I think this poses some serious problems about which every conservationist is going to have to think long and hard.

Mr. METCALF. Mr. President, will the Senator yield on that point?

Mr. JACKSON. I yield.

Mr. METCALF. I am going to talk on that point now, because I should like the Senator to yield to the Senator from Arizona.

The same is true in the State of Montana. The Flathead Tribe has a mistaken survey, and they have come in, and the Federal Government has admitted that there is a mistake in the survey. They want a part of the national forest. That bill has been held up in committee. The Flathead Tribe, the Yakima Tribe, and other tribes certainly are entitled to the return of their land a great deal more than the Taos Indian Tribe. The only thing is that we have said that we will try to do "justice"—and I am putting that word in quotation marks in deference to the Senator from Oklahoma—to the Indians by the Indian Claims Commission Act, whereby we compensate them for the land that has been taken either justly or unjustly. We treat every Indian tribe exactly the same. We treat the Taos Indians exactly the same as we treat Yakimas, the Flatheads, the Blackfeet, and all the others.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. METCALF. Yes. The Senator has the floor.

Mr. JACKSON. I just want to clarify a point.

The Senator from Oklahoma mentioned the fact that there is no money compensation. I think it should be pointed out that in the committee amendment, the right to use the land is to be an offset against their claim which is now pending before the Indian Claims Commission. So that this will be a factor in the final adjudication of the claim.

I want the record to be clear on that.

Mr. METCALF. I think the Senator from Arizona is seeking an opportunity to speak.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. GOLDWATER. The Senator does not have to yield, because, as I told him, I cannot support his approach.

I think we are overlooking one important thing here. This will not establish a precedent.

Frankly, I have to say, coming from a State that has 27½ percent of its land in Indian reservation and contains approximately 40 percent of all the Indians in the country, that I have often thought it would be a good idea some day to give them title to their lands and put them on the tax rolls and let them live like the rest. But that is beside the point.

I think we can control this, because what these Indians are asking for—and I have not heard this mentioned—is the use of land that we would say is religious land. It would be the same as our asking for a piece of land on which to build a church. I recall once getting a piece of land in Oak Creek Canyon, Ariz., for that purpose. There is a beautiful church built on it now.

On page 218 of the hearings, I note some of the uses the Indians have asked for. There is the Havasupai Tribe which has been pushed down into the Grand Canyon. They had lands on top of the south rim of Grand Canyon. It is not for a religious purpose so that if the committee did not want to get into this, they would not have to. There is no religious purpose attached to it.

The Fort Apache Indians have another argument about the boundary being falsely laid between their reservation and the Sitgreaves National Forest.

The Hopi Indians' religion—that is, the Pueblo Indians, like the Taos—is very similar. Land is part of their religion.

For example, the Hopis believe that the Kachinas, their gods, actually live on the San Francsco Peaks, and that during the solstice, the Kachinas come down from the peaks and go into the different pueblos.

The are not asking—I know this—for any part of the San Francisco Peaks. But this is religion to them, that the Kachinas go running through the trees and medicine men actually go there and sit beneath the trees and they can see the different Kachinas going by and then the medicine men come back to the village and duplicate them.

The Navajos' religion is built on mythology and legend. Their sacred places are in the mountains and large rock formations. They are just as sacred to them as anything in our religions is to us.

So, it is not a question of being fearful about precedent being established. We can control that.

When Indian tribes, such as the Taos, ask for this lake, they do so because hundreds of years ago, in 1200 or 1300, Indians came to live there. The lake has been a part of their religion ever since.

We make the argument about the Navajos using peyote, which is dope. Well, they will say to us, "You Christians use wine in your religious ceremonies. We use peyote." They might also say to us, "You go and worship in a church which you have built. We go and worship on a mountain. We go and worship by a lake. We go and worship on a rock." All that has meaning to the Indians. All of these rocks, mountains, streams, and lakes, we have out there, they all have some definite religious meaning.

The Hopi Indians will not allow any exporation for oil, or even water, on their lands, because the Masao is their god of the land, and they do not want people sticking holes in their god Masao. If anyone asks them for the name of a god of a certain piece of land, they can tell him without surveying it or having any map.

Mr. President, I would be hopeful that my colleagues would vote today for these Indians. I do not see it as any precedent even though, as I said earlier, I would not object to it being a precedent because I believe that one of these days we should turn the lands over to the Indians in title.

This is merely a religious request.

I can understand the feelings of the Indian tribes, having lived among them all my life, especially their interest in acquiring certain pieces of property, even though it might mean going into a national park. If we yield to the Havasupai request we would have to take a small piece from the Grand Canyon National Park. I do not see any reason why any tribe, unless it does have a religious interest in the Glacier National Park—and I have never heard of it—would want that land except for religious purposes.

Again I suggest to the able chairman that we can certainly control this by stating that no land will be given in fee title, that no land will be given or even allowed to be used, if that is the case, unless they are wrapped up in some religious meaning to the Indians.

We have to remember, maybe, one or two other things, that the Spanish kings recognized the rights of the Indian tribes to certain of the lands. I believe that the Treaty of Guadalupe Hidalgo, which was signed in 1848, the treaty between the United States and Mexico, recognized the historic position of the Indians on these lands.

Some of the lands have been expanded. The historic Navajo Reservation was very small, contained in Canon de Chelly. Now it is spread out over 16 million acres. Much of the western part of that Navajo Reservation has no religious significance at all to the tribe.

Thus, I hope that Senators will take a look at this the way I think it should be looked at, as to what the Indians desire, and what I would like to see them get; namely, their rights to these religious lands, just as we have the right to go to the church of our choice. They should have the same rights, even though their religions, I must say, are completely different to ours.

The Hopi Indians have over 250 different gods. The Navajos, I do not know how many they worship, but mostly in legend and mythology.

Let me mention just one example. In the Canon de Chelly, which is a national monument, there is a rock called the Spider Rock. The Navajos who live there have never asked for this rock. We have never had any problem about it. I do not believe they would ever ask for it.

There is a legend about the Spider Woman, that she taught them how to weave and she taught them at the Spider Rock. The Spider Woman became a god to the Navajos. The Navajos are good weavers to this day, but they never weave a perfect rug. They always leave a little hole so that the Spider Woman can go through.

That is one example. I could give hundreds more, all over Arizona, New Mexico, southern Utah, and parts of southern Colorado, that has tremendous religious significance. The Indians look upon that area as we look upon Jerusalem. The Taos look to the Blue Lake. The Navajos look to the mountains, the Hopis to the San Francisco Peaks.

Now, Mr. President, I thank the Senator from Washington for yielding to me.

Mr. JACKSON. Mr. President, may I respond briefly.

I want to compliment the Senator from Arizona for a very fine statement. We all want to do justice to the Nation's Indian people and to see to it that their historical practices are protected. I would

be the last to dispute that right. I fully support that objective.

I think the problem here is how we achieve this objective. I mentioned in my opening remarks that on October 13, 1970, I introduced S. 4469, the National Indian Cultural and Ceremonial Shrine Act of 1970.

This bill would establish a uniform procedure whereby all recognized Indian tribes would have the opportunity to petition the Secretary of the Interior and request him to recommend to Congress the establishment of a national Indian shrine for their use and benefit.

Mr. President, let me read from the declaration of policy in the proposed legislation:

> There is hereby established a "national system of Indian cultural and ceremonial shrines," all units of which shall be designated, preserved, and managed in accordance with the provisions of this Act. National Indian cultural and ceremonial shrines shall be designated by Congress as "Indian shrine areas" and shall be preserved and administered for the use of recognized Indian tribes in such manner as will afford full protection for the natural condition of the designated lands and afford the members of the tribe an opportunity to maintain their traditional practices and their cultural and ceremonial heritage.

Mr. President, my plea is that we adopt a uniform policy such as is contained in S. 4469. I must say that the proposal of the Senator from New Mexico (Mr. ANDERSON) is in keeping, on a singular basis, as it applies to the Taos, with the policy statement I have just read from in S. 4469.

I reiterate to my good friend from Arizona that I think we are all in accord here as to the need to protect the historic religious practices of the American Indians. What I am worried about is transfer of title means that uses can be made beyond what we are talking about; namely, religious practices, and the preservation of their cultural aspects in areas which are important and most significant to specific tribes. This is my point.

Mr. GOLDWATER. Mr. President, I think that the Senator's point is very well taken. I know of his proposed legislation. I certainly hope that it comes to the floor. I think that we ought to enact it. But in the meantime I feel that the legislation that will be proposed by the Senator from Oklahoma will better answer this problem than the step we are taking today. We are not really saying to these people, "This is your shrine. You use it." We are saying that they can continue to use it as they have in the past without being molested.

To me, it is like someone telling me, "You can continue to go to your church, but it is no longer your church."

Mr. JACKSON. I would say that obviously we cannot compensate in dollars for the taking away of the land area that is in fact—if it is a fact—a part of a religious practice or a ceremony.

There would be no way to compensate for that, because that is a practice that is tied to a specific area of land and no other.

That is why I think there is validity here in doing what the Senator from New Mexico (Mr. ANDERSON) has proposed.

Mr. President, I yield the floor.

Mr. ALLOTT. Mr. President, I have been extremely interested in the colloquy which has just occurred. Of course, I am sure that no Member of the Senate is as knowledgeable over all of Indian history and Indian lore as the distinguished Senator from Arizona (Mr. GOLDWATER). We all recognize this.

The position of the committee in this matter was not arrived at easily, nor without a great deal of soul seraching and analysis. It was arrived at only after consideration of not only what has occurred in the past, but also consideration of where we are going in the future with this particular subject matter.

Mr. President, I rise in support of the committee substitute for the House passed version of H.R. 471. I have considered this question carefully and have come to the conclusion that the House passed version of H.R. 471 creates a dangerous and undesirable precedent—the granting of lands in lieu of money to pay judgments against the United States.

The claim, which this legislation is designed to settle, resulted from the inclusion of the land in question in the Carson National Forest in 1906. The Indians claimed that they had traditionally roamed this area and therefore had aboriginal Indian title to the tract.

The area consists of the high mountain watershed known as the Blue Lake and Rio Pueblo drainage area. The Indians claim that Blue Lake is the source of their water, and Blue Lake, the surrounding peaks, together with the streams flowing from the area, are sacred. They claim that they worship at these shrines; that their religion is secret, and to reveal the times, places, and modes of worship would desecrate their religion and destroy its power.

In the early days of the Spanish explorers, the Spanish people settled in the area to the south of the Taos Pueblo and the Spanish settlement of Taos was established. Rio Pueblo and adjoining Rio Lucero furnished water for domestic and agricultural purposes for both the Spanish and the Indians.

When the original Taos Pueblo reservation of about 17,000 acres was granted to the Indians, it was later found that some of the Spanish settlers and the village of Taos were on land granted to the Indians. While the land grant was made by the Spanish Crown, under the Treaty of Guadalupe Hidalgo, the U.S. Government assumed sovereignty over all of the vast regions of the Southwest, and President Lincoln confirmed a grant of 17,360 acres to the Tao Pueblo in 1864. This was a tract of four square leagues surrounding the Pueblo, but it did not include the Blue Lake area or any of the land included in H.R. 471.

The land taken by the Spanish settlers and the village of Taos was about 900 acres. Congress determined that the only way to settle the matter was to pay the Indians in cash for the reservation lands taken by the Spanish settlers since they were there in good faith, not knowing they had settled on Indian land. In 1924 Congress passed an act which established the Pueblo Lands Board. The Board found that the value of the land taken by the Spanish settlers and the village of Taos was $458,520.61, for about 900 acres. The Indians were paid $160,835.94 for lands outside the village of Taos. This left a balance of $297,684.67 owing to the Indians for lands within the village of Taos.

It is significant to note that the lands subject to this legislation either the House version or the committee version are not the same lands for which the Pueblo Land Board had awarded entitlement to compensation. The fourth sentence of the first full paragraph on page 3 of the committee report, No. 91–1345, on this legislation deserves reiteration:

> . . . In hearings before the board, the Pueblo had offered to waive the cash payment if the board would agree to give them the Rio Pueblo watershed, including Blue Lake.

Subsequent reviews of the claims by the Indian Affairs Committees of the House and Senate in the late 1920's and early 1930's revealed that the Indians refused the cash payment for the balance of the award $297,684.67, and demanded instead a patent to 50,000 acres of land surrounding Blue Lake and the Rio Pueblo watershed. Consequently, it would appear that the delinquency in payment was not the fault of the Federal Government, and this is a very important item to consider in this argument.

After long deliberation, the 73d Congress adopted Public Law 28, which granted to the Indians a 50-year use permit, for approximately 31,000 acres in the Rio Pueblo area, including Blue Lake. The permit is renewable for so long as the land is needed by the Indians for the purposes set forth, including religious ceremonies. The law restricted use by outsiders, admittance being granted only by special permission, with the concurrence of the tribal authorities. It was believed that this settled the problem because it segregated the land "for the personal use and benefit of said tribe of Indians," protected their religious secrecy, and at the same time protected the watershed.

