal courts is of special interest to our tribe at this particular time. We are currently involved in a battle with the State of South Dakota which refuses financial assistance for the provision of services to "adjudicated" Indian welfare youth.

State and tribal courts in South Dakota differ in their legal interpretations of the term "adjudicated" youths and the conflict that

has arisen has resulted in the lack of much-needed services being provided to a number of our young Indian welfare recipients.

Should S. 1214 become law, conflicts in State and tribal legal interpretations would be less evident because tribal legal interpretations would be the only interpretations the tribes need concern themselves with.

The time wasted in battling with State courts only creates additional hardships for our young people. In addition, the fact that tribal courts, through S. 1214, would have jurisdiction over the placement of Indian children would mean that parents and extended families of the children involved would have their rights more clearly recognized and enforced.

Often parents or extended family members are not fully aware of their rights or the court procedures and their meaning and this often results in Indian children being placed in foster or non-Indian adoptive homes which is not the tribe's ultimate goal.

In addressing title II of S. 1214, the fact that grants could be directly awarded to tribal entities would alleviate unnecessary paperwork and bureaucratic delays in providing much needed services to Indian children and their families.

We are extremely apprehensive about the State or the Bureau of Indian Affairs having any control over family development programs for it has been our experience that such funding can be frozen by these agencies which leaves the Rosebud Sioux Tribe with no alternative course for funding.

When this occurs, we find ourselves once again, entangled in financial battles with the State or the BIA area offices which only clouds the real issue of provision of services. Direct funding to the tribes would also give those tribal offices in charge of family development programs a clear view of the funds available to work with and would enable them to make more accurate projections for future financial projects.

Title III, which provides alternative measures to insure that Indian children placed in non-Indian foster or adoptive homes are informed of their tribal rights is a vital concern of the Rosebud Sioux Tribe.

Not only can enrollment become a problem for these individuals but when probating Indian estates, heirs who are children adopted by non-Indian families cannot be traced due to the fact that State agencies will not release information as to their whereabouts nor will they release name changes resulting from such adoptions.

The fact that the Secretary of Interior can intervene in such matters gives added assurance to these individuals that their full tribal rights and benefits will be granted to them.

Title IV which pertains to the study of day school facilities such as Bureau of Indian Affairs boarding schools is a long-awaited action. Many of our Indian people have experienced living in these educational institutions and although many needed changes have occurred, there must be alternative education measures created.

The study of current problems and situations in boarding schools will enable tribal administrative bodies to seek out alternative educational programs and to make adequate financial projections for funding such alternative measures.

In summary, we of the Rosebud Sioux Tribe, fully endorse proposed S. 1214 and feel that its structure and purpose will enable the Indian tribes to overcome many stumbling blocks which have for too long hindered the provision of necessary services to our Indian children. The Rosebud Sioux Tribe sincerely hopes that this proposed legislation will soon become enacted into law.

Mr. RONCALIO. Thank you, very much for a very good statement.

Ms. SHEPHERD. I have Mr. George Hoff.

Mr. HOFF. I am Virgil Hoff, an attorney for the Rosebud Sioux Tribe and a juvenile judge for the tribe.

Mr. RONCALIO. How many instances have there been in the last decade where you have had difficulty in chasing down heirs in probating an estate because Indians have been adopted by non-Indian families.

Has that happened once or twice, or what?

Mr. HOFF. I cannot speak from personal experience, Mr. Chairman. I have never handled a case like that myself, personally. My understanding shows that it is quite a large number.

How large, I cannot say. It is quite a common occurrence, especially when you are concerned, with, say, the Pine Ridge, Rosebud. Basically, all South Dakota tribes are in that, and until recently, the courts have not had their adoptive procedures.

Therefore, most adoptions have gone through State court channels, and, of course, the records are all sealed.

Mr. RONCALIO. Who is next on the panel?

Mr. SAMPSON. Thank you, Mr. Chairman.

I am Mel Sampson. I do not have a prepared statement. With your permission, I will submit one probably within the next 10 days, but I do have some concerns.

Our nation is a member of the National Congress of American Indians as well as the American Tribal Association. So we go on record as supporting NCAI's testimony and after listening to Mr. Wilder's testimony and concerns, we will go on record as supporting his, also.

I would like to enter that into the record.

The Yakima Indian Nation has covered a lot of documented cases that have been of great concern with respect to the previous question you raised.

We definitely feel that unless something is done within the near or immediate future, such as occurs in the Senate bill that we are considering, that things are going to get progressively worse, and we currently have lost the children through the adoptive procedures to the State and through private agency procedures.

We have generated, I guess, what could be construed as a limited amount of rapport with the State mechanism now of trying to get some control or be involved with any adoptive procedures, but we have absolutely no control over them when they go through the private agencies.

When I submit the information, we will submit some actual cases for your reading. Some of them will make you sick on what has happened, and I have to hand it to the State situation to a limited degree where they are not coming around and at least have given us an opportunity, with respect to contact, as far as the reviews.

Mr. RONCALIO. We will hold the record open for 2 weeks. Get it to Frank Ducheneaux, and we will consider it.

Mr. SAMPSON. Thank you.

I would like to cite one that I think is a classical example, if I could, from memory.

This particular Indian girl was adopted when she was an infant, and she was adopted by non-Indians, a non-Indian who was her uncle. Her father was a white and her mother was an Indian. She was enrolled, fortunately before she was adopted by her mother, and her mother passed away. So she became heir to a substantial amount of land which had been through the lease procedures, and the Bureau of Indian Affairs allowed her adoptive parents to set up a guardianship in a different State than the State of Oregon, and put all of this young girl's money, which was in the thousands, and set this up and this girl paid—they set up the guardianship.

She paid her own way through school. She paid all the legal fees; she paid all her legal fees—all of them—and she paid an amount, and I cannot remember the amount, and there was an amount paid monthly to her supposed parents, and she paid her way through life, in essence.

She did not know this was happening until we discovered it 3 years ago.

Mr. RONCALIO. I can assure you that that process has worked for man against his fellow man over the centuries, and not just Indian against Indian.

We understand your citing that as a need for the bill.

Mr. SAMPSON. We will provide these kinds of things in reference to the question that Goldie mentioned, if these things really happened.

Mr. RONCALIO. All right.

Mr. SAMPSON. One other thing I would like to address, and that is that there is a lot of concern, and I heard from the HEW segment, with the capability of the tribes being able to administer this kind of program.

I have absolutely no doubt in my mind that the Yakima Tribe has, I think, a better capability to do it than what the current process is, and I cannot say that for any of the other tribes, but I am assuming the awareness that they have in reference to what is happening.

I think we would be able to adapt, we would be able to administer these kinds of things a lot faster than with those we are relying upon right now, because the sacredness of the children, at least in our situation, is a priority.

We can say that that is a priority. We definitely have the capability to manage that.

With that, I thank you, and I will be submitting you some material for the record.

Mr. RONCALIO. Thank you, very much.

Ms. LA POINTE. I do not think I want to use the microphone.

I appreciate the chance to testify before you. Ramona Bennett, our tribal chairwoman had planned to be here today. She had an attempt made on her life just prior to leaving, so you got to me.

The testimony was prepared, and I found one major error that I would like to point out when I get to it and ask you to change it.

Mr. Chairman, members of the committee, my name is Faye La Pointe. I am here representing the Puyallup Tribe. I appreciate this opportunity to testify before you.

The Puyallup Tribe has been caring for the protecting the rights of Indian children for many years. We know that our children are our greatest resource, and without them we have no future.

For too many years we were helpless, watching our children being taken from our homes and families. We have been here many times before with the same message: "We know what is best for our children."

The tribe is presently operating a school system which provides individualized teaching for 250 Indian students. We also have the only Indian-based Indian-run group home in our area licensed by the State of Washington to care for 14 Indian children between the ages of 7 and 18. With budgets stretched to the maximum, the tribe manages to provide medical and dental care, social and recreational activities, and legal services on a limited basis.

Many dedicated Indian adults give up their time and talent to work with young people. However, due to the lack of proper funding, most of these people are working 12- to 16-hour days. We know if we are to fill the immediate needs of Indian children, we must begin to work with the handicapped children in institutional care, provide infant crisis care and treatment centers for teenage drug and alcohol abusers, offer services to the juvenile offender, the mentally ill, and finally the abused and neglected child.

This program could provide a solid foundation for a complete Indian Child Welfare program on the Puyallup Reservation. However, we feel we must point out to this committee the inadequacy of the allocation. \$26 million, if distributed equally among the tribes and Indian organizations will lead us to the same frustrating conditions we face today.

This tribe has been denied funds through the Department of Health, Education, and Welfare for a program for abused and neglected children, and have still provided training and technical assistance to other tribes who were funded.

I would like to strike the next sentence.

We invite this committee to investigate our agencies and remember us when confronted with other Indian issues.

Mr. RONCALIO. Would you tell us again which sentence you wanted stricken, "We have been denied funds through the Office of Human Development," and so forth?

Ms. LA POINTE. Yes; that was the Office of Child Development, and I do not think the Office of Human Development would appreciate that.

Private child placement agencies have indicated a concern for the confidential rights of the unwed Indian mother. We, too, are concerned about the Indian mothers' rights. We know that in most cases the Indian mother would prefer to have her child adopted by Indian parents if the prospective parents were known to be reliable, stable, sober adults.

We also know that most adoption agencies, while protecting the mother's confidential rights are not prepared to offer this type of home nor are they actively recruiting such homes.

We are also concerned about the rights of the unborn Indian child. The right to know where he/she is from the right to apply for enrollment in the tribe of his/her ancestors. We know that too many young lives have been damaged by well meaning non-Indian foster and adoptive parents. We are prepared to offer top quality confidential services to the unwed mother and responsible Indian foster and adoptive homes to Indian children.

The LDS program is still allowed to operate. This is referred to as an educational program and takes Indian children away from their homes and families. We know that this practice, if allowed to continue, will inevitably end in genocide.

Every Indian person should, indeed, have the right to choose what is best for their child. A choice that is uninhibited by such conditions as poverty, illiteracy, physical, emotional, or mental handicaps. When these conditions become rare rather than commonplace in Indian country, we will believe that Indian people truly have the right of free choice.

The Puyallup Tribe wholeheartedly opposes the LDS program and encourages this committee to discourage the efforts of the Mormon Church in their practices of genocide on our people.

Indian young people who have been adopted by non-Indians have come to the tribal office requesting assistance in locating their families. One case is concerning an 18-year-old girl that arrived in our area last summer requesting such assistance.

She remembered living in Tacoma when she was 4 years old. She knew she had two sisters, one older and one younger. Tribal employees contacted both public and private agencies but were told nothing. Ramona Bennett, tribal chairwoman, brought her to me.

While visiting, I realized she was my second cousin. Her mother had died of acute alcoholism years before. I believe she drank herself to death because she could not face the shame and heartbreak of giving up her children.

I had tried years ago to get information about the girls but was refused for confidential reasons. I was willing to provide temporary care and believe to this day that that was all that was necessary.

With the help of other tribes and Indian organizations, the girl was reunited with her two sisters and her father. The girls are now enrolled in their tribe and are active participants in the Indian community. All three girls were raised by non-Indians and claim their childhood was lonely and without meaning.

In closing, I would like to say that the Puyallup Tribe supports S. 1214. It will give us the right to make decisions about our future. It will provide badly needed Federal standards for the placement of Indian children. It will insure the survival of the American Indian.

Thank you for your time and concern.

Mr. RONCALIO. Thank you for your excellent statement. We are happy to receive it. I do not know whether we can bother that \$26 million in title II, but that is better than nothing. Maybe we can move ahead with that now, and see what we can do later.

Thank you, very much.

The statement of Bobby George will be put into the record.

[Prepared statement of Bobby George may be found in the appendix.]

**PANEL CONSISTING OF: VIRGINIA Q. BAUSCH, EXECUTIVE DIRECTOR, AMERICAN ACADEMY OF CHILD PSYCHIATRY; RENA UVILLER, DIRECTOR, JUVENILE RIGHTS PROJECT, AMERICAN CIVIL LIBERTIES UNION; SISTER MARY CLARE, DIRECTOR OF CATHOLIC SOCIAL SERVICES OF ANCHORAGE, ALASKA, REPRESENTING THE NATIONAL CONFERENCE OF CATHOLIC CHARITIES; DONALD MITCHELL, ON BEHALF OF RURAL ALASKA COMMUNITY ACTION PROGRAM (RURALALCAP), ALASKA; AND DONALD REEVES, LEGISLATIVE SECRETARY, FRIENDS COMMITTEE ON NATIONAL LEGISLATION**

Mr. RONCALIO. You four are welcome to the table.

We are going to go straight through without breaking for lunch, if no one has any objections. Maybe we can finish up fairly soon.

Ms. BAUSCH. Mr. Chairman and members of the Subcommittee on Indian Affairs and Public Lands, I am Virginia Q. Bausch, executive director of the American Academy of Child Psychiatry.

The AACP applauds the concerns of the House Committee on Interior and Insular Affairs about problems affecting the welfare of Indian children and we laud this particular bill which attempts to provide the framework by which significant changes could result for Indian families and children.

Mr. RONCALIO. Let me interrupt and ask that your whole total statement be admitted in the record.

Ms. BAUSCH. I think what you have is our position statement on adoption.

Mr. RONCALIO. Yes; and we would like to put that in the record.

[The statement referred to may be found in the committee's files.]

Ms. BAUSCH. Last spring, the American Academy of Child Psychiatry sponsored a meeting in Bottle Hollow, Utah, on "Supportive Care, Custody, Placement and Adoption of Indian Children."

Mr. RONCALIO. Where is Bottle Hollow, Utah?

Ms. BAUSCH. Up near Vernal, on the Ute Tribe Reservation.

We have made copies of the proceedings and findings available to the committee and to its staff.

The document details the degree of the problem of inappropriate placements of Indian children and formally records the interest and creative ingenuity of Indian groups in devising programs most useful within their specific cultures.

The overall intentions and recommendations of S. 1214, as referred from the Senate are commendable.

We would, however, like to share some comments and suggestions with you.

Section 3, page 3, "Declaration of Policy."—Boarding schools for many years have been used not only as educational institutions but also for social service placements. The boarding school is in disrepute educationally and we suggest that, additionally, it is an unsatisfactory instrument for social service.

If an Indian family is in turmoil or is disintegrating, placement of the child in a boarding school somehow has been offered as a solution. This has not proven an effective treatment in helping the child or

the family. This bill through various programs would help the child and the family by providing support services and more appropriate placement than the traditional boarding schools.

#### NATURAL PARENTS

Throughout the bill, the term parent is used and defined as the natural parent. We suggest that for clarity's sake, this definition conform to standard practice and the use of the terms such as biological or psychological parent be used.

The child placement standards in title I establish clear guidelines safeguarding the interests of children and their families, while respecting the very great importance of cultural ties.

Our concerns about such matters were expressed in an official position statement, the one you have entered into the record, of the American Academy of Child Psychiatry adopted in January 1975, entitled, "The Placement of American Indian Children—the Need for Change."

Copies of this statement are attached.

The general intentions in title II of establishing family development programs are commendable and encourage tribal groups themselves to establish such programs.

In regard to these programs, there is need for technical assistance. We would hope that provision could be made for establishing a consulting group composed of Indian people experienced with programs and who could assist tribes and urban groups in establishing their own family development programs. This bill gives much responsibility to tribes but it must be recognized that technical assistance should be available if a tribe desires it.

The academy's major concern, however, is the implementation of this act. It is the impression of our committee—which consists of many Indian consultants as well as child psychiatrists with experience in working with Indian families—that the history of the Bureau of Indian Affairs in matters of child welfare and child mental health is not one of consistent advocacy and leadership.

The Bureau has not reacted enthusiastically to this bill and we therefore question the Bureau's ability to accept and carry out Congress mandate. We realize the reasons are complex, but the well-known placement rates of Indian children, as compared with non-Indian children, says something very significant.

Indian children are placed at a rate 20 times that of Anglo children. It seems to us that there has been a lack of sensitivity and responsiveness within the Bureau in matters of child development and child welfare. We realize that the Bureau is not alone here.

The AACP suggests therefore that this bill be amended to formally establish an advisory board which would oversee implementation of this bill and the development of the programs outlined by S. 1214.

Mr. RONCALIO. Who would be put on that board?

Ms. BAUSCH. When we held a conference in Bottle Hollow, Utah, we realized many tribes had developed practices, and I think some of the Indian social workers know what is going on.

They would be in a position to say, "Don't give all the money to the Southwest to distribute it in such a way," and they could monitor the

programs so that the programs would respect unique features, or unique cultural situations.

Mr. RONCALIO. What we will not want to do is make amendments to this bill that might not be readily accepted by the Senate on reconsideration on the bill and end up going to conference.

We are going into a terribly busy schedule. Speaker O'Neill is determined that we work 5 days a week, and on October 1, we adjourn. We are trying to avoid amendments on all legislation that will do no more than effectively kill bills.

I know you do not want that to happen. So, if we can get the right kind of amendment on this bill that would be acceptable to the Senate, we might do that, but it would otherwise create dissension.

Go ahead.

Ms. BAUSCH. We would not want this to be delayed in any way, but I think the establishment of the advisory council seems a reasonable thing.

Mr. RONCALIO. I guess that is in your statement.

Thank you, very much, for that.

Ms. BAUSCH. Thank you for this opportunity to present our view. If there are any questions, I would be happy to answer them.

Mr. RONCALIO. Thank you.

Ms. UVILLER is next.

Ms. UVILLER. I will depart from my prepared statement to summarize.

The purpose of my project, one of the priorities of it has to resist unwarranted State encroachment into family life in general, not just limited to Indian children.

Therefore, I find it ironic that the HEW opposed this by saying that the States can attend to the need of the Indian children.

The rate of unnecessary foster care in this country is reaching a scandalous proportion. The inability of welfare agencies to reunite families and keep them together in the first instance is a question of major concern, and, therefore, the notion that Indians should be cast in the same mold as the rest of the country. I find somewhat peculiar.

Basically the ACLU strongly supports this bill. We think it is a very good effort to help the districts of the Indian family. Before I talk about a few suggested revisions, and I might note that I was very gratified to see that some of my suggestions that I made before the Senate subcommittee were incorporated in the present bill, but I have a few others. But I go to them, I would note that I have heard bandied about, and I think it is a high sounding term that has often very devastating consequences and that is the notion that children can be taken on their families on a "best interest" theory, that somehow if it is in the "best interests" of the child, a State or a social worker can somehow take children from their parents.

We have, fortunately, not achieved a form of government yet where someone stands in judgment and decides who is more beautiful, smarter, and richer, and, therefore, the child would be better off elsewhere.

The presumption bears heavily in favor of the parent. The parent has to be derelict in their responsibility and must have neglected the child.

Mr. RONCALIO. What is your position regarding civil courts in matters of divorce and custody? Do you still think the judge has the right to deny one parent custody of a child and give it to another in the face of gross and total neglect?

Ms. UVILLER. I think the best interest standard in that case would apply, but in these situations we are talking about, taking a child, giving it to a third party.

Mr. RONCALIO. It is not a relevant analogy, then, is it?

Ms. UVILLER. That is right.

On that very ground I would like to address my second suggested revision, first, which is contained on page 4 of my testimony.

I am very concerned that the standards relating to emergency removal of the child from his parents, it has been my experience in dealing with the child neglect standards generally that the beginning of the long and sad process of separating children from their parents often begins with this so-called emergency removal.

The present section would allow a State representative to come in and take a child away whenever there is "an immediate threat to the emotional or physical well-being of an Indian child."

I have dealt with such provision in statutes of many jurisdictions and I would like to state unequivocally that the standard as written is much too lax, an immediate threat to the physical well-being of the child, as I note in my testimony, can be a child sleeping in a drafty room who is liable to get a cold.

The notion that you can take a child because he or she may be subjected to emotional neglect is looser yet. That can mean anything any particular individual happens to decide is or is not a happy situation for a child.

The ACLU has always successfully resisted such language in the parental neglect statutes in general. The courts have ruled that such terminology is much too weak.

I would say for a State official to take the extraordinary step of going into a home and seizing a child summarily, I propose some language that I think would be much more stringent, and, first of all, it would exclude emotional neglect altogether.

Mr. RONCALIO. Threat to life or imminent threat of serious physical harm?

Ms. UVILLER. Yes; and I would suggest that would be a more appropriate standard.

Then, the other thing that bothers me about this is that I am not sure, in talking about the 72-hour hearing that must take place after such emergency removal, I am gratified that this hearing was incorporated. That was one of my previous suggestions, but even though there is the 72-hour hearing after the emergency removal, there are two problems.

First, it is not clear to me that at that 72-hour hearing the parents are entitled to counsel. The section that provides for counsel expressly seems to except the emergency removal situation.

This may be a question of legislative drafting, but it should be clear that after the hearing held within 72 hours of the emergency removal, the family has counsel, because that is usually the beginning of the long process.

There are lots of delays while the social worker reports are brought in, and the emergency gets to be a few weeks and then a few months and then so forth.

I think the section as written fails to provide a standard for what the tribunal must determine at this 72-hour hearing, and it was my suggestion that at that 72-hour hearing, the tribunal shall return the child to the family or tribe if the removing agency cannot show by clear and convincing evidence that such a removal—that such a return to the family—will create a risk to the child's life or expose him or her to imminent risk of serious physical harm.

I think there are situations in which, for example, hypothetically one learns of a child being left unattended, say, a baby, an infant, and with due respect to that child's welfare someone goes in and takes the child out.

After the hearing, it was found that the parents did leave the child that night, but there it was an exceptional circumstance, or, in fact, that there was a relative near by, then that child shall be returned.

I also would note that I think it should be incumbent upon the removing agency to show that the provision of some sort of in-home service would not obviate the danger that caused the initial removal.

Another concern, and I will be brief, is this question of counsel.

I have heard earlier representatives talk about this question of counsel, and I have been very involved in just what counsel for a child means.

I think it is a very thorny and complicated question. For an older child, say, 12 or more, who might formulate some reasonable point of view, certainly there should be counsel. It is not that I am advocating that there should not be counsel for all children, but I would not for a very young child, counsel is invariably a panel-type of lawyer, usually supplied by the State, and very often that attorney does nothing more than inject his or her own prejudices into the situation.

I think the use of counsel is very often a way by which State authorities, because in fact attorneys are paid by the State, inject the so-called best interest theory into a proceeding which serves often to divide a child from its parents.

It seems to me that perhaps a court should be able to assess when there are such extraordinary circumstances that counsel should be appointed. The notion of automatic counsel for child in a child protection hearing poses some problems.

I have not in my own mind formulated how this should be resolved, but I note it is fraught with some danger.

My final suggestion is the first one that I listed. In my earlier testimony, I had recommended that notice be given to tribal authorities and the natural parents in the event of a so-called failed adoption, and this was essentially the reflection of the fact that the representatives of the tribes know there is a high failure rate of extra-tribal adoptions.

I notice that the present bill does allow for such notice, but it allows for such notice only where that child had been previously placed in foster care in a temporary type of placement.

The point is that it is the adoptions themselves that often go awry. I do respect the enduring nature of a valid adoption. However, when you are talking about a child who is about to face many years in a

mental institution, or is going to be incarcerated in a reformatory because his parents have filed an incorrigibility petition about it, just because he was adopted, there is nothing magic about that term, when the adoptive parents are no longer providing for a welfare of the tribe.

I think the natural parents and the tribal authorities should be provided for some sort of notice so that if it is possible to offer that child some happier alternative, that child should be accorded the same right as the child placed into foster care.

As I say, with these few recommendations, the ACLU heartily endorses this bill.

Mr. RONCALIO. Thank you. We have already taken care of adopting possibly one or two of them.

We thank you, very much.

Sister?

Sister MARY CLARE. Mr. Chairman and members of the Subcommittee on Indian Affairs and Public Lands.

I am Sister Mary Clare, director of Catholic Social Services of Anchorage, Alaska. I am here to offer the views of my own agency and the National Conference of Catholic Charities on the Indian Child Welfare Act of 1977.

The National Conference of Catholic Charities is an association of all of the Catholic social service agencies in the United States. There are 147 of these agencies, all of which provide services to families and children through approximately 1,500 branches and institutions. Almost all agencies have well-developed adoption services and foster care programs.

My own agency is a typical example of the Catholic agencies across the country, although smaller than most. We are the social service arm of the archdiocese of Anchorage, Alaska. We operate on a budget of approximately \$110,000 and a paid staff of 10.

We provide family counseling, single parent counseling, and foster care, adoption services, and a food and clothing distribution center for the poor. We have been in existence for 12 years and are the only private licensed adoption agency in the archdiocese.

When I first went to Alaska, adoptions were done by lawyers.

Mr. RONCALIO. That was 10 or 12 years ago; before the ANSCA bill?

Sister MARY CLARE. Yes; I had to go to a home where a girl was crying. She did not know where her baby was going. She said she had talked to a lawyer 3 months ago who placed the baby.