If the Congress acts to grant other lands in lieu of cash payment for lands taken, as the House version of H.R. 471 would do, where will it stop? Will judgments for land taken from "Tribe X" in Colorado be satisfied by a grant of land in Wyoming or vice versa? Will other tribes who have settled their claims demand that their claims be reopened on the theory that they were not afforded an opportunity to select lands in lieu of accepting monetary compensation?

As the committee report points out on page 6: "We know there have been filed before the Indian Claims Commission claims for nearly 90 percent of all of the land in the United States." The Senate must consider carefully the long-term consequences of granting title to large blocks of land to Indian claimants in lieu of money. As the distinguished chairman of the committee pointed out, Congress made this decision, it seems to me, clearly and unequivocally when it passed the Indian Claims Commission Act.

Earlier this year the Senate passed a measure to legislatively settle the claims of the Alaska Natives. The bulk of the settlement was embodied in the money payments—$1 billion. The Alaska Natives have laid claim to between two-

thirds and three-fourths of the entire State of Alaska. Senators must ask themselves what effect adoption of the House version of H.R. 471 will have upon the proposed settlement in Alaska.

The Secretary of the Interior in his testimony before the committee expressed his belief that the granting of trust title for these national forest lands to the Taos Tribe would not set a precedent. Former Secretary Udall expressed a similar belief. But do the Indians believe it is not a precedent. From an Associated Press wire story, published in the Oregonian on September 13, 1970, the following paragraph is quoted:

At an Indian convention here Friday, Yakima tribal chairman Robert Jim said, "If President Nixon means what he said in his Indian policy speech of August 8 in which he asked Congress to restore the Blue Lake to the Taos Pueblo Indians, he will simply order the secretary of agriculture to return Tract D to the Department of Interior and the Indians under the Bureau of Indian Affairs." (Note: Mr. Jim was probably referring to President Nixon's Message to Congress of July 8, 1970.)

I might say there is ample other precedent for this. Referring to the hearings, I find a letter from a Chippewa Indian at Eastern Washington State College, Cheney, Wash., which appears on page 305 of the hearings. The letter states:

EASTERN WASHINGTON STATE COLLEGE,
Cheney, Wash., March 16, 1970.

Hon. Senator HENRY M. JACKSON,
Washington State Senator,
State Capitol Building,
Olympia, Wash.

HON. SENATOR HENRY M. JACKSON: Concerning the House Bill H.R. 471, I urge your support for the passage of this bill in the Senate.

I believe, this bill is of major importance, not only to the Taos Pueblo Indians, but to all Indians of America. For in the long run, this bill will affect all Indians by setting a precedent for other Indian groups to follow.

Since I am a Chippewa Indian, I am very interested in all of my people. I can only conclude that this bill must be resolved in favor of the Taos Pueblo Indians.

Sincerely,

ROBERT PARISIEN.

So there is no question that what we are doing here is concerning ourselves with a precedent and reversing a policy established by the Congress, and to a great extent accomplished, under the Indian Claims Commission.

Without in any way attempting to pass upon the Yakima claim it would appear that Mr. Robert Jim, tribal chairman of the Yakima Tribe, considers the Taos matter a precedent. There are other expressions of belief that adoption of H.R. 471 as passed by the House will set "a precedent for other Indian groups to follow."

It has been said that all Indians are watching developments with regard to this legislation. I am confident that this is true. If, as I have pointed out, they are viewing the action of Congress with the expectation of creating a precedent, what will be the nature of the next demand for lands? Will it be for cultural purposes, economic purposes, hunting or religion? I believe that we can expect an avalanche of such demands, and they will not be restricted to "uniquely significant religious lands."

Mr. President, no member of the committee wishes to in any way interfere with or impede the practice of the Taos religion, whatever it may be. Although their religion is secret, and we only have their word that privacy is necessary and these lands are essential, the committee was willing to expand the area subject to use of the Taos by approximately 17,000 acres.

The terms of the rights to the use of the whole 48,000 acres were tightened and are not based upon a permit. The rights of the Taos Indians would be vested in law. Under the committee bill the Indians will receive essentially everything they would receive under the House bill, except title. In my view, the committee bill satisfies all of the Taos Indian's demands, protects their religious shrines, grants indefinite tenure, and preserves the land for their exclusive use without creating a dangerous precedent.

Mr. President, it should be recognized that this is not a partisan issue. H.R. 471 was introduced in the House of Representatives by Mr. HALEY, the second ranking Democrat on the House Interior Committee. The substitute, reported by the Senate Interior Committee, was proposed by the senior Democrat on the Committee, the senior Senator from New Mexico (Mr. ANDERSON), who was formerly the chairman of the full committee.

The administration has been split on the issue. The May 15, 1969, report of the Department of Agriculture opposed the enactment of H.R. 471, and according to that report, the Bureau of the Budget also opposed the House bill. However, in his message on the American Indians of July 8, 1970, the President recommended the enactment of H.R. 471 with certain amendments. The amendments were set forth in the July 8, 1970, report of the Department of Agriculture. None of those amendments are included in the House-passed version of H.R. 471, since they were not proposed until 10 months after the House had passed the bill.

There is no question concerning the expertise and experience of the distinguished and able House Interior Committee, but the fact remains that a majority of your committee, whose combined experience in Indian matters may be calculated in centuries, adopted the susbtitute proposed by the senior Senator from New Mexico, which is the situs of the controversy, and whose own experience in Indian matters extends far beyond the nearly 22 years he has served on the Senate Interior Committee.

Mr. President, at his point, I believe it is appropriate to quote the three concluding paragraphs of Senator ANDERSON'S statement before the Senate Interior Committee:

It is often stated that the Blue Lake claim is unique among all Indian tribes, that no other tribe has claimed land for religious purposes as the Taos Indians have. Therefore, it is asserted, no precedent would be set if the 48,000 acres of land provided for in H.R. 471 were transferred to the Taos Pueblo. I submit that many other tribes have based their land claims on religious importance. As a matter of fact, the Nambe claim, Indian Claims Commission docket No. 358, was quite similar to the Taos claim. In addition to a large quantity of land, this tribe claimed two sacred lakes lying in the National Forest, Lake Katherine and Sandy Lake. Several springs are mentioned as shrines in the Santa Clara Claim, Indian Claims Commission docket No. 355. Acknowledged scholars point out that every Pueblo tribe along the Rio Grande has shrines comparable in importance to Blue Lake. Members of the Navajo Tribe worship on Mount Taylor and Navajo Mountain. The Cochitis worship at locations within the Bandelier National Monument. The Santa Claras have religious shrines on Tschicoma Peak. The Hopis have shrines on the San Francisco peaks. I have been told that the Sandia Indians attach religious significance to the entire Sandia Mountain Range. These are just a few examples. Needless to say, these tribes would all like to obtain legal title to these lands. One can only speculate as to the number of claims throughout the United States based upon religion which will arise if H.R. 471 is passed by Congress.

Let me assert once again that I am in complete sympathy with the desire of the Pueblo to make certain its shrines will be protected. That is why I have introduced legislation a number of times and that is why I appear today to discuss these proposals and to declare my willingness to reach an agreement on this legislation.

It is my hope that Congress can agree to settle the issue on its true merits, rather than on a generalized desire to do something for the Indians. The Taos Indians can continue to receive the protection for their religious shrine that they rightfully deserve—without a disturbing precedent with national implications being established. Protection of the Blue Lake shrine is not incompatible with judicious treatment of the other major issues involved—land and water management and precedents governing the public domain. A solution is possible which will attain goals and that is what I hope we will achieve.

Mr. President, it is my sincere belief that the formula contained in the committee bill does achieve both goals. It does provide protection for the religious shrine of the Taos Indians, and it avoids the establishment of a disturbing precedent with national implications. I urge the Senate to adopt the amendments of the Committee on Interior and Insular Affairs.

After many, many hearings, after I would say literally days of discussion in the committee devoted to this matter, the great majority of the committee is of a mind that this is the fairest way to deal with the matter without doing an injustice to the tribe and without creating a precedent which, in my opinion, would plague us for many, many years to come. Make no mistake about it, if we adopt the House bill, it will, indeed, be considered a precedent.

I ask unanimous consent that various news clippings and data be printed in the RECORD at the conclusion of my remarks, regarding other religious and ceremonial Indian uses of public lands.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the San Francisco (Calif.) Chronicle, Oct. 27, 1970]

INDIANS TOLD TO LEAVE U.S. LAND

BURNEY, SHASTA COUNTY.—The Pit River Indian tribe has been given notice to leave

an "occupied" section of Shasta-Trinity National Forest.

The United States Forest Service notified the Indians to break camp on a corner of the national forest near the intersection of Highways 299 and 89.

U.S. Attorney Duane Keyes said in Sacramento that some action would be taken against the band of some 100 camping Indians by the end of this week unless they leave the area.

The Indians moved into the area October 5, as trials began in Burney of 49 members of the tribe arrested on charges of trespassing on Pacific Gas and Electric Company property near here last June.

The Pit River tribe claims that 3.5 million acres of this rugged timbered land was stolen from them by the U.S. government in 1853.

The "occupations" have been an open effort to force the question of ownership of the land into court where the Indians could argue their claim against Federal ownership of the land and a much-disputed financial settlement offered the Indians in 1964 when the government conceded the land was taken from them "without compensation."

The Indians have set up a metal Quonset-hut dwelling on the national park site, and, according to authorities, have been chopping down trees—a Federal offense—to build more structures.

Tribal Chairman Mickey Gemmill said about 100 Indians currently on the land would submit to arrest without resistance.

The case would then go before a U.S. commissioner and, the Indians hope, into Federal court where they could argue their claim.

Ten persons, including Gemmill, have already been convicted of trespassing by a Burney Justice Court jury, but that case dealt with trespassing in PG&E land.

SHASTA DISPUTE—INDIANS, DEPUTIES IN BATTLE

BURNEY, SHASTA COUNTY.—Indians armed with tree branches battled toe-to-toe with club-swinging sheriff's deputies near here yesterday morning as authorities moved to evict the Indians from an "occupied" section of Shasta-Trinity National Forest.

One Indian, Gordon Montgomery, 57, of Redding, was hospitalized with a head injury after the brief battle.

Twenty four persons were arrested, including six who were charged with felony assault on a police officer. Seventeen others were taken to Susanville to appear before United States Commissioner Scott Kirby on charges of resisting, obstructing or interfering with Federal officers. Two of those arrested were also charged with illegally cutting timber on a Federal reserve.

FORCE

The unexpected fighting broke out as a force of about 30 Shasta county sheriff's officers backed up by nine Federal marshals and nearly 50 Forest Service employees, moved onto an Indian campsite on the forest preserve at the intersection of Highways 299 and 89.

Club-swinging on both sides suddenly erupted when a marshal attempted to prevent an Indian identified as Ross Montgomery from cutting down a pine tree with a power saw.

Some of the nearly 100 Indians at the site rushed to Montgomery's aid. It was unclear who swung the first blow.

DRIVE

Pit River Indans and their sympathizers occupied the small corner of Shasta-Trinity National Forest October 5 as part of a drive begun last June to dramatize their ancestoral claim to 3.5 million acres of this timber country they say was stolen from them by the Federal government in 1853.

The Indians had set up a quonset hut dwelling and, to get timber to build another structure, had begun felling some of the huge Ponderosa pine trees standing about their campsite.

Last week, authorities notified the Indians they would have until 6 p.m. Monday to remove the quonset hut and leave the area or face arrest.

TEST

It had been understood on both sides that the Indians were, in fact, inviting arrest in an effort to get their claim to the land before a Federal court.

Monday night, a group of Forest Rangers met with the Indians at the campsite in an effort to arrange an amicable truce.

The meeting had elements of a pow-wow in a "B" western. The conferees—including Mickey Gemmill, chairman of the Pit River Indian Tribal Council—met around a large campfire while ceremonial drums throbbed nearby and occasional warwhoops pierced the night.

"I can tell you it was kind of a nervous thing," said Forest Service Information Officer Gerald W. Gauze.

ARRESTS

Gauze said the Forest Service asked for help from Federal marshals and sheriff's deputies after the pow-wow failed to convince the Indians to tear down the metal quonset hut and leave the land.

The hut was later torn down and removed by the Park Rangers.

Gemmill, who has led his tribe in the occupation of a PG&E campsite in June as well as this latest effort, was among those arrested, as was John Hurst, a reporter for the Redding Record-Searchlight newspaper.

Assistant U.S. Attorney William Chubb said those persons arrested on Federal charges would appear before Commissioner Kirby in Susanville today.

HOPI TRIBE

Nature of Religious Use.

Location of Shrine or Ceremonial Land—San Francisco Peaks—Coconino National Forest, Arizona.

Exact location on the peaks is not known.

Ceremonies Conducted—

At least part of the ceremonies is for the purpose of changing the tribal government from summer to winter.

The mystic theme is the coming of the Kachina Gods from the mountain to the Hopi villages in the spring and returning to the San Francisco Peaks in the fall.

Frequency—Twice each year—spring and fall.

Historic or Recent—The custom is ancient.

Secret or Open—Secret.