Then, I realized the need for service to the unmarried mother. So we really have specialized in that service within the last 12 years, which I will tell you about a little later.

We place approximately 40 children per year in adoptive homes.

Mr. RONCALIO. Are all 40 of those Alaskan children?

Sister MARY CLARE. No; we placed 20 caucasian children.

We also provide assistance to single mothers who decide to keep their babies. Unlike other agencies, we do not have a foster child care program. Like all agencies, our program is voluntary.

We have no power to remove children from their parents. Thus all placements are done with the complete consent of those involved. All services are provided on a completely nondiscriminatory basis without regard to race or creed. In a sense, we are unique. We place babies

in all religions. There was no service to people of other religions, so they just asked us to perform this service.

Therefore, we do not usually deal, really, as far as race and creed are concerned.

Mr. RONCALIO. You deal with human beings?

Sister MARY CLARE. Yes, we really have that philosophy, I guess. We were forced to, in a sense, adopt it, because people needed our services.

We have children and adoptive couples of all races, including Alaska Natives and other American Indian tribes.

Because of our work with Indian parents and children, we are very interested in the Indian Child Welfare Act of 1977. We strongly support efforts to strengthen Indian families, as we do for all families.

We are very family-oriented in our agency. I want to explain that a little bit, because of some of the comments that were made disturbed me a little bit. Moreover, we recognize the special needs of Indian families which need to be dealt with in a particular way.

For this reason, we wholeheartedly support title II of the bill relating to Indian family development. The various Catholic agencies are anxious to cooperate to achieve this purpose.

In regard to title III, we support the goal of the bill in preserving information necessary to allow an Indian child any rights or benefits associated with membership in an Indian tribe. Our only concern in this area is the preservation of confidentiality so that the identity of the natural parents is not revealed. Actually, that is State law right now, and we are getting into the adoptant's right.

Mr. RONCALIO. Is that a valid concern right now in the language of title II?

Mr. TAYLOR. The language has been modified to permit access to records for such information as may be necessary. In the legislative history, we make it clear. Is that section 104?

Ms. MARKS. Yes, 104.

Mr. RONCALIO. Was this the same testimony you gave on the Senate side a few months ago, or were you on the Senate side a few months ago?

Sister MARY CLARE. I do not believe—

Ms. MARKS. I believe they are referring to the provisions in the bill at this point. There was a clarification made earlier. Originally, there was a reference to imply the right of Indian individuals over the age of 18 to receive the name of their parents.

Mr. RONCALIO. But not the reasons for the separation from the parents?

Ms. MARKS. No; now, this has been amended to allow them to receive such information as is necessary to continue a tribal enrollment or "tribal affiliation"—I believe is the terminology we use.

In some instances, if a tribe should require the names of parents for enrollment purposes, this information will be released, but only if that is necessary to continue this affiliation.

Mr. RONCALIO. I see a specter raised for the need of identification of a good number of adopted Indians, because distributions are being made under the Alaskan Native Claims Settlement Act. A child has a right to know what his roots are and lay a claim to enrollment in the tribe for the per-capita distribution.

Sister MARY CLARE. Adopted children do not qualify under that act now.

Do you want me to continue?

Mr. RONCALIO. Yes.

Sister MARY CLARE. Our greatest concern, however, is with title I. The bill, as now written, will radically change the nature of the adoption process to the detriment of the natural parents and the child.

While the goals of the legislation may indeed be worthwhile, we do not believe that they should be attained by sacrificing the rights of the natural parents to decide the placement of their child or the confidentiality of the parties concerned which is vital in this sensitive and very personal area.

This bill gives priority to the preservation of a culture. While we strongly support such preservation, we urge that the interests of the natural parents and the welfare of the child be given priority in any circumstance where these goals clash.

As an additional area of concern, unnecessary delay should be avoided in the adoption process since much delay leaves the lives of all concerned in an uncertain status. Also to be avoided is unnecessary expense especially such as mandatory hiring of attorneys and conducting court hearings in all cases.

I would like to discuss these areas briefly. A section-by-section analysis of title I with our comments is attached to copies of my statement and I would like to ask that it be included in the record.

[The information referred to above may be found in the committee's files.]

#### CHOICE OF THE NATURAL PARENTS

Sister MARY CLARE. Under Alaska law, the natural parents may voluntarily relinquish a child to a licensed agency for the purpose of placement for adoption. The relinquishment is voluntary and may be withdrawn within 10 days after signing or the birth of the child, whichever is later.

The parents also have an absolute right to keep the child or they may give a consent to adoption directly to adoptive parents including, of course, their own family. As a voluntary agency we have no coercive powers.

Our first duty is to the natural parents to assist them in making their own choice. If they choose to relinquish the child, our duty is, then, to see that the child is placed in a good home.

Sections 102 and 103 take away this right of choice by requiring notice to the tribe or village of which the natural parents are members and further requiring preference to family or other Indians.

In most cases the girls who come to us are single. The father is absent and may not even be aware of the pregnancy. By choosing to relinquish her child to us, the girl has made her choice not to have the child placed with her family or village.

In some cases, the girl is strongly opposed to placement with her family where there is a history of abuse or other poor relationships. We have had families send a girl to us who do not wish to have the child placed in the village.

These choices voluntarily made would be destroyed by the mandatory provisions of sections 102 and 103. In the case of infants, which

form the bulk of our placements, no cultural purpose is served since the child is not removed from a culture he has grown up with.

This sounds kind of hardhearted. We have an intense program for our adoptive parents when a child is placed, and a history of this child is related. We have a very complete social history on every child.

These sections seem to have more applicability to older children who are taken from homes forcibly. In our situation, however, all that is accomplished is to deprive the natural parents of their right to choose the placement of their child.

I would like to tell you our program. Let me give you an example to illustrate this. The Eskimo girl told me I could relate the story.

This is a girl I met in one of the villages, in her twenties, who is pregnant, and she was not going to tell her parents. The first time the girl comes to us, we deal with her in context of our parents, so our counseling program is geared to the fear not to have the parents know. They have a right to know, you know.

So, after about a month, she came to Anchorage, and she came in for counseling sessions with the group. In this group process, her sister and her family finally were told, and she felt this was a good chance. Also, her father, whom she thought would be terribly upset. He is a leader in the village, and a very fine man I had met.

It happened that through the counseling sessions, her sisters came into town and said they would like the baby, and she had to determine whether this is the home she wanted the baby in.

Another sister wanted this particular baby. Then she had some decisionmaking to do, and this is what I mean. When we talk about adoptions not being delayed, we mean with the ideal that there has been counseling before. We take the position that the counseling should not be delayed for long periods.

In our program, much of the counseling is done before. Many of the abuses do come in when it is a quick relinquishment, and there have been abuses in the past in Indian children. We could do that as an agency, too, and I can see how voluntary agencies and lawyers, and even the Indian tribes, could do this later when they get jurisdiction.

We have unscrupulous people, and an adoption is different in 1978 than it was in 1948, and I think we have to address ourselves to that. Children are the priority, and the children are beautiful.

As I tell our parents, kids grow up and become obnoxious teenagers, "How are you going to handle it, then?"

However, in this particular case, this particular girl after another month of counseling decided maybe she could keep the child herself.

However, in the course of the counseling, she said to me, "Well, what criteria do you use?" I showed her, that we want a good, stable marriage, and we thought it was important.

So, many people are saying the things that we felt are important, important in an Indian home. Indian homes, I love the Indian people and I love the Eskimo people particularly, and I have been in their homes, and I understand what this bill is addressing itself to, and I am glad that it has come about in 1978.

However, in any home they need continuity and love, and the reason why I am so strongly attached to this particular part of the early adoption at an early age, I feel some of the research done on the

Indian children could be redone and find out where were the children from prenatal to 2 years of age.

To me, that is where the damage is done. The child learns more in the first year of life, and grows at three times the rate, emotionally, physically, and mentally, and it is that 1 year of life that is so important.

So, this is why we are saying this particular girl now, saying to herself, "Maybe I can keep the baby." However, what if she decides, and this baby has not been born yet, what if she decides she would like to give up the baby?

That baby would have to go to an Indian home or Eskimo home according to the legislation as I read it; am I wrong?

Mr. TAYLOR. I would like to interrupt just a second. With respect to the observation that choices voluntarily made would be destroyed by the mandatory provisions of sections 102 and 103, you are talking about the placement of Indian children, or the triggering of the preference revisions of section 103.

Sister MARY CLARE. Right.

Mr. TAYLOR. Both of those sections have requirements in the absence of good cause to the contrary being shown. This opens up an entire evidentiary framework for the court to take testimony under.

I think, Sister, and you and I talked at some length the other day. I can see why people would be frightened by this legislation and the possibility of it being read in the fashion that you are. I think some amendatory language is necessary to clarify the discretionary aspects, but it certainly is not the intention of this legislation, and none of the witnesses here today have so indicated, to prevent the possibility of Indian children being adopted by non-Indians across the board. It is a preference.

The point about the young unwed mother being unable to waive notice being tendered to the tribe, we also discussed the possibility of an amendatory language there, and, again, the witnesses referred to that, and I think those recommendations will be considered.

Sister MARY CLARE. Thank you, very much.

There would also be a lack of cultural purpose for those who have voluntarily moved away from a particular culture, perhaps living in a different part of the country.

Mr. RONCALIO. Let us take a break now. I do not think we are going to be able to finish up.

We will return here at 1:30. So, if you and Mr. Mitchell would be out here one hour from now, I will try to be back here, too.

We will recess until 1:30.

#### AFTER RECESS

Mr. RONCALIO. The subcommittee will resume its hearing.

We have reached a solution to our negotiations on presenting the Sioux on the floor with Mr. Cohen of Maine, and it is scheduled now to come back to the floor, and I am the floor manager of that bill. I may be summoned out on a 5- to 10-minute notice.

If I should have to leave, I will ask the statements of Frazier, Harris, Rancho, and Letendre be put in the record.

Please summarize for us, Sister Mary Clare. We will put the entire statement in the record.

Sister MARY CLARE. We talked about confidentiality, and unnecessary delay and expense. Section 101(c) sets us certain restrictions on relinquishments which are unnecessary and may be harmful.

Currently, Alaska law allows a parent to relinquish to a licensed agency. Pending H.R. 7200 would also permit this. No court appearance is required. It is our experience that a sympathetic social worker is better able to explain the consequences of adoption than a judge especially if such a consent must be taken in the forbidding confines of a courtroom.

Alaska law provides for a 10-day period for withdrawal of consent to a relinquishment. A longer period may be acceptable but the decision for all persons concerned needs to be made within a short time so as not to disrupt the lives of children who are placed with prospective adoptive parents. Thus, withdrawal of consent any time before the final decree is too long.

The provisions barring consent within 10 days of birth can be a hardship to a girl who wishes to return to her home upon discharge from the hospital. The ability to withdraw a consent should be sufficient protection for her rights.

Section 101(d) is a good provision which we support.

This statement is based upon my experience in Alaska in dealing with voluntary relinquishments. We do not have tribal courts in Alaska nor are we involved in forcible termination of parental rights. Even in such circumstances, however, we believe that the bill should be changed to insure the preservation of the right of choice and of confidentiality.

For your information, I would also like to submit for the record a copy of Alaska's adoption law, and a brief regarding the constitutional implications of the bill in the areas of right to privacy and equal protection.

We do believe the subcommittee ought to look at the constitutional implications of this bill.

[Editor's note.—The documents referred to above may be found in the committee's files.]

Mr. RONCALIO. We recognize both of those in your statement, and they will be admitted into the record.

Sister MARY CLARE. Thank you, very much.

Mr. RONCALIO. Mr. Mitchell? What is RURALALCAP? I thought it was a native corporation.

Mr. MITCHELL. Sort of. My name is Donald Mitchell, and I formerly was associated with the Alaska Legal Services Corporation in Alaska, which, almost by the process of abdication by other forces, is the primary provider of civil legal assistance to almost all native villages throughout the State.

I, at one time, supervised that agency's office in Bethel, which was an office with two paralegals with responsibility for providing services to some 56 primarily Yubik Eskimo, but also Indian villages.

I was made a director of the Alaska Native law project and devoted my time exclusively to rural Alaska Native issues. I have been involved in countless child placement situations involving native children in Alaska, several hundred undoubtedly.

I was also counsel to two native women who brought the landmark Alaska Supreme Court case which for the first time gave judicial recognition in Alaska of traditional native adoptions.