Forest Service Recognition—The Forest Service recognizes the use of the San Francisco Peaks for ceremonial use by the Hopi and Navajo tribes has made some adjustment in management to accommodate them. (See statement below).

Impact on National Forest Management—Spring use of the San Francisco Peaks by the Hopi Tribe has conflicted in some years with the severe fire season when closure orders are necessary. When this occurs, special entrance permits have been issued to the Indians so they can conduct their ceremonies. Otherwise, there have been no conflicts of use to our knowledge.

If the San Francisco Peaks area were taken from the National Forest System, the impact would be rather severe on several segments of the public. The inner basin is the watershed from which comes the water supply for Flagstaff. The area is also a potential ski site—one of the best in the Southwest. The area contains a large volume of commercial timber, prime wildlife and recreation habitat and furnishes forage for livestock.

Claims—There are no known claims before the Indian Claims Commission.

NAVAJO TRIBE

Nature of Religious Use.

Location of Shrine or Ceremonial Land—Mt. Taylor—Cibola National Forest;

Blanca Peak—Not believed to be on National Forest;

San Francisco Peak—Coconino National Forest;

Hesperus Peak—San Juan National Forest, R-2;

Huerfano Mountain—BLM or private land;

Gobernador Knob—BLM land;

Hosta Butte—BLM land.

In addition to these seven sacred mountains, the Navajo considers El Cabezon and the lava flows south of Grants, New Mexico, as sacred places. Neither of these is on the National Forest. The San Juan River, Oak Creek Canyon on the Coconino National Forest, and Sunset Crater National Monument, National Park Service, are also sacred places.

Ceremonies Conducted—Mt. Taylor figures prominently in a 9-day religious ceremonial known as the "Mountain Chant" which is based on the myth of the Desily Neyani. This is one of numerous myths involving seven sacred mountains named above. From a lake in the midst of these sacred mountains, the Navajo forebears supposedly sprung.

Frequency—Annually.

Historic or Recent—The ceremonies stem far back into history.

Secret or Open—Part of the ceremonies are secret and part are open to the public.

Forest Service Recognition—

The Forest Service respects the religious ceremonies of the Indians. There has been no apparent conflict between the religious needs of the Indian and National Forest administrators. Should any develop, they could be, we believe, accommodated under our system of multiple use management.

On the other hand, if the sacred areas involved in the Navajo ceremonials were taken from the National Forest System, much valuable timber, recreation, water, wildlife range land would be denied the public.

Impact on National Forest Management—None under present conditions.

Claims—There are no known claims before the Indian Claims Commission.

COCHITI PUEBLO TRIBE

Nature of Religious Use.

Location of Shrines or Ceremonial Lands.—Stone lions and "Caves of the Ancestors", Bandelier National Monument, and possibly on Tetilla Peak—La Majada Grant—Santa Fe National Forest.

Ceremonies Conducted—A chosen man "goes to an appointed place in the mountains, where he plants sticks at marked spots, a forked and a straight one. Keeping his mind and his thoughts free from all mundane thoughts, he waits there, for days, if necessary, praying incessantly. In time, the shadow of the straight stick will fall exactly on the crotch of the other. Then he knows that the sun has come to the point, and he returns to the village. The equinox is thus established and the summer people take over."

Frequency—Annually.

Historic or Recent—Historical.

Secret or Open—Very secret.

Forest Service Attitude and Recognition and Impact on National Forest Management—

There has been no known impact on National Forest administration or National Forest land. However, very recently, the use of the religious sites in the Bandelier National Monument was cited as one of the reasons why a portion of the La Majada Grant, lying between Cochiti Pueblo and the Monument, should be transferred from the National Forests to the Indians. The Cochiti Tribe apparently want to tie their request to the ceremonial lands they use.

The loss of this land to the Cochiti Tribe

would seriously affect one National Forest grazing allotment.

Claims—To our knowledge, there are no claims before the Indian Claims Commission.

U.S. GOVERNMENT MEMORANDUM

To: The Record.
From: Wm. D. Hurst, Regional Forester.
Subject: Land Transfers.

The afternoon of June 10, Dean Cutler, Ranger Clarence Rice, and I met with representatives from the Bureau of Land Management and the Bureau of Indian Affairs to discuss the possibility of a land exchange with the Bureau of Land Management which would make available to the Department of Interior land adjacent to the reservoir which will be formed by the Cochiti Dam. The Department of Interior would then make this land available to the Cochiti Tribe.

Mr. Jim Anderson, State Director of BLM, along with Warren Gray and Michael Solan, represented the Bureau of Land Management. Messrs. Walter Olson, Ken Payton, Doug Shannon and Melvin Helander represented the Bureau of Indian Affairs. Maps were presented showing the National Forest land desired by the Cochiti people. It appeared to us that the amount requested is excessive to meet the expressed recreational needs of the Cochiti Tribe. Ranger Rice explaind the complication which would develop in transferring this land from its present National Forest status. All of it is now being used by local livestock operators, all of whom are Spanish Americans, that depend heavily upon this area for their grazing resource. Inclusion of the bench land above the river bed would be particularly damaging to the livestock operators.

It was agreed that the Bureau of Indian Affairs representatives will discuss this matter in more detail with officials of the Cochiti Pueblo in the light of our June 10 discussion. Following this, we will again meet to consider their needs. Mr. Walter Olson will contact State Director Jim Anderson to arrange meeting at an appropriate time.

Ranger Rice agreed to furnish Mr. Olson with a map and a list of livestock permittees involved and the number of stock that operate on the lands desired by the Cochiti Tribe.

No effort was made to select Bureau of Land Management lands which might be used in the proposed exchange. This aspect of the case will be explored as we learn more precisely the desires of the Cochiti people.

WM. D. HURST.

SANTA CLARA TRIBE

Nature of Religious Use.

Location of Shrine or Ceremonial Lands—The Governor of the Pueblo has indicated that religious shrines are located on Tschicoma, which is on the Santa Fe National Forest and Caballo Mountain, which is on the boundary of the Santa Clara Indian Reservation and Atomic Energy Commission withdrawal, which is currently being considered for return to the National Forest System.

Ceremonies Conducted—The nature of the ceremonies, if they are conducted, is not known.

Frequency—The frequency of the ceremonies is not known.

Historic or Recent—Presumed to be historic, but record of duration is not known.

Secret or Open—Secret.

Forest Service Recognition—Apparently the Forest Service has, until now, not known of the ceremonies. If they do take place, they could undoubtedly be conducted on National Forest land without conflict.

Impact on National Forest Management—None under present conditions. If the ceremonial areas and land adjacent to them (30,000 acres requested in exchange for a road right of way across their reservation) were taken for the Indians, the National Forest would be dissected into unmanageable units and highly productive timber (from 2,200 bd. ft. to 12,800 bd. ft. per acre on the Tishicoma and 3,600 bd. ft. per acre on the Guaje), grazing, wildlife, water, and recreation would be lost to the public. (Twenty local livestock operators depend heavily upon the forage on this land for their livestock.)

Claims—The Governor of the Santa Clara Pueblo gave Supervisor Latimore a copy of their claim before the Indian Claims Commission. This is labeled Docket No. 356, dated August 11, 1951. The claim is based upon aboriginal use.

SAN JUAN PUEBLO TRIBE

Nature of Religious Use.

Location of Shrine or Ceremonial Land—According to a newspaper article, Santa Fe New Mexican, dated June 12, 1966, the tribe claims parts of the Bartolome Sanchez Grant, private land; parts of the Santa Cruz Grant, private land; the Sebastian Martin Grant, East ½ on the Carson National Forest. The remainder of this Grant is administered by BLM.

Clara Peak, Santa Fe National Forest.

Ceremonies Conducted—The nature of the ceremonies, if indeed they are conducted, is not known.

Frequency—Unknown.

Historic or Recent—Unknown, but these are undoubtedly historic ceremonies associated with the pueblo.

Secret or Open—If conducted, they are secret.

Forest Service Recognition—Approximately 38,000 acres of National Forest land is involved in the above described claims. There is no history, however, of conflict with the Forest Service and the Pueblo Indians in the use of these lands. There is no reason why this relationship should not continue.

Impact on National Forest Management—None; The lands involved or purported to be claimed by the San Juan Pueblo contain many resources used by the public. They should be retained in public ownership and managed for the public's benefit.

Claims—There have been no known claims filed with the Indian Claims Commission.

An article in the New Mexican (published in Santa Fe) of June 12, 1966, the San Juan Pueblo announced their intention to try, through Federal legislation, to acquire title to the Sebastian Martin Grant, which is now National Forest land, to National Forest land south of the San Juan Pueblo and north of the Santa Clara Pueblo, around and adjacent to Clara Peak, and parts of the Bartolome Sanchez and Santa Cruz Grant. The legislation will be supported by the purported use of these lands for religious ceremonial purposes, for grazing, and as a source of wood for firewood and vigas.

There was also a newspaper article that denied any intention to try through Federal legislation to acquire title to lands mentioned above.

NAMBE PUEBLO TRIBE

Nature of Religious Use.

Location of Shrine or Ceremonial Land—Lake Tamayoge Okwinge (Sandy Lake)—Santa Fe National Forest.

Lake Kate Okwinge (Lake Katherine)—Santa Re National Forest.

The Pueblo also identified for the Indian Claims Commission 16 other religious shrines—in most cases, piles of sacred stones dotted throughout their claimed area.

Ceremonies Conducted—The shrines are thought to bring good luck in hunting or other endeavors and were regularly visited and strewn with corn meal at the time of the secret religious rites. Although native religious practices have, to a large extent, died out at Nambe, these shrines are still maintained.

Frequency—not known. Apparently not as regularly now as in the past.

Historic or Recent—Historic.

Secret or Open—Secret.

Forest Service Recognition—Forest Service has not known of the religious rites or the shrines. We will, however, now respect them as being meaningful to the Nambe Indians.

Impacts upon National Forest Management—None apparent. Some shrines are within the Pecos Wilderness. This Wilderness undoubtedly gives additional protection to the shrines.

Claims—Docket No. 358, Pueblo of Nambe before the Indian Claims Commission.

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9. Native religion was very much alive at Nambe Pueblo from 1848 to the first decade of this century. Ceremonials were held as late as the 1930's. In the native religion of Nambe Pueblo, specific ceremonials must be performed at designated spots or shrines. A shrine cannot be moved. The area of aboriginal occupancy is thus dotted with religious shrines which were frequently visited by members of the Pueblo of Nambe for ceremonial purposes.

The most important shrines are the sacred lakes of Tamayoge Okwinge (Sandy Lake) and Kate Okwinge (Lake Katherine). Initiation and healing ceremonies were held there and it was believed that the supernaturals inhabited these sacred laes. Petitioner identified 16 other religious shrines, in most cases piles of sacred stones, dotted throughout the claimed area. These were thought to bring good luck in hunting or other endeavors and were regularly visited, and strewn with corn meal, at the time of secret religious rites. Although native religious practices have to a large extent died out at Nambe, these shrines are still maintained.

10. The Nambe people, like other Pueblo Indians, were farmers long before the Spaniards come to New Mexico. According to an 1890 report, the Nambe Indians farmed 300 acres. Most of this land was in the granted area, but some land was farmed outside the grant, in the area above and just below Nambe Falls, and along the Rio en Medio. There the Indians raised beans, corn and pumpkins, as well as melons and tobacco.

JEMEZ PUEBLO TRIBE

Nature of Religious Use.

Location of Shrines or Ceremonial Lands—Redondo Peak (not on National Forest land).

Pajarito Peak (Not on National Forest land).

Church Canyon (National Forest land).

Ceremonies Conducted—Nature of ceremonies is not known.

Frequency—annually.

Historic or Recent—Historic.

Secret or Open—Secret.

Forest Service Attitude or Recognition—There is no apparent conflict between the ceremonies and National Forest activities. Should any develop in Church Canyon, the religious needs of the Indians could undoubtedly be accommodated.

Impacts on National Forest Management—none.

Claims—There are no known claims before the Indian Claims Commission.

ZIA PUEBLO TRIBE

Nature of Religious Use.

Location of Shrine or Ceremonial Land—The Zia Pueblo Indians apparently have sacred mountains similar to the legends of the Navajo tribe, although we have no definite name for them. The legend names them by the tree supposedly on the top. The north is Spruce; west is Pine; south, Gambles Oak; east, Aspen, with the Zenith, Cedar and Nadir, Pungens Oak.

The Zia tribe came from two "mothers" out of the middle of the mountains.

Ceremonies Conducted—The Cloud people society supposedly occupies the mountain and takes the water from springs and sprinkles it as rain over the land. There are many other ceremonies, including the hunt ritual which is 13 days long.

Frequency—apparently annually.

Historic or Recent—Historic.

Secret or Open—Undoubtedly scret.

Forest Service Recognition—Since the locations of the ceremonies are not known, the Forest Service has had no association with them. If the locations are on National Forest land, the needs of the Indians can be accommodated.

Impact on National Forest Management—None.

Claims—There are no claims before the Indian Claims Commission to our knowledge.

Mr. METCALF. Mr. President, probably more than any other Senator, I have participated in hearings that have been held on this bill over three Congresses. It has been my privilege and my duty to act as chairman at some of those hearings. Sometimes I was the only Senator present while the hearings were being held. I approached these hearings completely objectively.

Mr. President, I ask for the yeas and nays on the committee amendment.

The yeas and nays were ordered.

Mr. METCALF. As I said, I approached this problem with complete objectivity. I tried to extend to it my interest and my concern for the Indians as well as my interest and concern for the public interest.

On page 298 of the hearings appears a letter from Mr. Bodine, who is an associate professor of anthropology at American University. I wish to read the first paragraph of that letter:

DEAR SENATOR METCALF: I attended the July 9, 1970 committee hearings on the Taos Pueblo Indian Blue Lake claim and became thoroughly frustrated by the inability and/or unwillingness of the witnesses called on behalf of the Taos, including the Taos Indian delegation, to answer successfully the question which you repeatedly put to them, namely, what makes the Taos claim to 48,000 acres of land including Blue Lake singular or unique. It is in answer to this crucial question that I direct myself, for I feel that if it is not answered satisfactorily the Taos will not succeed in their efforts.

Mr. President, we have gone beyond the scope of the hearings, and we have included every single sanctuary, every shrine, every religious site, including Blue Lake itself, in the bill. The amendment suggested by the Senator from Oklahoma and the description of the land contained in the bill are identical. Every single area that the Taos Indians could identify or that the committee could find has been included in the bill.

The only difference is that the Senate bill provides that we shall keep it under the control of the Department of Agriculture for the exclusive use of the Taos Tribe for their religious operations and ceremonies.

The Senator from Oklahoma asked what the difference is between having it under the Department of Agriculture and the Department of the Interior. All I will say to my colleagues is that the Bureau of Indian Affairs has been notorious for its inability to manage the Indians' lands. The agency that has managed this important watershed and other public lands has been the Forest Service.

The conservation groups of America are concerned because they feel an invasion of the wilderness areas or national forests or any similar areas, if not managed for the public interest, will be detrimental not only to the Indians themselves but to the people of America.

I want to emphasize the fact that just because this land is still in the public domain, still under the control of Uncle Sam, makes it no different from land that has gone into private interests. In fact, it is more important to consider some of these lands which are in national parks or national monuments or wilderness areas or national forests as possessions of all the people of America.

If we want to talk about justice to the Indians, the Senator from Colorado has suggested that the Indians could claim more than 90 percent of the land of America. We have the Indian Claims Commission to compensate them for unjustified takings using monetary payments. We cannot go into the city of Tulsa, and we cannot go into the city of Boston, or Plymouth, or areas in Montana, and give back land that people own, in which they have acquired an interest over 100 years, and give it back.

For more than 60 years this land has been a national forest. Before that it was in the public domain. Some suggestion has been made that it was in Spanish title. That is irrelevant. The fact is that the land has been in the public domain for almost a century, and now important rights have accrued to Spanish-American interests downstream, who depend on this as an important watershed, and to non-Indian people downstream who look on this area as an important watershed and water source for crops and water systems in towns.

Just because land belongs to the Federal Government, whether it be a national park or monument, is no reason why it should be treated differently.

In the hearings we carefully analyzed the bill. We have tried to do justice to the Taos Tribe. We have recognized their religious preferences. We have recognized that they have important sanctuaries and shrines. But we also have said that there are other interests and concerns involved. We have tried to do the same thing for the Taos that we have done for every other tribe. We have suggested to them that they can go into the Indian Claims Commission and get a monetary settlement, but they cannot take away some of the rights that have accrued over the centuries. This has been a part of the public domain and a part of the lands of the United States.

When we talk about justice, we have leaned over backward to recognize a culture and a religious system that has been difficult even to learn about.

We have given the benefit of the doubt in every instance to the members of the Taos tribe, and there is not a single bit of difference between the bill that was passed in the House and the bill recommended in the Senate, as far as the description of the lands is concerned, Blue Lake and the other shrines and sanctuaries. The only difference is that this is going to continue to be controlled as a wilderness area, with exclusive use for the tribe, instead of passed into trust status under the Secretary of the terior.

I prefer, until we have a whole new look at this religious situation under the bill introduced by the Senator from Washington (Mr. JACKSON), that we continue the present situation, and pass the substitute bill that the Senator from New Mexico has introduced.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. GOLDWATER. Mr. President, I thank the distinguished chairman for referring to Dr. Bodine's letter, but I wish he had read the entire thing.

Mr. METCALF. I have read the entire letter, as the Senator knows.

Mr. GOLDWATER. I know; but I mean for the RECORD.

Mr. METCALF. Well, let us have the whole letter put in the RECORD.

Mr. GOLDWATER. I ask unanimous consent that the entire letter of Dr. Bodine be printed in the RECORD, mainly because, when he was having his doctoral examination, he was asked:

If you had complete power over the Taos and wished to destroy their culture what would you do?

I understand he has lived with them since his birth in 1934. Upon being asked that question, he states:

I replied unhesitatingly that I would destroy Blue Lake.

There being no objection, the letter was ordered to be printed in the REC as follows:

THE AMERICAN UNIVERSITY,
COLLEGE OF ARTS AND SCIENCES,
DEPARTMENT OF ANTHROPOLOGY,
Washington, D.C., July 10, 1970.

HON. LEE METCALF,
Senate of the United States,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR METCALF: I attended the July 9, 1970 committee hearings on the Taos Pueblo Indian Blue Lake claim and became thoroughly frustrated by the inability and/or unwillingness of the witnesses called on behalf of the Taos, including the Taos Indian delegation, to answer successfully the question which you repeatedly put to them, namely, what makes the Taos claim to 48,000 acres of land including Blue Lake singular or unique. It is in answer to this crucial question that I direct myself, for I feel that if it is not answered satisfactorily the Taos will not succeed in their efforts.

Perhaps I should begin by telling you that I hold the Ph. D. in anthropology and my special interest is the culture of the Taos. My doctoral dissertation dealt with the culture contact problems of the Taos Indians and in it I thoroughly researched the history of the Taos claim to the Blue Lake area. That is indeed history now and the long, stormy battle is only indirectly related to the question at hand. It need not be repeated, except that it does document the fact that the Taos have fought unrelentingly to secure title to this land since 1906. As was brought out on July 9 no other Indian tribe has consistently claimed land for religious purposes. This you know and fully appreciate. But in my opinion this alone does not make the Taos case unique as you rightly observed every other In

tribe could conceivably make the same claim, if after the fact. Whether others will or not, e.g., Nambe, Santa Clara, the Navaho, or the Blackfeet of your own state etc., does not destroy the fact that the Taos claim is unique.

Its uniqueness is not the fact that they have asked for this land since 1906 nor does it relate to the existence of shrines of other Indian religious systems which are valid and deserving of protection. The Taos claim is unique because if Blue Lake and the surrounding lands are not returned to the tribe it will effectively destroy Taos culture. No other Indian tribe can make that claim, because no other Indian group today relies to the same degree on shrines in a restricted area for the continuance of its religion. Only Taos depends upon the undisturbed existence of its shrines which happen to be confined in the area of Blue Lake. This is what must be explained. I am willing to do so even though I realize that I am divulging information which could damage me professionally, but which no Taos Indian could possibly divulge. Unless the structure of Taos religion is bared, then there is little basis for understanding why an exception should be made for them. There is no reason to understand why the area could not continue to be protected and administered by the United States Forest Service. While there have been violations of the permit agreement of 1933 by parties on both sides, as I have documented in my dissertation, those misunderstandings and violations, e.g., the stocking of fish in Blue Lake by the New Mexico Game and Fish Commission, are minor compared to the basic issue which the Taos have tried to convey albeit unsuccessfully at this point.

Why are the Taos so reluctant to inform you or anyone else of their religion? They speak only in generalities and plead emotionally for justice. There are two reasons. The first was externally caused and is well known. Past persecutions and discriminations against their religion caused it to go underground so to speak so that it became axiomatic that if a Taos Indian revealed anything about the esoteric parts of his religion he would be a traitor to himself and to his people. But the second reason is more important and it is internal. The fact is that no Taos Indian knows everything with respect to the proper functioning of his religion. Not even the 90 year old man who stood before you at the hearings could tell you, because his role is singular and special. He has his duties to perform just as each other religious leader His ritual knowledge is known only to him and to his successor. Taos religion is like a mosaic composed of bits and pieces of knowledge with each part known only to a restricted number of individuals. For Taos religion to survive however each part of the whole must function properly and do its share, otherwise imbalance will occur and, as they fervently believe, disaster will ensue. Their culture will be destroyed. If an individual's religious duties are not properly performed and transmitted to his successor, which is done in absolute secrecy, then the religion cannot function. No one can take up the standard and carry on without this smooth transition of knowledge from the old priest to the younger. This is why the Taos say in council meetings on even purely secular matters, "We must move evenly together."

Now what has this to do with Blue Lake and the 48,000 acres which surround it. As you know Blue Lake is only one of many shrines in the area, albeit the most important since it is the focus for the spiritual strength of the whole tribe. The Taos have not made it clear that those other shrines are as necessary. To do so would be to reveal too much and if revealed would cripple their faith. As far as I know, the Forest Service has never invaded the privacy of the Taos People when they go as a tribe to Blue Lake in August. But their presence in the area at other times of the year is as threatening. The priests of the various religious societies at Taos must go into the area in question and to Blue Lake time after time during the year. They go alone or in small groups to perform the special rituals with which they have been charged and to train their successors. Outsiders, including Forest Service personnel, constitute a great threat to the proper performance of these duties. Their very presence even if they observe nothing, is contaminating. It constitutes a serious invasion of religious privacy and as the Taos have explained any alteration or destruction of the ecology of the area has the potential of eliminating properties of the environment that are crucial to correct ritual performance e.g., only certain plants can be used in specific rituals. If they are destroyed or if natural springs are polluted with the rubbish or even the polluting presence of non Indians then the ritual may be ineffective and all will suffer.

The Taos recognize the need to have the assistance of outsiders in time of crisis be it forest fire or whatever, but they cannot tolerate the continued existence and swelling increase of outside visitors into this land. Each year skiing interests, hikers, horseback riders and all manner of persons involve themselves for the development of this area. Patiently the Taos have usually met their demands in the past, but the situation is becoming more critical each year and in my opinion they rightfully feel that the only way they can continue as a people, who have so masterfully protected and preserved their culture, is to gain as complete control over the land as possible. They will not improperly administer this land for to do so would be to destroy the very purpose of ownership nor will they be niggardly in granting access when they are convinced that no harm will come to those features of the environment which must be preserved.

I made a very bold statement when I said that if these lands are not returned Taos culture would be destroyed. I was asked by my doctoral examining committee in 1966 the following question: If you had complete power over the Taos and wished to destroy their culture what would you do? I replied unhesitatingly that I would destroy Blue Lake. The question may sound facetious and the answer absurd. But neither is ridiculous. You pointed out at the hearings that when property is taken from an individual according to our custom he is compensated for his loss with a cash settlement. And so we have properly settled most Indian claims. Let us suppose that we decided to confiscate all the property owned by the Roman Catholic Church in the United States and properly compensated them for it. Would Catholicism cease to exist? Obviously not. As most religions are capable of doing, they could erect churches elsewhere. Even more to the point is that Navaho Mountain is sacred to the Navaho, just as peaks in Glacier are sacred to the Blackfeet, but their entire religion does not depend on those particular shines and therefore they differ from the Taos case. All of Taos religion is dependent on Blue Lake and its associated shrines in the 48,000 acres in question. They have no other "church" nor any possibility of constructing one. Therefore monetary compensation for Blue Lake is out of the question. soever. There is only one Blue Lake just as It provides them with no alternative whatthere is only one Mecca.

The Taos Indians who attended the hearings on July 9 are leaders of their people in both secular and religious matters solely because they were properly initiated and trained as little boys at Blue Lake. They are "made people" and therefore they are the proper cadre from which leadership can be recruited. If little boys are not trained in the mountains today, then there will be no legitimate leaders of the Taos tribe tomorrow and this will lead to the dissolution of their government. What emanates from the ritual at Blue Lake and elsewhere in the mountains permeates every aspect of Taos culture and reaches every Indian in the tribe, initiated or not. I did not wish to infuse my statement with emotionalism, but I feel that this matter for all its complexities and in spite of all its ramifications is very simple. Are we to strain ourselves once more by striking down yet another Indian society just as we have seen to the demise of so many in the past? Will Taos Indians continue to reside in their Pueblo if Blue Lake is not given to them? The answer is naturally yes, but we will see the further dissolution and eventual destruction of their culture. They will become as so many other Indians, including the shattered remanants of the cultures of the Plains, disillusioned and effectively on their way to extinction. They will become a people clinging desperately to values which are no longer clear.

Finally I would like to add that I do not consider myself to be any kind of irrational and overly emotional activist for "the Indian cause." My professional credentials as an anthropologist are wedded to a lifetime of living with the Taos Indians. Since my birth in 1934 I have been going back to Taos, even though I was raised in the white world. I lived with them long before I decided to become an anthropologist and I have carefully maintained silence about their religion because I never wished to betray the confidence and trust they have extended to me. I know that the Taos required that I speak out, in spite of the consequences. I stand ready to help in any way I can.