I am now associated as a consultant for the rural Alaska community action program on rural native issues. The rural Alaska program is a statewide CAP agency for Alaska. The board of directors of that agency is composed of representatives of the native regional nonprofit corporations, rather than profit corporations, which I think is a crucial difference for those not overly familiar with the situation. RURALALCAP has been involved in the villages in a number of areas there. They are the State agency for the Head Start program throughout the bush.

They provide immunization programs and have been involved in some subsistence activities. I am testifying not only on their behalf here today, but on behalf of myself and from my own personal knowledge of how this legislation, if enacted, would affect rural Alaska.

I would like to say in that regard that I could not think of national legislation, moreover, due to prevent the breakup of native homes and to protect the rights of native children than this particular piece of legislation.

I, like everyone who has worked on their feet in the area of a native community, I have my list of horror stories, and if I had a longer period of time, I would be happy to share them with you.

But, I have a couple of technical comments on the bill as we go along that may be helpful to you. I took a look at the Senate testimony very briefly, and I noticed that with the exception of an associate of mine from Bethel, and Mr. Jeffrey from the Legal Services Offices in Barrow, and also Mr. Tippleman, there has really been a lot of comment on this problem from Alaska, and I think that in terms of some of the logistics involved, I would advise you to survey the situation very closely, because you do have some real logistical problems up there with this.

Turning briefly to the text of the bill, I notice that section 101(a) provides that there be 30 days' written notice to parents prior to placement activities taking place. I am very much in favor of that, but I would point out that it has been my experience that the preoccupation of our culture and our legal system with an equating written notice with the due process does not apply, in my judgment, in most Eskimo communities.

Eskimo culture is primarily a rural culture, and I have seen immense amounts of damage done by agencies that have, in fact, given a written notice to people out there. I guess the prime example of that is that we do a lot of—when I was legal services—we did a lot of adoptions that tried to recognize de facto cultural situations that were already taking place.

There is a lot of cultural adoption out there. That is a complicated process, but I had a long letter that I sent to parents who had already relinquished to other family members, saying that the other member could get papers saying you have given them up, and here is what it means, and so forth, and on more than one occasion, I have gotten back from natural parents perfectly executed consents, stamped by the postmaster, along with a letter saying, "We don't want to have our child be adopted. That child is staying with my brother, and he has been

there 4 or 5 years, but we don't want this adoption to go forward," along with perfectly executed consents.

I relate that to you to show that it is dangerous to believe that by giving someone written notice, we are off the hook.

Second, I notice that subsection (b) of that section talks about poverty, alcoholism, et cetera, not being prima facie evidence of neglect or abuse or whatever. I would be interested in expanding that to include other members living in the household.

I have been involved in certain situations in which the parents were in no way within that particular—did not have any of those particular problems—but there were older children living in the home, very substandard housing in Alaska, so you have a lot of people and a lot of overcrowding.

I have been involved in situations where children have been taken out of homes because an extended family member, who was not actually the custodian of the child, was living on the premises and had a history of these kinds of problems.

I do not know whether that is taken care of in the bill or not, but I think from technical drafting, it would be something to consider.

Mr. RONCALIO. Are you talking about subsection (d)?

Mr. MITCHELL. "B" as in Bozo the Clown, or something like that.

Mr. RONCALIO. All right, sir.

Mr. MITCHELL. Third, I would say that subsection (c), which talks about voluntary consent, I think my recent example of that would indicate where it is very important to make sure that consent is informed.

I think that in terms of technical drafting again, although I think an informed consent may be part of a voluntary consent, nevertheless, I am interested in making it clear that consent has to be informed consent.

Mr. RONCALIO. Does not the affidavit of the judge that knows it was given and explained in detail—

Mr. MITCHELL. That covers the problem, except for the one I am going to open up now. In Alaska, there is quite a bit of work in terms of trying to legally date existing cultural adoptions, and to try to bring all the parties together before a judge, as, for instance, there is one judge in Bethel for 56 villages.

The judge does not travel. It would be a physical disaster.

In the Barrow area, I do not believe there is a judge at all now. There was a magistrate for a while. That magistrate has resigned, and I do not know if she has been replaced. That means the closest judicial officer is in Fairbanks.

I would suggest that this problem arises only when you are trying to validate a cultural adoption, and I think if you put something in the bill that said consent did not need to be executed before a judge if the adoptive parents were within either part of the extended family, or even were just the same native group, or lived in the same area.

I think you could deal with that problem and then when you got into it, where you were involved in a situation where there was a consent to an adoption where a child was going to be placed outside the area, with non-Indian parents, then you do need that judicial review, and I would support that wholeheartedly.

But I wanted to caution you that everything is not as monolithic in Alaska's programs as it is elsewhere.

The second thing I would say is that I wholeheartedly support that ability of a woman or a father to invalidate a consent long after the 10 days has elapsed. In Alaska, and under Alaskan law, you have 10 days within which to say, "Hey, no deal, I am sorry, I changed my mind."

Once that 10 days elapses, what the parent is involved in then is in a best interest struggle with a third party. The burden is then on the parent to come in and say that the child's best interest is in having the concept terminated. That requires counsel and an appropriate timing, and an incredible amount of headache and heartache, and I would say that it is unconscionable for a parent to meet that burden merely because they missed the date in Alaska law, and I would be happy to see you override them on that.

I would say that an issue that is very crucial to this whole situation in terms of what I have already called "Kiddy ripoffs" in the native community, is the right to counsel. I know it is indicated in the bill a number of times that among the things that the money could be used for would be more legal assistance, that the parents would have an opportunity to counsel.

I am not sure precisely what an opportunity means, and if we are talking about a family which lives in Olurkanuk on the coast of the Bering Sea somewhere and they get a letter saying something has happened to their kid, what do they do?

There they are, they have no money, they are on the end of the mail plane run; they operate a telephone that they share with four or five other villages that may well be down.

Half of them don't know whom to call anyway. It is a very serious problem, and I would love to see something in the legislation that says that parents have an opportunity for counsel and they are counsel which are not present, there has to be something on the record that indicates why they are not.

You know, is this another thing where they got notice and didn't know what it meant, or they got notice and couldn't get it together, or didn't know where to go for help? Some way, they have to be accountable on that.

Mr. RONCALIO. I am in a dilemma. I am going to get in trouble with the Sioux. The Sioux are closer to Wyoming.

If the witnesses who have more will wait, let's finish making the record of our case here. We only have three more witnesses. I will come back as soon as I finish these Sioux bills. Maybe I can do that in 30 minutes, but I have to go to the floor.

It is very important legislation. It entails whether they are entitled to interest on the fifth amendment taking of the Sioux Black Hills. They got an award but now they do not have interest on it.

Mr. MITCHELL. I think a number of these concerns could be addressed to the staff in any event, and I would like to continue to do that.

The other thing I would do is to say that the business of notice, every time there is a change in placement, that is a very important provision of this legislation. I have been at a custody hearing with a

State, and the State was at a loss to explain where the child had been 3 or 4 years.

Parents have sent children in for medical treatment in Anchorage and have never seen them come back. To have that kind of tracking to a child, I think, is crucial to the situation.

I would also point out that you have a real problem in Alaska, the problem of what is tribal, and who should get notice.

This problem is being dealt with in other legislation, and it is a real problem in Alaska, because you have villages that have never been part of the reservation system, they don't have a tribal organization per se and you have inside of those villages regional corporations, village corporations, village nonprofit corporations, regional health corporations.

Who gets notice, I think, is a very technical question that should be looked at in terms of particular notices to be given.

In some instances, I think notice to the village may be appropriate. In other instances, you might want to provide a way in which notice could be given maybe to the regional health corporation, which is, in Bethel, a very active group, and in Nome, even more so.

In another native region, they may be well organized or less well organized, but I think where they are in operation they should be used as much as possible.

I would urge you to go in terms of administration to a regional level, and in terms of notice of a particular child, to make sure the village is also informed as well as the parent.

One of the parts of this legislation that I, again, wholeheartedly support, is the preference hierarchy setup for adoption. That, to me, is a side in the issue of the State taking away children on various theories of neglect and abuse. I think the adoption question is very, very crucial.

I have been involved in situations in which pregnant women have left their village.

I imagine all of you know, but at least in native culture, the family has much more to do with what is happening, and the instance in which a native girl, who is in a village who escapes the village pregnant without anybody knowing it, or without her parents being involved in some way is relatively slim.

I do not say it does not happen, but generally speaking, it is a family situation, and if you look at most of the cultural adoption situations that have gone on there for thousands of years, they are situations in which single women traditionally give up their children to their own parents, or to perhaps a brother or sister of their parents, and it is a family community situation.

So I think that the bugaboo about private situations is a valid concern, but that at least in the Alaskan culture, to my knowledge, is not an overriding concern.

But, anyway, as I was saying, I am familiar with the situations in which the extended family put a daughter on the mail plane to go to Anchorage to have a baby and the daughter and the baby never returned, and I didn't get to that village for almost a year thereafter, and nobody knew what happened.

No one ever told them or gave notice to them. They wanted that baby.

Now, as it turns out, that particular family—back to this prima facie business, had a history of involvement with the welfare department and alcohol abuse—you know, the old story—and if you had taken that one up, they would not have had a prayer.

They had a brother of the grandmother involved who lives in one of the satellite communities, who was involved with the mental health program there, and would have been a dandy parent to that child, and express some interest in it after he was told the situation. What is his problem? No understanding?

He does not have any right to go in there and say, "Put on the brakes, I want the daughter of a member of my extended family."

I think this kind of legislation would solve some of that. In terms of the issue of mothers who voluntarily relinquish, they will tell you another story about that, or I can tell you a story about it.

A woman left a village and had the option of going to Bethel or to Anchorage to have her baby. In Bethel, a prematernal home is run. She has a sister living in Anchorage, and she let a social worker talk her into a facility there that she thought was similar to the Bethel prematernal home.

I, eventually, bumped into her, and what was her major gripe? She wants to go home. The people were trying to make her give up her baby.

OK. It turned out that this was, while it was not a facility for unwed mothers, there was a lot of counselling going on there. What was her problem?

She was 17 years old and pregnant. She also like to hang out and go honky-tonking once in a while, and so did I when I was 17.

She would have had a prima facie social problem because she showed up pregnant. I investigated that with the administrators, and the line was "Oh, though we don't make anyone give up their baby. All we do is have people come in and explain the alternatives and what is involved in having a child," and trying to provide them with enough information to do what is right.

I am not assailing the good faith of those people at all, but they are doing that in a white culture, based on a white counseling experience, and she wanted out. "I made a decision not to give up my baby, and I do not have a problem and I want to go home."

The amount of aggravation with that institution and the State—she essentially got out of there. I bring it up to show that the voluntary relinquishment for native women is not as cut and dried as you think it would be.

I think in that kind of context, I think that the wishes of the extended family certainly are entitled to some equivalent amount of respect.

In terms of title II, which I also think is very well intended, and I support it wholeheartedly, I would hope that subsection (a), and I do not know precisely what it is intended to include, but, for instance, on the North Slope they have chosen up there not to become involved with a regional health corporation, to my knowledge, rather because they have something to tax much to their credit.

They form a borough and tax it, and the borough is the primary facility through which they ran a variety of social services that are all for the most part Eskimo run, and I would hope in terms of being

eligible to have a facility such as those that are authorized in this title, that we include them as well as regional corporations and others.

I would say in looking at the list of things for which money can be used, a couple that come to mind are, of course, foster homes. There is no greater problem in the bush than the problem of State licensing of foster homes. For the most part, village people have been given pre-fab houses that have one entrance. That is a violation, and all kinds of health problems. Licensing most native homes in the bush under State laws is difficult, and we have looked at it for years and nobody has done anything about it.

This would be an excellent way to provide people with the opportunity to do that.

Another thing that comes to mind is the training of natives for child welfare jobs, and my experience in Alaska has been that the decision-making of the State welfare agencies has always been controlled by white professionals, which I am sure comes as no surprise.

What they do use, however, are native paralegals, and the paralegals essentially are involved in sort of running out and being the gophers into the villages, and translating for the MSW's in terms of trying to figure out what to do about a particular social problem.

There have been a number of difficulties dealing, at least within my personal knowledge, in dealing with the State department of health and social services in terms of getting a real commitment from them to get Native people substantively involved in social welfare activities.

I would commend that section to you, but I would say that I have thought about it in great detail, but I think it would be helpful to really make a commitment by State agencies to get involved in a State like Alaska, where we are stuck with State administration for a long while.

The last thing under that section that I would like to touch on again is legal representation. A real problem out there is the fact that it is all one law club, and no matter how many attorneys you put out, essentially every time there comes to be a time for some agency to provide money for legal services, and Alaska legal services won't like this very much, I don't think, but every time that kind of money becomes available, what happens is that they contract with Alaska Legal Services, which provide a way to get more money and lawyers, and God knows, they need it, but the problems you get into are conflicts, because everybody belongs to what is legally the same law firm.

So, you get involved in situations where there are children involved, and somebody needs to represent the parents, and maybe the public defender might represent somebody, and maybe he won't, and maybe you have represented the parents in another matter that might go to their fitness, and the whole thing is a mess.

Mrs. FOSTER. In the interest of time, if you do not mind, can we have the benefit of your input on the detail in the language of the bill dealing with the nonprofit corporations at a later date?

Mr. MITCHELL. I am sure, Mrs. Foster, that that was my last analysis. So you caught me as I was trailing out the door.

I would say only that it is a real problem, and I would encourage you to figure out ways to allow other organizations, the regional health corporations, et cetera, to become involved in contracting for legal as-

sistance so that there is at least another law firm in the bush that is not involved in conflict difficulties.

Once again, I wholeheartedly support this effort, and anything we can do in the future to iron out some of these technical problems, please feel free to call upon us.

Mrs. FOSTER. I would never cut you short, except I have the feeling that you will be available to us again.

Do you have any questions?

Mr. TAYLOR. I do have a question relating to the definition section on page 5 of the bill, where we define "reservation." It is section 4 (g).

We have included in that definition all the traditional Indian country in the lower 48, and two or three other areas, and land held by Alaska Native villages under the provisions of the Alaska Native Claims Settlement Act.

When we get into the jurisdictional aspects of this bill, the question has come up as to the viability of what we have done here. I wonder if you could express an opinion on that?

Mr. MITCHELL. I think that bringing Alaska Natives within the purview of this legislation is extremely critical, and I think two ways to do that are to indicate that native land in Alaska is, for this purpose, is reservation, and also to acknowledge that native villages in Alaska are in fact tribes.

I sort of stayed out of the jurisdictional problem because that is a well-known thicket that I could bore everyone with for hours.

Mr. TAYLOR. Do you see the inclusion of this language in the definition of reservation as a necessary inclusion, or should it be modified?

Mr. MITCHELL. I would like to think about it. I think if you included Alaskan villages and Alaska Natives within the definition of "Tribe," you might be able to skirt that one.

One of the problems you have in the Settlement Act is that in its wisdom Congress tried to make everyone State-sponsored capitalists, instead of acknowledging that this is, in fact, native land.

It happens that it is as much private land as the house I live in in Anchorage. It happens to be owned by certain people who are natives. The land itself is no different than a regular old private estate land, and I have no problem with it, and I think that it makes it clear that we are talking about Alaska Natives, and there is no argument to be made that they are not going to benefit in this, but, again, it is part of the real problem that the Congress stated in its wisdom when it got us off the native track and onto the corporate track.

Mr. TAYLOR. In terms of jurisdictional provisions, though, do you consider this workable?

Mr. MITCHELL. I think in terms of the jurisdiction provisions, there is a movement afoot in Alaska for native people to start asserting jurisdiction when—well, I would say this is totally my personal view, that on a village basis it would be very difficult for the villages logistically to, you know, 200 villages, to start asserting all kinds of jurisdiction.

I think on a regional basis, especially when you look at the regional nonprofits and the regional health corporations, if there were a way to draft to permit them to exercise some of these jurisdictional functions and get them off the total status of the present, I think that would be an excellent thing to do.

I know right off my head that Bethel, Kotzebue, and the North Slope have facilities to start working in that direction. Other regions are not as well organized yet. But I would approach jurisdiction on a regional basis rather than a—I would approach it on a regional basis, but that is something I would be happy to talk to you about in detail later.

Mr. TAYLOR. We do not have a written statement from you, and I wonder if you could give us your mailing address.

Mr. MITCHELL. Mrs. Foster is in touch with me, and I would be happy to stay in touch with you.

Mr. TAYLOR. Fine.

Mrs. FOSTER. Let me raise this question, and you possibly could not address it here, but does not jurisdiction usually attach itself to a specific tribunal or a specific area and, if you were to establish a number of courts or lesser tribunals in Alaska for child welfare proceedings, would that tribunal or panel not have to have a specific geographic area within which it would exercise the jurisdiction? Would that not create a problem, because all of Alaska is a reservation?

Mr. MITCHELL. All of Alaska for certain purposes is treated as a reservation, but in terms of the way service delivery is now being organized on a variety of levels, everything seems to be filtering through the regional boundaries established by ANCSA.

They operate within the boundaries of the known regional profit-making organizations, and that is true in Bethel and Billingham, and the Slope has always confused me because of their organization there.

Another way to do it might be to do it on a statewide basis and have regional input from there. It is a subject that really needs to be thought over, and the 638 mess has people thinking finally.

Mrs. FOSTER. Thank you very much.

Don Reeves—and you are accompanied by Jan Harmon.

Mr. REEVES. I am a farmer from Nebraska. I am on the staff of the Friends Legislative Committee. Jan is a colleague there, and is a joint appointee between the Friends and the Mennonites. My wife, Barbara, would have been here except for a death in the family, and this is a joint statement of support for the Indian Child Welfare Act out of a fairly intense personal experience.

Plane schedules and weather permitting, I will be at the State reformatory in Nebraska tomorrow morning at 7 o'clock to take Rick home. Rick is one of three adopted Indian children in our family, and I thought I could do this.

Mrs. FOSTER. Do you want Jan to give the testimony for you?

Mr. REEVES. This isn't in the written testimony.

Mrs. FOSTER. Take your time.

Mr. REEVES. The thing that I want to talk about is the absolute importance of early, stable, loving relationships in the childhood of any individual.

Rick was 3½ when he came to our house, and when he was taken by the State, he and several older brothers and sisters were picked up in a supermarket about 2,000 miles from home; and in those circumstances they were living by their wits.

The home that we were able to provide for Rick, we were never able to overcome some of the experiences that he went through during those first 3 years of his childhood.

Now, it seems to me that this early, stable, loving, relationship, and I use those three words advisedly, is almost independent of the culture or the community in which youngsters find themselves, and there is a kind of relationship that ought to be interfered with only as a very last resort.

I think that there are things that the extended family and the community can do to support what happens in families, and so I am pleased that in this piece of legislation, what I see as the first line of defense is the kinds of services that would support the family relationships—family counseling, the temporary kind of support that can get families over these kinds of situations, homemaking services, health care, day care, and the other kinds of services that can make it possible for a family to keep the children in that circumstance and create the kind of home that every child deserves.

I believe that the decisions, at least I hope that the decisions about the kinds of services that are needed by particular families will be made by the communities that they are part of, and not imposed on by rulemakers from some other quarter.

I think this is in quite sharp contrast to what has been national policy, at times very explicitly, at times programs unintended, when the dominant culture has said in effect to the Indian communities that, "Your traditions and your values you know, they are not right," and the rules have been set up so that Indians were not free to set their own standards.

The effect of this was to break down the Indian communities and the Indian families.

So it seems to me that the effect of U.S. policy has resulted in certain circumstances in which Rick started out and in which we, you know, just were not able to overcome.

So that I see as really the most important part of this bill is to reinforce the family circumstances of the Indian families and the communities they are part of. In those instances—and there are going to be instances into the future—that some families may not be able to cope and take care of the youngsters. Then I think it is appropriate that the decision about those youngsters needs to be made again by the extended family, by the community, by the people who are closest to that family, and not imposed by a foreign culture.

So that we are very supportive on the basis of our experience of both halves of this bill.

We would like to commend Congress for this kind of approach to this set of problems.

The final thing I would say is the importance of adequate funding for this measure. It does not make any sense to create a mechanism that could work and then deny the resources that would bring it to fruition.

I don't have the competence to judge whether \$26 million will be enough. It might be enough for the first year to get it started, but it would be a calamity if the mechanism were put in place and then in subsequent years the only way it could be kept going would be to take money from existing programs which provide some of the very kinds of support for families that are not in place at this point.

I assume that the written testimony will be entered in the record.

Mrs. FOSTER. Do you have any questions?

Ms. MARKS. I would like to express our thanks to you for coming over and sharing your testimony with us today.

Mrs. FOSTER. Thank you.

We will call the last panel, which is panel 4: Gregory Frazier, Vera Harris, Mike Ranco, and Suzanne Letendre.

Which one is Gregory? Do you represent AL-IND-ESK-A and the National Urban Indian Council?

[Combined prepared statement of Vera Harris and Elizabeth Cagey may be found in the appendix.]

**PANEL CONSISTING OF: GREGORY FRAZIER, EXECUTIVE DIRECTOR, AL-IND-ESK-A CORP.; VERA HARRIS, ACTING DIRECTOR, TSAPAH CHILD PLACEMENT AGENCY; ELIZABETH CAGEY, ADMINISTRATIVE ASSISTANT, TACOMA URBAN INDIAN CENTER; AND MIKE RANCO, EXECUTIVE DIRECTOR, HEALTH AND SOCIAL SERVICE, CENTRAL MAINE INDIAN ASSOCIATION**

Mr. FRAZIER. Yes.

Mr. Chairman, members of the committee and staff, my name is Gregory Frazier, and I am the executive director of the AL-IND-ESK-A Corporation. The AL-IND-ESK-A Corporation is the nonprofit management arm of the 13th Regional Corporation, 1 of 13 such corporations formed under the Alaska Native Claims Settlement Act—Public Law 92-203. There are currently between 4,000 and 5,000 Aleuts, Indians and Eskimos of Alaska enrolled in the 13th Regional Corporation, all of which are residing outside of the State of Alaska.

We strongly encourage the House to pass the Indian Child Welfare Act of 1977 as this is a much-needed piece of legislation and should provide the funds available to Indian and Alaska Native organizations throughout the United States so that they may act to protect the interests of native American and Alaska Native families.

The hearings of April 8 and 9, 1974, chaired by Senator Abourezk, pointed out the necessity for this particular piece of legislation and the problems confronting native American and Alaska Native families in the absence of such Federal support. The individual States are not addressing this problem in a realistic manner and this Federal responsibility should not be delegated to the States.

I would like to skip over to paragraph 2 on page 5.

The article included in here is my responses made this morning by HEW and realistically the BIA also, and our efforts as an organization to secure funds to finance such types of operations.

The Indian Child Welfare Act—Senate bill 1214, as it is now written—would not extend to all Alaska Natives. This is because the Alaska Native regional corporations have been deleted from the definition of "Indian tribe" and, in particular, the 13th Regional Corporation. The declaration of policy in the act as it is now written states that it is the policy of the U.S. Government:

In fulfillment of its special responsibilities and legal obligations to the American Indian people, to establish standards for the placement of Indian children in foster and adoptive homes which will reflect the unique values of Indian culture, discourage unnecessary placement of Indian children in boarding schools for social rather than educational reasons, assist Indian tribes in the operation of

tribal family development programs, and generally promote the stability and security of Indian families.

For the purposes of the act, an Indian is defined as "any person who is a member of or who is eligible for membership in a federally recognized Indian tribe." "Indian tribe" is defined as—

\* \* \* any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for services provided by the Bureau of Indian Affairs to Indians because of their status as Indians, including any Alaska Native villages, as listed in section 2(b)(1) of the Alaska Native Claims Settlement Act.

None of the members of the 13th Regional Corporation are members of any of the Alaska Native villages listed in section 2(b)(1) of the Alaska Native Claims Settlement Act, and therefore these Indians, Aleuts, and Eskimos of Alaska, enrolled in the 13th Regional Corporation would not be recognized as Indians for the purposes of this act. This definition is inconsistent with the declaration of policy; therefore, it should be amended.

We are proposing the following amendment for the definition of an "Indian tribe" for the Indian Child Welfare Act:

Indian tribe means any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for the services provided by the Bureau of Indian Affairs because of their status as Indians, including any Alaska Native villages listed in section 2(b)(1) of the Alaska Native Claims Settlement Act (85 Stat. 688, 697) and the 13th Regional Corporation.

An alternative method of correction would be to change the wording of 4(c) back to its original form, in agreement with the definition of "Indian tribe" in the Indian Self-Determination and Education Assistance Act (Public Law 93-638) and the Indian Health Care Improvement Act (Public Law 94-437).

In summary, we would strongly encourage the House to pass the Indian Child Welfare Act of 1977 and amend the act as suggested so as not to exclude 4,000 to 5,000 Aleuts, Indians, and Eskimos of Alaska that are currently enrolled in the 13th Regional Corporation.

Mr. TAYLOR. Could you tell us what the definition was originally?