Respectfully yours,
JOHN J. BODINE, *Associate Professor.*

Mr. GOLDWATER. I do not wish to imply by using that statement that anything contained in the legislation we are now discussing would do this. But the Senator from New Mexico (Mr. ANDERSON), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), and I, and all the rest of us westerners, know that as we try to protect this land, people want to destroy it. I have often said the surest way to destroy beauty in this country is to make it a wilderness area, and let all the people from all over the United States come in and leave their whiskey bottles, beer cans, dead fish, and whatnot.

I am afraid that if we continue the present jurisdiction over Blue Lake, that will happen there. It has happened before, and it is going to happen again.

I disagree—and I have mentioned this before—with the idea that this would be precedent-setting. To begin with, I know of no other protected shrine as of the moment. The Senator mentioned Navaho Mountain. This is on the Navaho Reservation. The San Francisco peaks, the sacred mountains of the Hopi, are a protected area because of their being in a national forest. Mount Taylor in New Mexico is another protected area.

Mr. METCALF. It is a completely analogous situation to the one here. It, too, is in a national forest, and so is Blue Lake.

Mr. GOLDWATER. I realize that. But we have to consider something that I do not even like to bring up on this floor, because I might be misunderstood. But who had this land in the first place?

Mr. METCALF. Well, who had the city of Phoenix in the first place? Who had Boston in the first place? Who had Tuc-

son? Who had 90 percent of the land in the United States?

Mr. GOLDWATER. There has been a big argument about that. I might say that former Senator Watkins told me one day, when he was on the Indian Claims Commission, that there is not enough money in the United States to pay all the Indian Claims, if the decisions all happened to be in favor of the Indians.

Mr. METCALF. Why should we not give Phoenix back to the Indians?

Mr. GOLDWATER. There are some days we might be willing to do that.

Mr. METCALF. I think it is a pretty good idea.

Mr. GOLDWATER. If we do not succeed in getting water from California, we will have to do it some day. But I just point out, who had this first? The Indians were on these lands thousands of years ago. The oldest continuously occupied site in the United States is the village of Oraibi, a Hopi village in my State. We argue whether they have been there two or three thousand years. Yet we try to tell them what they can do with land they were using long before the Pilgrim fathers ever thought of leaving England and coming over here.

By the way, I saw something funny the other day: A cartoon of the *Mayflower* with a sign reading, "England: Love It or Leave It." That might apply to some extent to us.

I think we have to learn that we are talking about a piece of property where the Indians have worshipped since probably the year 1200—long before the Spaniards came, long before the Mexicans came, long before the first black man, Estevan, ever came to what is now Arizona and New Mexico—long before all the non-Indians came. I think we have to consider these things, whether we like to or not.

This is one reason I mentioned earlier to the Senator from Washington that I have never been opposed to giving the Indians title to their land. Get them on the tax rolls; let them build developments on it. Let them do the work.

Mr. METCALF. They are not going to get title to this land. The Secretary of the Interior is going to get title.

Mr. GOLDWATER. I know that. I would go even farther than what is proposed. I would have no objection at all to giving them title to this 48,000 acres, and letting them take care of it.

Mr. METCALF. They do not want to pay taxes on the land.

Mr. GOLDWATER. I know they do not want to pay taxes, but I think some day we are going to have to let them pay taxes, whether they like it or not.

But I just want to point out that we are dealing here with something absolutely unique. I do not think it would establish a precedent, because the committee can require proof of religious aspects of the land, and I do not think that is difficult to prove. I do not believe anyone could put anything over on the Indian committees of either House; and I am sure the precedent that is worried about would not be established, because the requirements could be set.

Mr. METCALF. I am very pleased that the Senator has called attention to Mr. Bodine's statement. I think that Professor Bodine made the most important and the most eloquent argument in behalf of this bill contained in this entire hearing record; and that is the reason that I had it incorporated in the record after he sent me this letter.

Certainly we are trying to do just exactly what he suggested: protect these shrines and sanctuaries. Of course, it is too late—100 years too late, or 200 years too late—to take care of the equities that the Senator from Arizona is talking about. Of course the Indians were here, and that is why we established the Indian Claims Commission. That is why we did something no other government has ever done: We said, "All right, this land was unjustly and unlawfully taken from you, and we are going to give you an opportunity to come into court, to come into a special court and prove your claim."

We have had awards all over America. But if this bill passes, lawyers for these Indians will go back and the Indian tribes will say to them, "Well, you did not tell us we could get land; you just said we had to settle for a monetary claim." And so all these matters will—and justly should—be opened up for consideration, and it will be a very difficult decision to make, and will cost, as the Senator from Arizona has suggested, probably more money than we have spent on the Vietnam war to handle all the claims.

This is an equitable settlement. It protects every single religious sanctuary and shrine that the Taos Indians have. At the same time, the settlement protects an important and vital watershed that is essential to the people downstream. And it does not set an undesirable precedent.

We also recognize the importance of a special tribal culture, and the importance of the practice of a religion that is specifically and uniquely American. I urge the passage of Senator ANDERSON'S bill.

Mr. HARRIS. Mr. President, all of the Senators who have been involved in this debate are honorable and sincere men, and each feels that he is doing the right thing so far as the Indians involved are concerned.

The question is not who likes Indians best. I often think, however, the American Indians might be a better off if we liked them a little less and respected their rights a little more. The question is whether or not we or they are going to make the decision about what is good for the Indians in this case.

The distinguished Senator from Washington and other Senators who have spoken here against the Taos Pueblo position and against the House-passed version of this bill have said at one time that it makes very little difference which of these bill passes, so far as the rights of the Indians are concerned. Well, why do we not let them, then, decide which they want? If it makes very little difference which version is adopted, why do we not adopt the Indian version one time? I think that is the question.

Then the question is raised that the concept of title does not make all that much difference. There was a time when many, if not most, American Indian tribes cared very little for the idea of title. They found it alien to their way of life, because land was not something which could be owned and held individually. But they learned better, because of their dealings with the rest of us. Over the years, as their land has been taken and they have been pushed to other land and then often, if that land became attractive, pushed even out of that, the American Indians have learned from the rest of us that the word "title" means something. They learned it from us.

They know that "exclusive use," which is the term used in the Senate committee bill, is not the same as title. It is not the same as title, and they are quite right in recognizing that that is not.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HARRIS. I am pleased to yield to the distinguished Senator from Minnesota.

Mr. MONDALE. Do I correctly understand the proposed legislation recommended by the Committee on the Interior to offer "exclusive use" to the tribes involved, subject to termination without notice? Is that a provision, or do I not understand correctly?

Mr. HARRIS. The Senator's understanding is correct. I think the proposed legislation allows for exclusive use to be terminated.

Therein, Mr. President, lies the principal objection to this bill by the Taos Pueblo Indians—not about the notice, but about the termination. There is a difference in exclusive use and title, and they know that exclusive use can be changed; and this matter will not have been settled at all.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. METCALF. The trust also could be terminated. Is that not correct?

Mr. HARRIS. The Senator from Montana is technically correct but practically incorrect.

Mr. METCALF. The trust can be terminated just as easily and just as quickly and under the same procedure that the exclusive use can, and that is by an act of Congress.

Mr. HARRIS. It certainly could not be. Once the title had been held to be in the Indians, but held in trust by the Secretary of the Interior, that would be an unconstitutional and unlawful taking without just compensation.

Mr. METCALF. No. The Senator from Oklahoma is experienced enough in Indian law to know that these trust titles can be terminated by an act of Congress.

Mr. HARRIS. May I respond to the Senator from Montana? The Senator from Washington said earlier, "We are trying to work out a final settlement in this case, and that is why we recommended this bill. We want to finally settle it." I think I am safe in saying that this bill will not settle it. I think I am safe in saying that these Indians, who have come here year after year a

year, trying to get title to this land in trust for themselves, would be back here again next year.

The Senator from Montana knows that ce the title to this land had at long last n given to the Taos Pueblo——

Mr. METCALF. In fee.

Mr. HARRIS. That would be all of it, and no Congress would ever or could ever take that away.

Mr. METCALF. In fee.

Mr. HARRIS. In trust. The Senator knows that, and it seems to me that he is raising an irrelevant argument.

Mr. METCALF. Would the Senator permit me to put into the RECORD at this time a résumé of the Forest Services' operation to accommodate the Taos Indians? It is appropriate at this time.

Mr. HARRIS. I have no objection.

Mr. METCALF. Mr. President, I ask unanimous consent to have the résumé printed at this point in the RECORD.

There being no objection, the résumé was ordered to be printed in the RECORD, as follows:

RÉSUMÉ OF FOREST SERVICE ATTEMPTS TO ACCOMMODATE TAOS INDIANS

It has been suggested that a résumé be prepared of the actions taken by the Forest Service to accommodate the Taos Indians. They are listed as follows:

1. At the time of the establishment of the National Forest in 1906, the area was included at the request of the Indians to hold it from private land claims, inasmuch as they could not prove ownership before the Private Land Claims Commission.

2. In 1927, a cooperative agreement was signed between the U.S. Department of Agriculture and the Taos Pueblo to conserve and protect the water supply for the benefit of the Taos Pueblo. This agreement covered 31,- acres of the Rio Pueblo.

In 1928, the Forest Service agreed to report favorably on legislation which would authorize a withdrawal of some 30,000 acres. This withdrawal covered all of the lands within the Rio Pueblo de Taos which belonged to the United States.

4. In 1936, the area withdrawn from mineral entry was expanded to 37,000 acres and included the Bonito and Witt Park areas which were outside of the special use area.

5. In 1939, the area used by Taos Pueblo was segregated from entry by Secretarial order.

6. The special-use permit issued to the Indians in 1940 accorded the Indians privileges over and above those set forth in the Act of 1933 in that it provided for the Indians to concur in issuing permits to non-Indians to enter the area and tied up the timber resources for the sole benefit of the Indians.

7. In 1949, the Indians complained about overuse at Blue Lake and the Forest Supervisor agreed to limit camping there to one night. At this same time, the Forest Supervisor advised the Indians that they were overstocking their range at approximately the rate of 1,000 animal months per year. They conceded that they were overstocking their range, but no commitments were made.

8. On September 8, 1950, the Forest Service wrote the BIA offering to include within the area grazed by Taos Pueblo cattle, the land known as the Tenorio Tract which was acquired in the Will Ed Harris exchange.

9. About 1950, the Forest Service obtained agreement from the State Game and Fish Department to stop stocking Blue Lake with fish, in order to make it less attractive to -Indians. This was done at the request of Pueblo Governor.

10. In 1952, the Forest Service consummated a land exchange with the State of New Mexico which placed the La Junta Canyon drainage in the ownership of the United States, thus making it possible to better protect this watershed in the long run, even though there were outstanding timber cutting rights which would continue for several years. This cutting and the camp conditions were the subject of a complaint from the Indians in 1956. We could offer little assistance except advise them to contact the State Health Service which apparently was done.

11. Also in 1956, the Pueblo Council complained of a road to be built to Blue Lake. The Forest Service advised them that there were no plans for such a road and it would not be permitted.

12. At a meeting with the Indian Council on October 25, 1956, an itemized accomplishment report was presented to the Indians and received their approval.

The summary is as follows:

(1) The sheep driveway up the Rio Lucero has been abandoned for eight years thus relieving grazing on the Indian free-use allotment.

(2) With the acquisition of the Leroux Grant, sheep grazing and trespass from this area was eliminated.

(3) All trespass by cattle, horses, and sheep has been eliminated.

(4) Overgrazing of the Blue Lake Basin has been eliminated and recovery is remarkable.

(5) The Forest Service employees have systematically cleaned up the public and Indian campgrounds in the vicinity of Blue Lake for approximately ten years.

(6) The State lands in La Junta Canyon were acquired.

(7) Camping permits at Blue Lake were limited to one night per visit. The Indians attempted to limit the use to the Blue Lake area to 20 non-Indians, annually. This was not agreed to. It was agreed, however, that no individual permits would be issued and groups of 5 to 20 people would be supervised. It was further agreed that publicity would emphasize the benefits to the Indians and not the scenery.

13. On January 21, 1963, the Carson National Forest Supervisor wrote the Indians that he was closing Blue Lake to all fishing and occupancy, including Taos Pueblo Indians, except for their ceremonial use. This was done to overcome protests by the Indians that their sacred rights were being violated.

14. In late 1967, the State Highway Department applied for a permit to examine routes for Highway 84 from Taos to Eagle Nest. One of the routes proposed for examination was up the Rio Pueblo. Supervisor Seaman met with the Highway Department officials and was able to convince them that it would not be in the best interest to plan roads in this area.

15. In April 1969, Forest Supervisor Hassell rescinded the Taos District Ranger's authority to issue Entry Permits to the Taos Indian Special Use Permit area. This action was taken so that the Supervisor would have the opportunity to review each application for entry and further insure protection of religious privacy for the Indians.