Mr. FRAZIER. It was consistent with 638 before it went through the Senate, and it was in the Senate markup that it changed.

Mr. TAYLOR. All right. Was that definition similar to the one that is used in the Indian Health Care Improvement Act?

Mr. FRAZIER. Yes.

Ms. MARKS. Mr. Frazier, my understanding at this time is that there is a serious discussion going on as to the jurisdictional powers of the regional corporations, and that there is legislation which has been presented to the Congress to attempt to clarify the role of the regional corporations.

Am I correct in assuming that this was the reason that that section was originally deleted from the bill, not an attempt to keep regional corporations from contracting, but an attempt to clarify the role of regional corporations in terms of establishing tribal courts or a comparable tribal agency?

Mr. FRAZIER. That may have been the intent. I am not sure it was the intent at the same time to exclude 45,000 Eskimos, Aleuts, and so forth, who are not enrolled as members of the village corporations in Alaska.

The 13th Regional Corporation is made up of nonresident Alaskan Natives, and I would say includes 97 percent of those who reside outside the State of Alaska currently. But your legislation on any child welfare act, as it is now written, would include that.

Mrs. FOSTER. Would you enlighten me? The 13th region, are they now getting help on education?

Mr. FRAZIER. No.

Mrs. FOSTER. But they come in under that definition of Indians, not as native Americans, the other 12 regional members?

Mr. FRAZIER. Wait—you are using the word "Indian," that they have to be members in a tribe which is a village corporation, and these people are not members of a village corporation but of a regional corporation. Subsequently, would you not recognize them as Indians in this legislation?

Mrs. FOSTER. Are the members of the 13th Regional Corporation getting any benefits under the acts you mentioned here as 13th Regional Corporation members?

Mr. FRAZIER. Not that I know of.

Mrs. FOSTER. They are getting, then, under the definition of those acts which limit the—wait, I understand it. It includes anyone who has quarter-blood.

Mr. FRAZIER. I assume that is correct—437 has not been implemented to date, so I cannot address that issue; 638 in its implementation and its administration—or administrative implementation—right now addresses the issue of Alaska, and these people are outside the State of Alaska, so I feel fairly safe to say that it is not affecting them directly.

I asked the Bureau of Indian Affairs' social service representative, at a recent conference in Fairbanks, what he would do—and this is the agency that is contracted out, I believe—what he would do for an Alaskan woman in Chicago who came in contact with the court and was in the position of losing her children. He said, "There is nothing they can do."

Mrs. FOSTER. AL-IND-ESK-A could qualify as an Indian corporation and get funding that way?

Mr. FRAZIER. I think there is a point of law that when you take something away, and you have taken away recognition, and you have set your limits and definitions within 1214 to exclude this group, and you are setting these individuals back from a position that they occupied before, that being a member of a tribe for the purposes of 638 and 437, that is, to be an urban Indian, and thereby the benefits of an urban Indian program.

Mrs. FOSTER. I was not attempting to say what should be, but I was asking, as matters now stand, it would be possible for AL-IND-ESK-A, an urban Indian corporation, to get funded in some sort of a program?

Mr. FRAZIER. I would say it is possible, but it is more likely remote because of the logistical—

Mrs. FOSTER. All right. I will turn it over to Pete.

Mr. TAYLOR. I am looking at a version of S. 1214 as it was enacted out of the Senate, and they scored out the original.

So I would like to read section 4(c) of the version which I gather was originally introduced in the Senate. The definition of "Indian

tribe" means "any Indian tribe, band, nation or other organized group or community of Indians, including any Alaskan Native region, village or group, as defined in the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status of Indians."

Is that the definition you would prefer to see?

Mr. FRAZIER. That is correct.

Mr. TAYLOR. And it refers to services provided by the United States and not just the Bureau of Indian Affairs?

Mr. FRAZIER. That is right.

Mr. TAYLOR. I would have one other question in view of the change we are contemplating.

Approximately how many members of the 13th Regional Corporation reside outside of Alaska?

Mr. FRAZIER. Ninety-nine percent. I think there are five or seven that reside inside of the State of Alaska now.

Mr. TAYLOR. What numbers are we talking about?

Mr. FRAZIER. 4,000 to 5,000 enrollment in the 13th Regional Corporation.

The second piece of testimony I would like to present is on behalf of the National Urban Indian Council representing the National Urban and off-reservation Indians.

As American Indians and Alaska Natives we have been subjected over the years to a myriad of philosophies, programs, and policies that have been, in my opinion, specifically designed to facilitate the indoctrination of our people to the white, Anglo-Saxon beliefs and way of life. The social dysfunctions resulting from these practices have manifested themselves in acutely high alcoholism rates, suicides, high school dropouts and chronic unemployment, all of which have contributed to our inability to achieve social and economic self-sufficiency or self-determination.

We can trace the beginnings of these practices to the Allotment Act of 1887. Maximized, this would have ended reservations and the native family would have remained as separate families and individuals within the various States. This program remained in effect until the Indian Reorganization Act of 1934 and its Alaska and Oklahoma supplements in 1936.

Generally, this act was to revitalize tribal organizations and native community life through the strengthening of tribal leadership and the formation of governing bodies. Although the method of assimilation may have changed, the goal remained the same.

The prevailing philosophy after the allotment experience was that assimilation would occur more rapidly if the Indian community were again encouraged to take their places among the many local communities throughout the Nation. During the 1930's, following one of the recommendations of the 1928 Merian report, a program was undertaken to secure employment away from reservations for young Natives graduating from BIA schools.

During World War II as a result of varying pressures, it is estimated that 65,000 native Americans and Alaska Natives left the reservations to take their places in the armed services or to find employment

in war industries. In the fall of 1950 the BIA decided to extend its relocation activities. In the early 1950's the BIA opened field relocation offices in Chicago, Los Angeles, Salt Lake City, and Denver. In 1953 the BIA suggested that not less than one-third of those natives being relocated were returning to their reservations.

The termination policy era of 1953 to 1958 was again aimed at assimilating natives, but on a more rapid basis. House Concurrent Resolution 108, passed in the 83d Congress of 1953, specifically named tribes that were to be terminated at the earliest possible time.

Public Law 280, passed in 1953, was again regarded by some as one of the major developments contributing to a reduction in the Federal responsibility in Indian affairs. Briefly, this law gave the States jurisdiction over criminal and civil matters.

Fortunately, the termination policy slowed during the 1950's and early 1960's. Native leadership in the country as well as others recognized the devastation termination would cause to the Indian way of life and Indian culture. A report in 1961 entitled "The Task Force Report" called for a shift away from discussion of tribal termination programs. Members of the task force recognized that Indians considered the Bureau's relocation program as a primary instrument of the termination policy which they universally feared. It was, therefore, recommended that increased emphasis should be put on local placement with a much higher degree of cooperation between the BIA and local agencies and that the name of the BIA Relocation Services be changed to Employment Assistance.

The number of relocation offices increased from five to eight. Then from the time that the BIA's relocation services began in 1952 until it ended in 1967, it is estimated that over 61,000 Indian people had been given help toward direct employment. Further, the BIA estimated in 1967-68 that approximately 200,000 Indians had moved to urban areas in the last 10 years.

Now, let us take a look at some of the statistics to see where we, as Alaska Natives and native Americans, were at the early part of the 1970's:

1. Estimated projections from the 1970 Census suggest that nearly 500,000 native Americans and Alaska Natives reside in the urban areas.

2. There are between 20,000 and 28,000 Alaska Natives in the Lower 48.

3. The unemployment rate for native Americans and Alaska Natives is apparently no better in the urban areas than it is in the nonurban areas.

4. In instances, a minimum of 25 percent of all Indian children are either in foster homes, adoptive homes and/or boarding schools against the best interests of the families and Indian communities.

Although I stated previously that termination as a policy slowed to a stop during the 1960's, it is apparent that assimilation was and still is the goal.

Recently I was conversing with a non-Indian professional social worker about the Indian Child Welfare Act, and particularly as it relates to urban Indians in their contact with State welfare systems. She told me:

We must remember that the non-Indian social worker operates on a Western European, white, Anglo-Saxon thought construction. This is the basis for their training. Consciously or unconsciously, for them assimilation is the goal.

Without clear Federal policy such as that proposed by the Indian Child Welfare Act, attitudes such as these can only be expected to prevail.

We now have nearly 500,000 Indians in the cities or off the reservations subject to these attitudes and having their families broken up and culture dissipated.

We would, therefore, strongly urge that policy, as reflected in S. 1214, and appropriations be made available to urban Indian centers so that they may begin to address those areas of child welfare affecting 50 percent of our native American and Alaska Native populations, that the States and governmental agencies have been neglecting and, therefore, recommend the passage of the Indian Child Welfare Act.

Thank you.

Mrs. FOSTER. That is a very good statement, if I may say so.

Do you have any questions?

Mr. TAYLOR. Yes. I am not sure that anybody can give an answer that goes beyond speculation, but I think it is a question that we really have to ask.

What you are saying in this statement is that roughly one-half of the Indians in this Nation are not receiving services as Indians. If we expand the scope of service delivery, and we had a lot of discussion about this on the American Indian Policy Review Commission, how many of the 500,000 who are presently outside the ambit of our service population—how many of them as a practical matter would be seeking services? Would it be 500,000 or are we talking figures that are substantially less?

Mr. FRAZIER. Pete, I am not capable of determining how many angels you can put on the head of a pin.

Mr. TAYLOR. The Policy Review Commission could not do it either.

Mr. FRAZIER. The Federal Government has a trust responsibility for these 500,000 Indians, and at this point in time it is not living up to that responsibility. What gets down to the urban areas is peanuts, and those people living in the urban areas.

Let me give you an example. The Division of Indian Manpower Programs over in the Labor Department has a budget of over \$200 million, 15.9 of it goes to the urban programs. Administration for Native Americans has a budget of about \$33 million, of which 5.4 goes to the urban areas. This is peanuts compared to a 50-percent population distribution.

The analysis that we took by our individual people in the regional corporation that I work for in one city indicated that there was a lack of knowledge of what does exist. The Federal policies that are in existence say—the Indian Health Service for the State of Alaska says once you move out of the State of Alaska, you are no longer eligible for health care services after a period of 1 year, which is similar to the policy applying to the reservations. Very little is being done.

This particular piece of legislation could alleviate some of the problems that exist in those urban areas. Individuals are subject to—individual tribal members are subject to a myriad of administrative policies, depending on which State they are in, and there is really little alleviation of the problems and anxieties that are caused by those prevailing policies, and as the white social worker said, "the white Anglo-Saxon, Protestant thought construction."

I am aware of few urban programs in the country that are attempting to address the problem of foster care and adoption, and in their efforts to get the funds necessary to address those problems they run into a jungle of administrative procedures to the point where we finally had to go out and seek it from a private foundation in hopes that this particular piece of legislation would make it through the Senate and the House and ultimately filter down.

I am a little concerned that if we go to the Bureau, they have not traditionally responded to the urban Indians, but as it is written now, it is fairly clear that there is availability in the legislation. For that reason we are advocates for its passage.

Mr. TAYLOR. I might add for the record that we had discussions at the Bureau of Indian Affairs very recently, and the question was raised since the title II programs at the urban level are talking in terms of grants, not contracts and not Bureau programs, what problems that would be raised for them administratively. Would they have to create new agencies and what sort of additional staff they would have to put on; and the answer I receive was that it would require relatively minimal staff additions, which I think is an important thing to have in this record.

Mr. FRAZIER. I ran an urban center for about 3 years and contracted with the BIA. Their administrative policy is there, and if they are concerned, I will be glad to provide what technical expertise we can find and help them out.

Ms. MARKS. Greg, could you address for 1 second the issue which has been brought up by HEW and also by the Bureau about how the notice provisions, the tribal notice provisions specifically, and some of the preference categories in this bill reflect the lives of urban Indians?

There seems to me an opinion within HEW and by some people in the Bureau that once Indians move to an urban area, they are sometimes severed from their tribal relationship and that this would be an infringement on that.

How do you feel about this from the people you have worked with? Would it be an infringement and, if it is, how can it be dealt with?

Mr. FRAZIER. The foster care program and the adoptive program that I am associated with, I immediately contacted the tribe whenever a member comes into the purview of this program. To my knowledge this has not presented a problem in the past. The tribe has responded immediately that one of their people is in trouble in an urban area, and that there is an urban area there.

Ms. MARKS. If I might interrupt you, the point is being constantly made that that is an infringement on the Indian parents living in the urban area to have their tribe notified. I would like you to address this for the record, if you could please.