16. On April 22, 1969, Supervisor Hassell presented a cooperative agreement to Taos Pueblo Governor Sandoval. The purpose of this agreement was an attempt to work with Governor Sandoval and the Council to achieve a better working relationship and improved management of the Taos Pueblo Special Use Area. This agreement was not approved by the Governor and Council.

17. In March 1969, Ranger Freeman proposed a cooperative agreement to War Chief Ben Marquez for reconstruction of the fence on Capulin ridge, which is the south boundary of the Taos Pueblo Special Use Permit area. The purpose of this fence would be to help prevent unauthorized entry and to prevent drift of Indian livestock to surrounding lands. This agreement has been approved by the Indians and construction is underway.

18. Early in August 1969, the Forest Service, in response to an earlier request by the Taos Pueblo Indians, demolished and removed the Forest Service cabin and latrine near Blue Lake, rolled and removed the wire corral and restored and reseeded the area.

Directional signs in the general area containing references and mileages to Blue Lake were also removed at this time.

19. In December 1969, at a public meeting concerning the proposed Continental Divide Trail (Sangre de Chisto Loop), Forest Supervisor Hassell said he would recommend that the proposed trail be moved onto private land and farther away from Pueblo de Taos watershed. This recommendation was made and accepted by the Continental Divide Trail Study Committee. Taos Pueblo Governor Romero wrote Supervisor Hassell saying, "We are gratified that you have this understanding of our Indian ways of life and that you appreciate our need to protect our religious practices from intrusion from outsiders."

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HARRIS. I yield to the Senator from Minnesota.

Mr. MONDALE. Do I correctly understand that the Senator from Oklahoma responded to my question by saying that the pending measure recommended by the Committee on the Interior would not grant title to the tribes but would grant something less than title, called an exclusive use?

Mr. HARRIS. The Senator is correct.

Mr. MONDALE. But that exclusive use could be terminated by the Forest Service without any further act of Congress. Is my understanding correct in that?

Mr. HARRIS. Under the House bill, which the Taos Pueblo Indians support, there is no termination provision. Under the bill recommended by the Senate Committee, there is automatic termination, without due process, for violation of "provisions of this act," which, I might point out to the Senator and to the Senate, is worse than what they have had; because they have had, under the law, no termination for a 50-year statutory period, under the statutory permit which they had had first issued in 1940 and which was renewable in 50-year periods.

Mr. MONDALE. Mr. President, will the Senator yield further?

Mr. HARRIS. I yield.

Mr. MONDALE. It has been some time since I have practiced law. But if the Senator from Oklahoma were representing a client who brought in a deed which extended to him an exclusive use, subject to termination at any time without notice, what would he recommend that the client pay for that right?

Mr. HARRIS. I think it would be a right of rather dubious value, not really a fight at all.

Mr. MONDALE. The proposal which the Senator from Oklahoma makes, as I understand it, would grant title to these tribes, but that title would be in trusteeship?

Mr. HARRIS. Yes.

Mr. MONDALE. Under the direction of the Secretary of the Interior?

Mr. HARRIS. The Senator is correct. That is the usual situation for Indian lands, that the title would be held in trust by the Secretary of the Interior. This bill, on the other hand, sets up a very unusual and, it seems to me, dangerous precedent, to have Indian lands held not by the Secretary of the Interior but, in the every unusual case that the Senate committee bill recommends, held by the Secretary of Agriculture. It would continue to be so-called national forest, but then this piece would be carved out for what is called exclusive use of these tribes.

Mr. MONDALE. If the amendment offered by the Senator from Oklahoma is adopted, the tribes would have title to this property. Is that correct?

Mr. HARRIS. That is correct. And that title would be held in trust for them by the Secretary of the Interior.

Mr. MONDALE. Could the Secretary of the Interior terminate title on his own?

Mr. HARRIS. He could not.

Mr. MONDALE. It is this version which the tribes have asked to adopt into law?

Mr. HARRIS. That is correct.

Mr. MONDALE. In essence, the action of the House of Representatives is the action which those most directly concerned, the tribes, wish the Senate to take.

Mr. HARRIS. The Senator is correct.

Mr. MONDALE. Mr. President, will the Senator yield further?

Mr. HARRIS. I yield.

Mr. MONDALE. I am not acquainted with the details of this proposal, and I have great respect for those who disagree with my position; but I intend to vote with the Senator from Oklahoma on his proposal, for these reasons: First, I think more is being given by way of property rights; second, this is what those most directly concerned, the Indians, want, and, as the Senator from Arizona has pointed out, we are simply restoring some of that which we took from them—without compensation, I assume—years ago; and, finally, I believe that running through our whole relationship with the American Indian has been the strange, paternalistic tendency which somehow assumes that Indians are incapable of running their own lives and that they must be treated in a guardian-ward status.

I think that many times this approach is taken in good faith. But I believe that if anything has resulted in the tragedy of the lives of the American Indians—and it can only be called tragic—it has been that through the education programs we have tried to make good white men out of them, educating them with white teachers and with the English language and with no respect for their culture, no textbooks or curriculum that teaches them pride and confidence in themselves.

In the management of their lands, we have done the same. We have permitted them to use but not own the land—under control, once again, of the white man.

This runs, it seems to me, throughout this tragic and failure-ridden history of the Nation's policy with respect to the American Indian. It has been thought up with no principle and has been, I think, a cruel and unutterably, unfair failure. In my opinion, if there is one thing we must do to change this policy, it is to start assuming and accepting the fact that the Indians are human beings and Americans, having the same rights, the same opportunities, and the same need for pride in themselves, their culture, and their background as anybody else. That is why I am pleased to support the amendment offered by the Senator from Oklahoma.

Mr. HARRIS. I thank the distinguished Senator from Minnesota. No other man in this country or in the Senate has done more to right the centuries of wrongs done to the American Indians.

While I am on my feet, I wish to take this opportunity to commend the distinguished Senator from Arizona (Mr. GOLDWATER), who now occupies the chair, for what I know were not written statements on his part, the two statements he made earlier, but were purely out of his own thoughts on related matters. I thought they were excellent statements. On them alone, I think the case could be submitted.

I shall continue in regard to the issues that have been raised by those who support the Senate committee bill. First, I want to reiterate what I said earlier in answer to a statement or a question by the distinguished Senator from Montana (Mr. METCALF).

The Senator from Washington (Mr. JACKSON) in his opening statement on the bill earlier today said:

It represents—

Meaning the Senate commiittee bill—

an effort to provide a final settlement to a long standing conflict over the use and administration of the lands in question.

That, in my judgment, will not prove to be true. The Indians of the Taos Pueblo carried watched this age-old battle. They have more than once been able to convince the House of Representatives of the validity of their position. I think this is the first time they have come as far as they have today. In my judgment, I do not believe that, all of a sudden, at long last, when they are offered something less, in my judgment, than what they think is right, they are suddenly going to abandon this fight. I believe that the Senate position will not be a final settlement, should it be adopted. I think we will have this controversy all over again. I think these Indians will proceed with what has been their heroic effort over the years to have these sacred lands returned to them, with title held by the Secretary of the Interior, as the House bill provides.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HARRIS. I am pleased to yield.

Mr. MONDALE. I was on the Senate floor during the earlier colloquy which involved the question whether, if we should restore title to these tribes, a precedent would be created which would cause other Indians to come in and ask for rights to be granted to them under similar circumstances or circumstances involving the same principle. This mystifies me a little. If the Indians have a just claim in this case, is it the opinion of the Senator from Oklahoma that such a claim should be denied on the possible ground that another Indian tribe m[illegible] come in with a just claim or with an [illegible] just claim? Is that an equitable basis for denying a just claim?

Mr. HARRIS. The Senator from Minnesota has put his finger on the nub of the spurious, in my judgment, precedent issue. If the Taos Pueblo have a just claim, it ought to set a precedent for justice. It seems to me, as I said last night, that we have set plenty of precedents for injustice. So, in an individual and unique case let us set a principle for justice.

In the other cases that have been alluded to, I think we can show that there is a difference in substance. But if those Indians can come before the Committee on Interior and Insular Affairs, as they did in the Taos Pueblo case, and show that their case is just, what is wrong with setting a precedent that we will come down on the side of justice? I agree with the Senator from Minnesota. The question I want to address, because it really turns out to be the only argument in this case, is the issue of setting a legislative precedent.

Earlier, some allusion was made to the question of conservation. I said last night, and I repeat now, that it seems to me it is extremely ironic for anyone to raise the question of conservation of the environment against the American Indian, who is the original ecologist. It was not the American Indian who cut down the timber, or destroyed the co[illegible] tryside, or polluted the air and wa[illegible] or wasted the natural resources. I would further point out, Mr. President, that the House bill provides that this land shall continue to be wilderness land. The issue of conservation, therefore, is obviously not involved. The question of precedents has been raised, and that is one that Senators should examine.

Mr. GRIFFIN. Mr. President, will the Senator yield briefly on the subject of conservation, before he moves to the issue involving the question whether there is a precedent?

Mr. HARRIS. I yield.

Mr. GRIFFIN. I bring this up as a matter of setting the record straight. On Monday, November 30, the distinguished Senator from Montana (Mr. METCALF) placed in the RECORD a statement, a part of which, bears rather directly on the question whether conservation will be practiced under this bill as passed by the House. At one point, the statement inserted in the RECORD by the junior Senator from Montana, reads:

I think we have justifiable basis for putting some conditions into this Act. I have before me a copy of the Albuquerque Journal of November 15, 1970, with a full-page article entitled, "Taos Pueblo Seeks Return of Sacred Tribal Lands."

This statement appears on page S19013 of the RECORD of November 30. Later, referring to that newspaper article, the statement reads:

The Tribal officials deny they want Blue Lake area for economic reasons.

That, of course, raises the question whether the Taos Pueblo wants this land for religious reasons or for economic reasons. The statement then continues, referring to the article in the Albuquerque Journal of November 15:

It is stated that the tribe realized $50,000 in 1969 from hunting, fishing and camping permits. Where was this hunting, fishing, and camping done? The reservation is relatively small. Do they intend to expand this operation if they get Blue Lake and use it commercially?

Of course, those would appear to be legitimate questions, particularly in light of the article published November 15 in the Albuquerque Journal.

However, I know the Senator from Montana would want some additional information called to his attention. On the very next day, the same newspaper, the Albuquerque Journal, published another article which admitted an error in the article of November 15. I do not know; perhaps I may be repeating information provided earlier in the debate.

Mr. METCALF. Mr. President, will the Senator from Michigan place the entire article in the RECORD?

Mr. GRIFFIN. I shall. The article of November 16 reads, in part:

The Pueblo of Taos does not sell hunting, fishing, or camping permits to non-Indians, contrary to a statement in a Journal article on Taos Pueblo November 15.

The article quotes Walter Olson, Bureau of Indian Affairs area director and then adds: "A Bureau of Indian Affairs Fact Book for 1969 listed Taos as having received $50,000 for such permits, but Olson said that was in error. 'You can say it was our mistake,' Olson said."

I ask unanimous consent that the article from which I have read be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUEBLO OF TAOS SELLS NO PERMITS TO NON-INDIANS

TAOS PUEBLO.—The Pueblo of Taos does not sell hunting, fishing or camping permits to non-Indians, contrary to a statement in a Journal article on Taos Pueblo Nov. 15.

"Taos does not sell fishing, hunting or camping permits of any kind," said Walter Olson, Bureau of Indian Affairs area director.

A BIA factbook for 1969 listed Taos as having received $50,000 for such permits, but Olson said that was in error.

"You can say it was our mistake," Olson said.

Taos is one of the most conservative of pueblos in regard to tribal lands. They permit no leasing of lands for any use, according to Council Secretary Paul J. Bernal.

Mr. METCALF. Mr. President, where did they get the $50,000?

Mr. GRIFFIN. I am not able to answer the question.

Mr. METCALF. I do not know either.

Mr. GRIFFIN. I do not know that they received $50,000. However, the article published on the 15th was obviously not correct.

Mr. METCALF. Mr. President, I am delighted to have that information. All I did was quote from an article published in a New Mexico newspaper. However, if the Senator from Oklahoma is suggesting that this bill is going to be a perennial bill with us, we will find out about the $50,000 in the next year before the committee.

Mr. HARRIS. Mr. President, I thank the distinguished Senator from Michigan, a cosponsor of the amendment. I am grateful for the statement he made which will be, I think, very helpful.

Mr. President, I address myself again to this precedent issue, which is really the only one before the Senate.

The first and most important thing to know about that argument is exactly the point raised by the distinguished Senator from Minnesota (Mr. MONDALE).

Mr. President, I will not go into that again except to say that if we determine that the House-passed bill affords justice in this individual case, why, then, it is no argument against our position to say that it may set a precedent. Perhaps it will set a good precedent. We can decide each individual case. We can do that. We can decide additional cases on their individual merits.

As I said earlier, no one is going to bind himself on any additional claims by agreeing to pass the Taos Pueblo position. With respect to some of those who say that there are other cases like the Taos Pueblo case, I am willing to bet that when those cases come up, if they are not cases where the applicants are right—as I think they are in this case—the very ones now talking about precedents will be fighting those cases strongly.

Nothing will prevent them or any of the other Members of the 100-Member Senate from exercising their own free will and judgment in every case which comes before the committee or the Senate in the future.

The Taos Pueblo's claim to the Blue Lake area is unique. If, however, there are found to be other cases like it or nearly like it, we should do whatever is just in those individual cases. But the Taos Pueblo case is actually unique.

No other tribe has a claim of over 60 years standing to a distinct area of land continuously used and occupied by the tribe for religious purposes after deprivation of title.

Reference was made earlier by some to the case of the Yakima Indians and the Flathead Indians. In those cases, the Indians are not asking for the land back for religious purposes only. Nor are those cases in which the Indians have had exclusive use of that land in the past for religious purposes. Those cases are not like this case.

The Taos Pueblo case is a claim for land which, once restored, would not be subject to commercial development.

In the words of the anthropologist, Dr. John J. Bodine:

The Taos claim is unique because if Blue Lake and the surrounding lands are not returned to the tribe it will effectively destroy Taos culture. *No other Indian tribe can make that claim,* because no other Indian group today relies to the same degree on shrines in a restricted area for continuance of its religion.

Claims of other tribes for land with no special religious significance or where—as in most cases—the land has been conveyed to third parties are completely inapposite. The Departments of the Interior and Agriculture agree on the unique nature of the Taos claim.

Former Secretary of the Interior Udall and a whole host of other witnesses have testified that the Taos Pueblo are not seeking the return of the other lands—and I think this is very important—to which the Indian Claims Commission has ruled the tribe held aboriginal title, a balance of 82,000 acres in addition to the 48,000 acres which they are asking to have returned to them.

If any "precedent" were created by H.R. 471's restoration of title to the Pueblo, the Interior Committee substitute bill's creation of a sequestered special district within the national forest for exclusive use would set a much less desirable but equally strong precedent. I do not know of anything like that in the history of land where public land title is involved.

It is cleaner and less inimical to the public interest to transfer land to be used exclusively by the Taos Indians out of the national forests. Maintaining the fiction and exclusive-use land is a public national forest resource serves neither the best interests of the Indians nor of the United States.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. HARRIS. Mr. President, I am glad to yield to the Senator from Montana.

Mr. METCALF. Mr. President, the very act that the Senator is amending, section 4 of the act of May 31, 1933 (48 Stat. 108) did exactly what we are trying to do here except for broadening the provisions and the number of acres provided for. In 1933 we did exactly what the committee is trying to do right now.

Mr. HARRIS. And that is what I am fighting. It is that long history of doing the wrong things that I am against. I want to do the right thing for once.

Mr. METCALF. Mr. President, the Senator says that this is a new act. It is exactly what we tried in 1933. This is just an expansion of the act. We cannot have it both ways.

The Senator wants to repeal it. I can understand the Senator's desire to repeal the act of 1933. But we are following the precedent set by Congress more than 30 years ago.

Mr. HARRIS. Mr. President, the Senator used the word "precedent." His position would make it possible for additional tribes to come in here and say, "We want to follow the Metcalf precedent. We want to carve out of national forest, lands that have been set aside for public use, tracts of land for our exclusive use. We want them given back to us as the Senator from Montana (Mr. METCALF) said could be done in the Taos Pueblo case."

Mr. President, whatever the Senator from Montana finds is right, I know that he will do. I will support the Senator in any just claim.

Mr. President, if the Senator thinks the claim of the Yakima Indians is just, he ought to be here advocating it, whether this bill passes or not.

The PRESIDING OFFICER (Mr. GOLDWATER). The Chair wishes to remind visitors in the galleries that they

are guests of the Senate and we would appreciate quiet.

The Senator may proceed.

Mr. HARRIS. Mr. President, a precedent would not be set by this bill nearly so much as the precedent that would be set and deepened and made more of a precedent under the argument of the distinguished Senator from Montana, under the bill which is recommended by the Senate committee, not under the bill recommended by the Taos Pueblo which I support. If it is objectionable to convey title to a tribe in lieu of cash, because other tribes may seek similar treatment, certainly it is no less objectionable to give a tribe exclusive use to part of a National Forest and then go on and call it a national forest.

The Senate committee seems to have anticipated this point by stating in its report that its version "deals only wih the specific fact situation presented by the Pueblo Taos claim," and that it "does not represent a precedent for future cases."

If the Senate committee version can be said not to be a precedent because of a statement placed in the bill, we, ourselves, have done that and more in the record. Every single supporter of the Taos Pueblo position who has spoken has stated in this Chamber in debate last night and today that our position will constitute no precedent. Legislative history has clearly been established and that seems stronger than a statement along that line in the Senate committee version of the bill.

The same disclaimers here by those of us who favor the Taos position apply at least equally well as do those in the Senate committee bill.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. ANDERSON. What would be the legislative history here? I believe the Senator referred to the year 1300.

Mr. HARRIS. I believe the distinguished Senator from Arizona said he thought that probably the Taos people occupied the land in about 1200, certainly, he said, before the Spanish, Mexicans, and others came.

Mr. ANDERSON. When was the transfer made to the Federal Government?

Mr. HARRIS. In 1906. That has been held to be the original unlawful or unjust taking.

Mr. ANDERSON. What about the Treaty of Guadalupe Hidalgo?

Mr. HARRIS. What about it?

Mr. ANDERSON. It gave title to the Federal Government. The Taos had 4 square leagues, or 17,000 acres. That is all that was ever given to them.

Mr. HARRIS. The Senator does not dispute the holding of the Indian Claims Commission that the Taos Pueblo have aboriginal or Indian title not only to 48,000 acres but an additional 80,000 acres or so, as well, does he?

Mr. ANDERSON. There is no argument about that. What happened in this 1864 period?

Mr. HARRIS. As far as I am concerned I would be pleased to have the Senator relate that history. What is important is that the Senator recognizes, I recognize, and everybody that I know recognizes the Taos Indians have a valid claim to this 48,000 acres. The Senator and the committee want to give title back in another way than I think is proper.

Mr. ANDERSON. I want to know how they have title. They talk about restoring title. Title cannot be restored.

Can the Senator show one instance where the Taos government was ever authorized to take this land?

Mr. HARRIS. I honor the distinguished Senator from Washington, the distinguished Senator from New Mexico, and other Senators who set up the Indian Claims Commission. That was a great step forward. I want to uphold the ruling of the Indian Claims Commission in regard to the rights of the Taos Pueblo to this land.

Mr. ANDERSON. The Indian Claims Commission did not do that. The tribe sued for money and not for land.

Mr. HARRIS. The Senator does not maintain that the Taos Pueblo would accept money rather than land now, does he?

Mr. ANDERSON. I only say they sued for money and not for land.

Mr. HARRIS. There are additional acres involved in the Indian Claims Commission other than the 48,000 acres, but I am sure the Senator agrees that the Taos Pueblo steadfastly maintained that compensation in money will not be compensation at all because they maintain, and I think rightly, that this land has intrinsic value which cannot be compensated for in money.

Mr. ANDERSON. Every piece of land in the country is subject to that claim. I say they sued for money. I do not know how they can now get something else.

Mr. HARRIS. If the Senator feels that way about it, I cannot see why he would support even the Senate committee position.

Mr. ANDERSON. Has the Indian Claims Commission said they are entitled to something more?

Mr. HARRIS. The Senate is the important body. We are the ones who have now to say. It is not what someone else says. It is what we say.

Mr. ANDERSON. So the Senator wants to avoid the history of this matter.

Mr. HARRIS. I do not want to avoid the history. I have invited the Senator to relate it or put it in the RECORD. I do not see that it is involved in the question before the Senate today.

Mr. ANDERSON. I wish to say that by their testimony the Taos Tribe has admitted the Apaches also use this land for hunting and fishing.

Why does the Senator feature the Taos Indians and eliminate the others?

Mr. HARRIS. Does the Senator maintain they should not have exclusive use of the land? How can the Senator say on the one hand they should have exclusive use of it but not if it is held in trust by the Secretary of the Interior?

If the Senator's argument is right not even the committee bill should be passed.

Mr. ANDERSON. The committee bill is in compliance with what has been decided. They got a money judgment.

Mr. HARRIS. I have discussed this matter with the distinguished Senator from New Mexico a good many times. He and I disagree on the facts. This is an issue that we must submit to the Senate.

Before I continue, in that regard, I want to say that the distinguished Senator from New Mexico has a long and distinguished record, one which is rightly regarded with great admiration by many of us who have been in this body a lesser time, not only in the field of Indian affairs but in other fields, as well. I am sorry that he and I disagree not only on the factual situation and the historical justification, but also on the proper outcome of this measure. But this is not a matter of personalities or of which side should be approved as far as Senators are concerned; this is a matter of justice for the Indian people, justice they have sought for many years.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD an editorial entitled "Correcting An Ancient Indian Grievance," published in the Washington Post today, and an editorial entitled "Blue Lake To Taos," which was published today in the New York Times.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

CORRECTING AN ANCIENT INDIAN GRIEVANCE

A test of the government's sincerity in its dealings with the Indians will come before the Senate today when it votes on the return of Blue Lake to the Taos tribe. In his special message to Congress last July, the President outlined a policy of respect for Indian traditions, customs, beliefs and way of life. Under this concept, Indians are to be allowed to live their lives in their own way in accord with their own values. In principle the new policy stands out in striking contrast to the paternalism, the neglect and broken promises of the past.

But will the Senate translate the policy into something more than mere words? The immediate question is one of returning to a group of the original Americans 48,000 acres of land including Blue Lake in New Mexico. The lake is sacred to the Indians. Long before the white man came it was their place of worship—a tribal shrine. The land was admittedly taken from the Indians in 1906 in crass disregard of their rights and their tribal culture. So the question of its restoration rightly becomes an acid test of the policy of respecting the Indians' rights and allowing them the cultural freedom that other ethnic groups in the country enjoy.

The House has passed a bill that would give the Taos Pueblo title to the land, but the Senate Interior Committee, under pressure from Sen. Clinton Anderson, reported out a bill that would merely permit the Indians to use the land. From their viewpoint, that would amount to continued denial of their sacred heritage. It would be a white man's expedient instead of rectification of a wrong in terms that the Indians themselves understand. The Indian Claims Commission has acknowledged that the government took the land for a national forest without compensation. Of course the tribe does not want compensation but the actual land and lake essential to its sacred rites.

Congress ought to recognize this grievance and return the land without any "ifs," "ands" or "buts." By adopting the Griffin-Harris amendment, the Senate can set the matter right.

BLUE LAKE TO TAOS

The Senate can act today to right a wrong. It is expected to vote on whether or not to restore to the Taos tribe of the Pueblo

Indians their title to a 48,000-acre tract high in the Sangre de Cristo Mountains of New Mexico, a sanctuary nearly two centuries before Columbus first crossed the Atlantic.

The Senate bill as it stands would give the [illegible]be exclusive use of the area, but title [illegible]ould remain in the hands of the Forest Service, where it was misguidedly placed by President Theodore Roosevelt and Gifford Pinchot back in 1906 as part of the Carson National Forest. The key vote will be on a bipartisan amendment to substitute, in effect, the version passed by the House last year. This would return the land to the tribe outright, providing only that it should be reserved for religious and tribal uses and forever barred to commercial exploitation.

The difference between the two measures is subtle but of great importance. Pressing for the House bill, President Nixon sounded the right note when he observed that "no Government policy toward Indians can be fully effective unless there is a relationship of trust and confidence."

Senatorial friends of the Forest Service at first sought to combine religious use of Blue Lake and other shrines with the principle of multiple use elsewhere in the area. When that failed, they argued precedent: Indian claims are traditionally paid off with money, not land. But clearly that is not an appropriate approach here. The Taos Pueblos have been fighting for 64 years to get back their sanctuary, not to sell it—or even to enjoy its use by courtesy of the Forest Service.

The Senate now has a rare chance to do justice and perhaps to start the country back on the long road toward regaining the trust of the first Americans.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. ANDERSON. Mr. President, I want to say that this legislation started a good many years ago. I think it could be said that the present bill was started by the Senator from New Mexico. But the point of difference was that the Taos Indians and their friends tried to get more than they thought they should have.

I have kept worrying about the fact that the Senator from Oklahoma said something about lands being restored to the Indians. The Taos Indians never had title and it cannot be restored.

Mr. HARRIS. May I say again that there is no question in my mind that the distinguished Senator from New Mexico is quite sincere in the position he takes and I am equally sincere in my difference of opinion with him, which I regret.

I will just say, lastly, in regard to the matter of precedence, that Congress transfers public land to Indian tribes in every session as a routine transaction. So, in that respect at least, this would not be an unusual act for us to take, but it is unusual in that we are recognizing that this claim can be paid only in land. I think all sides recognize that. There is no question about it. We have all decided, both in the committee bill and the House bill, that we have to give land. The only question is who holds title, whether it be the Secretary of the Interior in trust, or the Secretary of Agriculture. In the Senate bill it would be the Secretary of Agriculture. In the House bill it would be the Secretary of the Interior.