Mr. FRAZIER. I can see where those arguments might come up from the standpoint of basing the argument on the assumption that the Indians wanted to move to the cities to start with, to get away from the reservations. I think if one takes a good look at Federal policy over the last 50 years, you will see that they were encouraged to leave the reservations and subsequently those people who reside in the urban areas may or may not feel infringed upon if asked to communicate with the tribes.

They are there for reasons other than those that they chose to be there for. Let's face facts. Federal policy has been getting the Indians into the white world and the best way to do it is pump them into the cities.

Ms. MARKS. Thank you.

Mrs. FOSTER. Greg, if you had a choice between seeing urban Indian programs administered by HEW or Interior, which would be your preference?

Mr. FRAZIER. Let's put it this way: I had hopes that the American Indian Policy Review Commission's recommendations with respect to reorganization of the Bureau of Indian Affairs and the changing attitudes within the agencies that are now governed by new administration will reflect a little bit more humanistic attitude toward dealing with urban Indians, and in that context I would say it is six of one and half-dozen of the other.

Mrs. FOSTER. Thank you.

Next is Vera Harris.

Ms. HARRIS. Thank you. I appreciate the opportunity to appear before you.

I am Vera Harris, and this is Elizabeth Cagey. We respectfully submit the following recommendations for rewording or change of areas of this much-needed legislation as the current wording will cause great hardship and misunderstanding when implementation becomes a reality.

Definitions: (i) Parent: Must be revised to include only Indian adoptive parents.

In one particularly horrible case the adopted Indian girl was raised to believe all Indians are ugly and worthless. At the age of 14 she mothered a new son. This young Flathead woman is now in a Washington State institution attempting suicide and classified as chronically alcoholic. The non-Indian adoptive parents under Washington State law have been allowed to throw her away and keep her child. They have all of the rights of natural grandparents and no efforts of tribal or urban Indian agencies have had an effect on his continuing placement in this destructive family unit.

The young woman has legal custody, but believes she is bad, and if the child remains in the home, they may love her again.

Section 101. (C) Temporary placement and should be allowed if certified by an authorized agent of a tribal court. Voluntary consent is often an emergency for medical treatment or a mental health crisis.

Case A: A young woman appears in a hospital emergency ward with her tiny 2-year-old and 4-year-old children. She has brought her children's clothing with them. She is in labor and has no help at home. There are no responsible adults available. She has no time to go to a tribal court, the attendants at the hospital take care of her children until a Tsapah [or tribal] caseworker arrives and the consent form is later signed authorizing emergency placement.

Case B: A Singleton parent [a young woman] goes into the Indian community clinic for a routine medical appointment. She has left her four children with a neighbor for a couple of hours. An hour and a half later she is in a local hospital awaiting surgery. Her children range from 15 months to 4 years of age.

Before she left the clinic, she requested a voluntary consent form for placement of her children and left emergency instructions on how to find her children and a few of their belongings. Without the mechanism for immediate assistance she would have had one more set of problems to deal with, and our foster licensed homes would have both been in violation of the law and denied payment.

Section 102. (h) This series of exceptions must only apply to juveniles 16 and older, or not to remain off reservation for over 90 days. The tribes must receive notice 15 days prior to transport of child, the nearest reservation/urban child welfare program must be contacted in advance for the purpose of coordinating support services.

Example: The Jesus Christ Church of Latter Day Saints has included in its program children in the 5-to-7 age grouping and many of these children spend several years off reservation. Some children are so acclimated into these placements that they are, in effect, adopted. Community alternatives could/would be adopted or developed to these out-of-community placements if adequate dollars were available for tribal [community] services.

Bureau and denominational [primarily Catholic] boarding schools are able to recruit children [separating family units] because of the racism of local school districts and a lack of reservation [community] supports.

Section 102. (i) Except cases where temporary wardships have been filed with State courts and tribes wish to assume those wardships.

On some reservations all families who have been on public assistance have been forced to agree to State wardships for their children before securing basic life support. The new wording could be interpreted to mean a previous wardship, however secured, would constitute authority to continue with placements or adoptive plans.

This section also includes cases where tribes have tribal registers of adoptive parents and the State courts [agencies] are anticipating adoption without regard or respect for these tribal resources.

Foster home recruitment by Indian agencies has been successful, but most of these families will not register with State agencies. We believe the same is and will be true of adoption registers. The State agencies are being allowed to say they have searched the State registers and their non-Indian placements are legal because our families haven't placed their names on these registers.

Washington State has passed recent legislation, but the effect is simply new boards forming and the State hiding behind confidentiality laws withholding information from those boards and using their registers to withhold custody.

Section 202. (B) (6) Funding must be included to meet the needs of transportation, emergency custody, and communication assistance for both urban and reservation programs to provide emergency and scheduled supervision and care of children going home to another tribal jurisdiction. This bill calls for extensive referrals of Indian children to their primary governmental jurisdiction, but does not cover the costs of phone calls, office and casework support, crisis or scheduled care, transportation and supervision, et cetera.

There is no mechanism provided for urban programs or tribal programs to sit in on State court proceedings for the purpose of monitoring or forcing the implementation of these new laws. With any child

in a current wardship status the doors will be closed in the name of confidentiality and we will find ourselves totally helpless to provide protection to our children or services for returning them to their reservations if custody is secured.

Section 203. (A) The Office of Child Development and the Social Rehabilitative Services agencies of HEW region 10 have been indifferent and unhelpful. The only helpful agency has been HEW's Indian Mental Health Services, specifically John Bopp, M.S.W. Serious consideration should be given to keeping these funds within the Indian Health Agency under 638 with the headquarters—Rockville—administrative management working with both tribes and urban centers.

Section 301. (a) Confidentiality cannot and must not apply to tribal governments, courts or social work agencies. The Bureau as the rights protection trustee should have prevented the alienation of Indian children all along and should not now be controlling files needed by these tribal agencies. There is no possibility of urban Indian social work agencies doing their work in conjunction with the Bureau of Indian Affairs. Many of these lost children are second generation Bureau of Indian Affairs relocation program victims and the Bureau is very defensive of this program.

Mrs. FOSTER. Thank you on behalf of the chairman for very constructive and specific illustrative testimony, Ms. Harris. It is very moving.

Let me assure you that we are going to go over every one of these amendments, such as yours, and really see what we can do to come up with a proposal for this committee which would incorporate as many of these things as we can.

In the opening statement the chairman said that this is a working vehicle.

Ms. HARRIS. We have one more.

Mrs. FOSTER. Yes.

Basically these things will all be worked over very carefully.

Ms. CAGEY. I am an administrative caseworker for a child placement agency. I work in conjunction with the Tacoma Indian Center and the Puyallup Tribe.

On S. 1214 the tribe in urban communities needs direct funding to take care of needed services that will come with the responsibilities of this bill. The dollars earmarked or proposed for this program are inadequate. Our service population is 7,000 and the census recognized only 3,200 at approximately \$26 per child. This would provide \$83,200 for this entire county.

We need an emergency care center with staff, caseworkers, office facilities, staff, equipment and office services, vehicle, dollars for transportation, group homes for long-term care, family and juvenile recreation space, indigent fund for emergency food, clothing and transportation, training dollars, and emphasis on the training dollars, law enforcement dollars, and lay workers.

We are advanced in our services, but we would require a grant base of at least \$200,000 for facilities and equipment. There are many communities that require much more to serve a population of this size. We have started with no help except the CETA program, positions that

can only last 18 months. Once the staff is trained, there is no money to continue.

We need a national policy for Indian child placement and adoption, supportive services, crisis intervention. Indian health is much more supportive than the BIA. We find many of the cases we have referred to us from the Department of Social and Health Services and the Juvenile Department also often have mental damage.

The communities need direct funding. A special amendment to title XX—and have read this proposed Washington State plan from the State Advisory Committee. The statement is that they do not recognize the sovereignty and jurisdiction of the tribes in the State of Washington.

One alternative would be a comprehensive Indian Social Services Act.

The child placement agency demonstrates that the responsible Indian foster parents can be found for Indian children and that it is possible for them to remain within the community. We have a full-time person to recruit stable families to provide foster care.

A couple of last comments: As for Sister Mary with the Catholic Social Services, there are no words in the Indian country, the Indian language, their hearts and minds, for an illegitimate child since we have known. They are all with us and represent our future. We have no word or definition for an orphan, either because of the extended family fact or otherwise.

I have one last question.

I would like to know how the Mormons have been given the right to a special meeting tomorrow to propose amendments to S. 1214. I thought this was an Indian Child Welfare Act of 1977 session, not a religious, political, or monetary issue.

Mrs. FOSTER. Thank you.

I would like to respond to your last question. I think it is a question.

Have the Mormons been given that? I am not aware of the Mormons or Latter Day Saints having a special meeting.

Ms. CAGEY. There is one going on tomorrow, because Mrs. La Pointe sits on that panel. I was questioning the fact that they are allowed to come in and get a congressional special meeting for amendments to S. 1214.

Mrs. FOSTER. I do not know what you are referring to, but for the record I would like to state that on this legislation, S. 1214, the Subcommittee on Indian Affairs and Public Lands has received massive amounts of mail for and against. All that mail is looked at and scrutinized by the subcommittee staff, and it is open for anyone who wishes to visit the subcommittee and read the letters that come in, to see if they would like to react and give the opposite points of view.

All letters that come in to the committee are not part of the record. Only those things that are placed in the record in a proceeding of the subcommittee are placed in the record, but they are part of the files, and they are public files.

The staff has in the course of preparing for this legislation met extensively with members of the other congressional staffs. I have spoken on the phone, for instance, with the members from urban areas and the staffs of the members from urban areas, and I think it is appropriate at this time, without objection, to ask that there be

inserted in the record a letter from Congressman Dellums and Congressman Stark supporting this legislation.

[EDITOR'S NOTE.—The letters referred to have been placed in the committee's files.]

Mrs. FOSTER. And I see a letter here from Minneapolis, which I think makes a pertinent statement.

[EDITOR'S NOTE.—The letter from the Upper Midwest American Indian Center has been placed in the committee's files.]

Mrs. FOSTER. I think that makes a pertinent statement regarding this legislation.

The staff notified Congressman McKay, who has a large number of Latter Day Saints in his district and who was a witness on the Senate side of this hearing, and asked on behalf of the chairman if he wanted to testify. He declined to testify at this hearing.

If his members wanted to submit letters to the committee, they would be considered equally with everyone else.

Ms. MARKS. If I could make a statement in response to this on the Senate side, because I think there has been a decision, I think I am speaking for Gravel as well—the staff has attempted to work with all interested organizations, Indian and non-Indian, who deal on a regular basis with Indian children.

We have, however, in dealing with the notification provisions, specifically with religious groups, redrafted that section, working very closely with the Latter Day Saints. Also, however, we have worked with NCAI and NTCA and other urban Indian organizations here in Washington, and we have attempted to keep sending this bill out for comment, and we would appreciate any comments that you would have as well, and we are going to be receptive to everyone, because the most important factor I see with this bill is developing something that is going to work.

If we are going to take a chance of developing something that is going to infringe on the constitutional rights of an individual to exercise, for example, their choice in sending their children to a Latter Day Saints or other comparable educational facility, we are going to get in trouble. So I think that we are open to any suggestions that you would like to send in later on.

Ms. CAGEY. I wondered why they had this special meeting. If that is what they are worried about, they have organizations of their own. Why don't they let us have ours?

Mr. TAYLOR. In the original bill we had, I think it was section 104 (h) with the notice requirements on these programs where Indian children are recruited, LDS is one and there are others, too, but LDS is the one most commonly known.

Congressman McKay testified in our hearings on the Senate side and it resulted in a modification of the language in that section. I think he was basically satisfied with that language. We plugged the LDS language into the program.

Frankly, the language of that section remained very confusing because there was a double negative in it, and I could never understand it, even though it was explained to me five times. So Patty and I worked out an amendment to it to try to make it more clear.

I think that we have supplied that to Congressman McKay's staff and it is possible there will be some discussion about that tomorrow. I

am not familiar with it, but I have a typed version of what Patty and I have redrafted which I would expect to have in the bill. There is a Xerox in the back and I will run back and see Xerox copies.

It would be section 104(h). I will submit it for the record here today.

Ms. CAGEY. Will you people be here tomorrow for the meeting?

Mr. TAYLOR. If there is a meeting taking place, I would certainly want to come over.

Mrs. FOSTER. The staff is available after this session. The subcommittee is finished with its own business, but will discuss meetings with anyone who is not going to be traveling away and would like to discuss the bill with the staff in addition to what is happening here this afternoon.

At this point I would call the next witness. That is Mike Ranco.

You are director of the health and social service for the Central Maine Indian Association.

Mr. RUDOLPH. He is executive director. I am David Rudolph, the director.

Mr. TAYLOR. This is 102(h). That is a correction.

Mr. RANCO. There was a storm in the Northeast that held up Suzanne, who could not be here because of the weather in Boston.

Mr. Chairman and other members of the committee, I am Mike Ranco. Accompanying me today is David Rudolph. The Central Maine Indian Association, based in Orono, Maine, was organized to address the needs of Maine's off-reservation Indian population in the southern 15 of Maine's 16 counties.

First, I wish to indicate that in speaking for my people we endorse the spirit of this legislative effort. This action is long overdue and much needed if we are to be able to protect our heritage, our children.

#### NEED STATEMENT

A little over a year ago the board of directors and the general membership of Central Maine Indian Association (CMIA) determined that foster care and adoption services, as presently administered, was one of its major problems. We are losing our children and our heritage through a subtle process of disenfranchisement.

At the time of the vote supporting the establishment of this as an objective to be addressed, eight of the nine-member board had been affected by the Child and Family Welfare Service of Maine, mostly in adverse ways and circumstances. At that time neither the board nor the staff were quite aware of the extent to which the Indian population of Maine was affected. Now we know significantly more and are appalled.

Just a few of the data statements will show something of our population "at risk" and the extent of the problems:

1. Off-reservation Indian children, zero to 19, comprise 52 percent of the off-reservation Indian population in Maine.

2. Of this population 32.8 percent of the children are under single-parent supervision as compared to the State's average of 15.9 percent, and they seem to be the most vulnerable.

3. Family size among the Indians averages 3.8 as compared to Maine's average of 3.16.

4. The unemployment level for our population is around 47 percent as compared to the latest known non-Indian Maine figure of 7.8 percent.

5. The rate of placement of Indian children placed into the child welfare system is 7.58/1,000, second only to Idaho, which is 7.75. This is taken from a study of AAIA. Meanwhile, the non-Indian placement rate is .40/1,000—four-tenths of 1 percent. Even a staff person of the State's Department of Human Services admitted that the rate of placement of Indian children was 19.1 percent higher than that of non-Indian children.

I have attached that statement to my testimony. It gives details.

6. The last known figure regarding location of placement showed that 92 percent of our children were placed in non-Indian homes. Often these placements occurred 100 to 300 miles from his or her home because few licensable homes existed nearer. Also, the distance, being greater, was felt to be a deterrent to the tendency of the child to run away from the foster home and back to his own home. It should also be noted that there are only three Indian homes, as far as we know, that are licensed as foster homes in Maine.

7. Apart from rate statements, statements of how many children are "at risk," we do not know how many children are placed annually or the current aggregate number who are "lost" to our people, who have been disenfranchised by the system. The latest annual placement figure given by DHS was 82 for 1975. The latest aggregate estimate can be well over 300 to 350, but we do not know.

We don't know because there is no systematic accounting of our "lost" children by DHS. However, we do know it is becoming a major problem to the non-Indian community because of the loss of identity on the part of the individual. Many of these individuals are now long-term recipients of the larger welfare system, including the legal and "correctional" system's services.

8. Finally, and probably most importantly, the Indian children who will not benefit from the legislation as it now stands will be the children of Indian families who live off-reservation. It is estimated that, according to the latest figures available, in Maine 80 percent of all placements of Indian children occur in Aroostook County.

Mrs. FOSTER. Where is Aroostook County?

Mr. RANCO. In the northern part of Maine.

Mr. RUDOLPH. As far north as you can get.

Mrs. FOSTER. Thank you.

Mr. RANCO. Not one of these families lives "near" its reservation. From all indications that we have, as the initial results are showing from our recently funded research and development grant, these are the families at greatest "risk" with the least supports available. This legislation will not, as it stands, help change this situation, which affects far greater numbers of children than those who are on federally recognized Indian reservations. In fact, we understand that better than 60 percent of all North American Indians live off-reservation and only a very small portion of this population might be positively affected by this legislation. Because of these facts regarding our problems we offer the following recommendations:

Suggested changes: 1. The definition of "Indian":

On rethinking our position and having gained a greater understanding of the needs of our people, we would offer that the definitions of "Indians," "Indian tribe," "tribal organization," "urban Indian," "urban center" and "urban Indian organization" should be the same as that adopted for the Indian Health Care Improvement Act. Those definitions are attached without changes to this testimony.

The key one is that regarding "Indians" which I would like to read into the record:

SEC. 4. (c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of sections 202, 203, and 302, such terms shall mean any individual who (1) irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is descended, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

2. Increased Funding: As we have discovered in the development of our "Northeast Indian Family Structure \* \* \*" research and demonstration grant, the problems of Indian children and family welfare are far more complex, far more of an "epidemic" proportion than we were aware.

I would like to add here, that our project was one of eight funded nationally to look into the child welfare system, and of the eight the northeast project is the only one that has a research component.

We would recommend very strongly that the program envisioned, which we find much needed, by this legislation needs greater funding resources than planned. It is our feeling that maybe as much as a 50-percent increase might be more appropriate to address the problems. More realistically, but not sufficiently, we could see a minimum of 20-25 percent increase at least to begin to help the Indian people to deal with the problems of family disintegration and make reunification of the families a more realistic possibility. Where more funds need emphasis is in the area of prevention efforts which would be directed to the purpose of keeping the families together.

With regard to cases, I would finally like to take a brief moment to recount just a few of the cases of child welfare with which I am familiar.

Case A: Micmac Family of Eight. The mother was dying of cancer and the father was suffering from alcoholism when the Maine State Health and Welfare took the children, ranging from 8 to 14 years of age, and placed them in separate foster homes. Two serious incidents happened to this family.

The 8-year-old girl was placed in a home 12 miles from her parents. She repeatedly ran away to see her parents. The Department's solution to this situation, without regard to the emotional crises the child was going through, was to relocate the child some 300 miles away from her parents. The status now is that the child was adopted and is in New York State somewhere, now totally disenfranchised from her parents and culture.

The other incident involves the oldest of the six children who is now 21 years old. She was to visit her 18-year-old sister who was still in a

foster home. The foster parents refused visitation rights to the older sister. She was also not allowed to communicate with her sister by phone or letter. She contacted our office for assistance. I called the placement supervisor and he told me that the foster parents did not want the older sister to disrupt the environment and the new culture of the child. At our insistence a meeting was allowed, but the foster parents had to be present.

These two examples reflect the problems encountered while the children were in the custody of the State. This is just for one family. We have other examples.

Case B: My Own. The last example involves my brother and sister and me. We bent the system, so to speak. The State attempted to remove us from my mother. As a result, we went underground for 2 years, living and moving among our relatives both on and off the reservation, but without State support. The reason for that is that we didn't want the State to know where we were.

Ten years ago I had to hire a lawyer in order to gain permission for my younger brother to stay with my grandmother. The State tried to say she was not fit to care for my brother because of her age. Our lawyer showed that she had raised and cared for 5 children, 23 grandchildren and 13 great-grandchildren. Today we are still a close family in spite of State rules and regulations that are aimed at total family destruction.

A final note not in the written testimony is that I have two children of my own, and I have had three children, ages 2, 3 and 6, who were placed in my home, and the children—the mother is an alcoholic and the mother is in alcoholic treatment and she got out the other day. We are in the process of reuniting her with her children again.

If we did not intervene, the children would have been lost.

Thank you for the opportunity to use these few moments to present the Maine Indian child and family welfare case to you. If you have any questions, I will be happy to answer them to the best of my ability.

Thank you.

Mrs. FOSTER. Thank you. I regret the chairman was not here to hear your very personal testimony. I will show it to him, and also I am sorry that you had to go through wind, storm and all kinds of weather, and I am glad you made it here.

As I told you on the phone earlier, I know your part of the country well because I live up there in the summers.

Do you have any questions?

Mr. TAYLOR. Yes; I need to go into this issue again about the expansion of service population. Mike, were you at the meeting at Interior the other day?

Mr. RANCO. Yes.

Mr. TAYLOR. I note you are calling for an increase of 50 percent, but a lesser figure would be 20 to 25 percent.

Taking the 50-percent increase figure—and I am thinking also of the population statistics that you indicate, that 40 percent of Indians live on reservations and 60 percent live off—would the 50-percent increase in funds be adequate, do you think, to expand the service population into the areas that you are proposing and maintain the services proposed in this statute at the level that we are proposing them?

Mr. RANCO. If I recall our meeting, it was a very delicate point to talk about. The very issue that the BIA brought up is that it is only a big enough pie for a certain amount of menus, and the point we made was, first of all, the amount of money that we requested should not reflect the broadening of the definition. The definition, in our opinion, is another issue.

I wrote an emotional paragraph that day, because I was real upset, that again in my opinion it was an attempt to use dollars as a divisive mechanism, again by the BIA, to get the off-reservation Indians fighting with the tribal groups over the same piece of pie, the same old pie game.

If I can make a point for the record, we believe that the issue is again the definition of "Indian," and that is totally different from the amount of money to be allocated, and I can't make that any stronger. We should look at the need of the children first, and let's decide on the dollar amount.

If I decide from that meeting—\$26 million which was proposed in this legislation was kind of picked out of the air, and I think that kind of opens the doors to what we can really look at realistically to implement this act, and I think to be realistic about it, we should look at the needs, and all the staff knows well of the documentation available on child welfare.

I think we should reassess the dollar amount that was already present and suggest a little bit bigger amount, disregarding the definition.

Mr. TAYLOR. I know what we talked about at BIA, and I felt free to go into this area because I was pleased to see that you had included in your statement a request for an increased authorization, which I think is very realistic.

Ms. MARKS. Mike, are you familiar with any organizations which have done statistical analyses of need? We were unable to really find out. What we went by basically was existing requests and an attempt to generate how many numbers of organizations and tribes would want money, but do you have any ideas of how we can get better determinations of funding need? If you have, I would be very receptive to seeing them.

Mr. RANCO. Most of the studies which have been done represent our judgment on them. We looked at them again before we came down, and we think 2 percent is more conservative and realistic without a particular funded project which is just to research, and particularly in the Northeast. Like in our statement of testimony, there are not many programs that are going into research.

The HEW onsite people came to Boston and told us that they weren't concerned about the statistics. They were more concerned about case studies that would really be more of an impact.

I think you should look at the data that are available again.

Mrs. FOSTER. When were services initiated to the Passamaquoddy and Penobscot Tribes? I was under the impression that you were now receiving services from the Indian Health Service and the BIA.

Mr. RANCO. So far they are only words.

Mrs. FOSTER. The court decision said you were entitled to services.

Mr. RANCO. You have to understand the bureaucracy and how it functions. The printed word, you can't eat them, and there are still tielines involved. Indian Health Service won't be coming in until this

April, to the reservations, and the BIA is now, you know, beginning to set up some programs.

Mrs. FOSTER. So you received moneys in fiscal 1978?

Mr. RANCO. There are fiscal 1978 moneys.

Mrs. FOSTER. But they have not been received? This is the planning and development grants?

Mr. RANCO. This came from SIS, the money. The money allocated for our demonstration and research is totally different from the Federal services now being set up for Maine Indians.

Mrs. FOSTER. The programs are supposed to be set up?

Mr. RANCO. I guess.

Mrs. FOSTER. The Indian Child Welfare Act and the Indian family development program, can you see that could be administered better by the Bureau than by HEW?

Mr. RANCO. I have a little freeze because I was reacting to whether it would be better to be served by one or the other. It is like asking whether it is better to be burned by the fire or the flame.

Mrs. FOSTER. Someone said the figure of \$26 million for title II was taken out of thin air. I think it is fairly easy to take any figure as an authorization out of thin air and put it into the bill. The real problem comes when you go and get that same figure appropriated.

My question really led to the fact that, in your opinion, would funds become available soon if you tried to obtain them for grants under this section from HEW or through the Bureau?

Mr. RANCO. OK. From the meeting we had with BIA, if we can maintain the possibility for all Indian people to benefit from a child welfare program, they keep it as a grant and use the precedent of the Indian Home Improvement Act, to insure that all Indian people will receive the benefit from this act.

Mrs. FOSTER. Of course, the Indian Health Care Improvement Act has yet to be fully implemented.

All right. That answers my question.

Do you have anything further?

Mr. TAYLOR. Nothing further, but off the record a moment.

[Discussion off the record.]

Mrs. FOSTER. On the record.

We are about through with the hearing.

This concludes for today the Subcommittee on Indian Affairs and Public Lands hearing on S. 1214 until further notice.

[Whereupon, at 3:30 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]