It has been said that it does not make any difference. If it does not make any difference, let us do it the way the Indians themselves want it done. On the other hand, it is argued by the same Senators that it makes a lot of difference and that a precedent would be set. I agree with their first argument, that there is not much difference as far as precedent is concerned. We ought to do what the Indians want, to do justice in this case, and in the future let us take up individual cases as they arise.

Mr. METCALF. Mr. President, during the course of the debate, when the Senator from Oklahoma had the floor, he participated in a colloquy with the Senator from Minnesota on the question of exclusive use. At this time I wish to read into the RECORD that portion of the proposed bill relative to exclusive use:

For the purpose of protecting the watersheds—

And I will say to the Senator from Oklahoma this is why the conservation organizations are concerned about the bill—

"SEC. 4. (a) For the purpose of protecting the watersheds of the Rio Lucero and of the Rio de Pueblo de Taos and the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the Secretary of Agriculture is hereby authorized and directed to segregate the following-described lands, which thereafter shall not be subject to entry under the land laws of the United States, and to thereafter administer the said lands for the exclusive use and benefit of the said tribe, which administration shall continue for so long as the provisions of this Act are complied with and the continued protection of the watershed is required by public interest:

So the purpose is twofold: One, the protection of the watershed; and, two, the interest in and the concern for the welfare of the Taos Tribe. The committee very carefully drew this bill to provide for that. Both of those purposes are provided for in the bill, and only one is provided for in the House bill.

Let us assume the Senator from Oklahoma is correct, and we provide for the interest and welfare of the tribe. We are not providing for the continued protection of the watershed in the public interest.

Mr. ALLOTT. Mr. President, will the Senator yield for a question, and perhaps a comment?

Mr. METCALF. I yield.

Mr. ALLOTT. The question has been raised directly here this afternoon that the Secretary of the Interior or the Secretary of Agriculture could terminate the right which is given by this bill. I, of course, have worked on this matter with the Senator from Montana for a long time.

If that is true, it would have to come under section 4(a), which the Senator from Montana just read. Is that correct?

Mr. METCALF. That is correct.

Mr. ALLOTT. I would like to make this part of the legislative record clear, because, in my opinion, at least as a man who once had practiced law for a considerable number of years, no Secretary could terminate the right which is created by the committee amendment. Does the Senator agree with that?

Mr. METCALF. I completely agree. There would be an entry into the court if there were an arbitrary termination by any Secretary for reasons not set forth in the bill. Otherwise it would require an act of Congress. It would be either way.

Mr. ALLOTT. Of course, we can never entirely keep human beings from being foolish.

Mr. METCALF. The Secretary of the Interior or the Secretary of Agriculture could be arbitrary—

Mr. ALLOTT. Attempt to be.

Mr. METCALF. Yes.

Mr. ALLOTT. But I want to make the legislative record clear that the only change in the status that could be made would be by an act of Congress itself.

Mr. METCALF. By an act of Congress; that is correct.

Mr. ALLOTT. I appreciate the Senator's remarks.

I would also like to go into one other matter, to explore a facet of this problem very briefly. This land was taken as a national forest in 1906, I believe, by President Theodore Roosevelt.

Mr. METCALF. It was taken out of the public domain. Previous to that it was still property of the United States, in the public domain, but it was incorporated into a national forest in 1906.

Mr. ALLOTT. In this respect the Indians are in no different situation than people, who have written to me, and I know have written to the Senator from Montana, and I know have written to every Western Senator, who have had land taken by the Interior Department or the Agriculture Department for incorporation into a national forest, incorporation into a park, or incorporation into a national monument—they receive compensation for land taken in each instance in dollars.

Mr. METCALF. That is correct, and that is appropriate. Indians aside, we have had great controversies about whether or not we are going to give lumbermen the right to log off some other part of the public domain if land was taken from them for a forest or a water fowl refuge or a park.

Mr. ALLOTT. The point I want to make with respect to this situation is that each American citizen is left to his recourse under the law, which is a recourse to apply for damages. So in this respect the Indians are getting in the bill far more protection than I could claim or that the Senator from Montana could claim as a member of a church if the Government decided that the land upon which the church was erected was needed for a public purpose. All we could claim was compensation for damages. Is that correct?

Mr. METCALF. That is right. We have recognized in the bill, as Mr. Bodine has suggested, that there is a special attachment to the land as far as the Indians are concerned. Therefore, we have given them a special and exclusive use. But if the Senator's church or my church or the church on the corner were taken for a highway, a park, a national forest, or a wildlife refuge, we would be compensated in money, and money alone.

The PRESIDING OFFICER. The question is on adoption of the committee amendment.

Mr. HARRIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDERSON. Mr. President, I appreciate very much the courtesy of the Senator from Oklahoma. The Senator from Oklahoma presented his views.

Mr. President, we have before us the Senate committee version of H.R. 471, providing protection to the religious shrine known as Blue Lake in northern New Mexico. I support the legislation before us and urge that it be given favorable consideration.

First, I will explain very briefly what the bill does as presently written, then I will go into a brief but essential analysis of the claim and the need for this legislation.

The bill increases the amount of land in the Taos Indians' use permit to the full 48,000 acres sought by the tribe, segregates this area from the Carson National Forest for the exclusive use of the Taos Indians, creates a new ranger district manned exclusively by rangers who are Taos Indians to answer the Indians' assertion that the Forest Service has been insensitive to their religious needs, assures the tribe complete control over not only the religious area, but the entire watershed, insures that wise conservation practices will be maintained, and meets the objections of environmental and conservation organizations by not deeding away segments of national forest land.

H.R. 471 as now written is a genuine and valid compromise which will give full and lasting protection to the Taos religious shrines without establishing an undesirable precedent affecting lands throughout the United States.

The Blue Lake issue is an extremely complicated one which is not subject to easy condensation. It is the failure to recognize the complicated nature of the Blue Lake issue, I believe, that has led to much of the controversy surrounding the claim and that has prevented its earlier settlement.

In a sense, the Blue Lake claim has become a symbol of the plight of the American Indian, and thus has attracted adherents who are well-meaning but who are not fully conversant with the real issues involved.

The Taos Indians migrated to their present location in the period between 1300 and 1325 AD. When the Spanish Crown assumed sovereignty over the area, it provided that the Indians were to have land traditionally used for farming, grazing, and other subsistence purposes. The King of Spain granted to various pueblos four leagues square or about 17,400 acres each. But the Taos Pueblo did not get confirmation of its four leagues square of land until 1864 when President Lincoln signed the grant. The Taos grant covered an area of approximately 17,400 acres surrounding the center of the Taos Pueblo. It did not include Blue Lake or any part of the 48,000-acre tract in H.R. 471. According to the law governing this area while under Spanish rule, as embodied in the Recompilacion, the Spanish law book, the land outside all of these Indian grants, though still roamed and used for hunting purposes, was to have the status of free and disencumbered land. I quote the following from the Recompilacion, book 4, title XII, where land grants are discussed:

> The rest of the land shall remain free and disencumbered to be granted and disposed of according to our will.

I might add that it was from this free and disencumbered land that the Spanish crown made its Spanish land grants throughout the Southwest. Hundreds of Spanish land grants had been made when the Government of Mexico obtained sovereignty over the Southwest in the early eighteen hundreds. The Mexican Government continued to make grants out of the free and disencumbered lands until the United States obtained sovereignty in 1848. Because of its mountainous and remote location, most of the Blue Lake area remained as free and disencumbered land under the flags of both Spain and Mexico.

When the United States assumed sovereignty under the Treaty of Guadalupe Hidalgo in 1848, it recognized all of the legitimate Spanish and Indian land grants in the Southwest. The rest of the land, including most of the Blue Lake area which therefore had been known as free and disencumbered land, became public domain. For over half a century, the United States administered the Blue Lake area as public domain. In 1906 the area was included in a National Forest and it has remained in that status to this day.

The Indian tribes of the Southwest have always used the land surrounding their pueblos for fishing, wood and water, and other traditional purposes. The Taos Pueblo originally subsisted off of approximately 300,000 acres of land in northern New Mexico. The U.S. Government has always recognized this use by the Indian tribes and it has come to be known by the confusing and inappropriate name of "aboriginal title." This is not an interest comparable to what we know as "title." It simply amounts to legal recognition that a given tribe at one time subsisted off of a certain area of land. Unfortunately, the failure by many to understand the distinction between aboriginal title and fee simple title as we know it in its ordinary legal sense has caused most of the confusion and misinformation surrounding the Blue Lake case.

Because of the many hundreds of millions of acres of lands all over the United States claimed under "aboriginal title" by the various Indian tribes, the Indian Claims Commission was created. Indian tribes were given the right to file claims before the Indian Claims Commission for settlement of their claims under aboriginal title. In processing a claim the Commission determines the size of the area upon which the Indian tribe at one time subsisted and makes its ruling. The particular Indian tribe then receives a cash settlement—not the land—based on the value per acre of the land when the United States took possession of the area.

The Taos Pueblo filed an aboriginal claim for 300,000 acres of land—including the Blue Lake area—before the Indian Claims Commission. In a 1965 ruling, the Commission found that the Taos Pueblo had aboriginal title to, and therefore should be granted cash compensation for, 130,000 acres of land—including the Blue Lake area. The next step will be for the Indian Claims Commission to determine the value of this acreage. When it does so, the Commission's recommendation will be sent to Congress for action. This is the procedure that has been followed by all other Indian tribes in the lower 48 States, and this is the procedure that must be followed in the Taos case. We cannot make a cash settlement and then make an additional settlement for land. Nor is there any realistic way to make a settlement for the land alone. The Indian Claims Commission has estimated that aboriginal title claims for land have been filed for 90 percent of all of the land in the continental United States. Needless to say, many, if not all, of the tribes which still have unsettled claims pending before the Commission would like to receive land instead of a cash settlement for their claims. If the Taos Tribe is granted an entire watershed, a landmark precedent will be set. There is no way to avoid this fact. I have no doubt that some tribes would even argue that those claims which have been fully settled by the Indian Claims Commission should be reconsidered because of such a precedent.

Now let us return to the particular case at hand. When the Taos Indians filed their claim before the Indian Claims Commission, they claimed more than 300,000 acres of land. However, because of the ruling in the case of *Pueblo of Cochiti* v. *United States*, 7 Indian Claims Commission 422 (1959), Indians have always been prohibited from claiming any of the Spanish land grants. For this reason, the Claims Commission by law was forced to reduce the 300,000-acre claim by eliminating the areas embraced by eight patented Spanish land grants. This resulted in the Taos claim being adjudicated at 130,000 acres—including the Blue Lake area.

It should be noted that the 48,000 acres provided for in the House bill would have to be reduced because of the same provision. H.R. 471 includes approximately 7,126 acres of the Antione Leroux grant.

The Taos Indians in 1933 were granted a 50-year permit by Congress—Public Law 73–28—for the Blue Lake area in lieu of a cash settlement for a different and unrelated claim. Under this permit, no one can go into the area without written permission from Taos Pueblo officials. Thus, the Taos Indians already have exclusive use of the Blue Lake area. They are in control. They could not have greater control if they owned the land outright.

It is often stated that the Blue Lake claim is unique among all Indian tribes, that no other tribe has claimed land for religious purposes as the Taos Indians have. Therefore, it is asserted, no precedent would be set if the 48,000 acres of land provided for in H.R. 471 were transferred to the Taos Pueblo. I submit that many other tribes have based their land

claims on religious importance. I will submit a list of these tribes for inclusion in the RECORD at the end of this statement. One can only speculate as to the number of claims throughout the United States based upon religion which will arise if the House bill were to be passed by Congress.

It is my hope that Congress can agree to settle the issue on its true merits rather than on a generalized desire to "do something" for the Indians. With the present legislation the Taos Indians can continue to receive the protection for their religious shrine that they rightfully deserve—without a disturbing precedent with national implications being established. Protection of the Blue Lake shrine is not incompatible with judicious treatment of the other major issues involved—land and water management and precedents governing the public domain. A solution is possible which will attain both goals and that is the opportunity that we have with the legislation before us today.

Additional land claims of Indian tribes: The Nambe claim, Indian Claims Commission docket No. 358, was quite similar to the Taos claim. In addition to a large quantity of land, this tribe claimed two sacred lakes lying in the National Forest, Lake Katherine and Sandy Lake. Several springs are mentioned as shrines in the Santa Clara Claim, Indian Claims Commission docket No. 355. Acknowledged scholars point out that every Pueblo tribe along the Rio Grande has shrines comparable in importance to Blue Lake. Members of the Navajo Tribe worship on Mount Taylor and Navajo Mountain. The Cochitis worship at locations within the Bandelier National Monument. The Santa Claras have religious shrines on Tschicomo Peak. The Jemez have shrines on the San Francisco peaks. I have been told that the Sandia Indians attach religious significance to the entire Sandia Mountain Range.

Mr. President, the only title the Taos Pueblo could have is the original title that was granted by the Treaty of Guadalupe Hidalgo, or the grant by the Spanish Crown, which said that the land shall remain free. That has been the trouble with most of the Spanish Crown claims, very frankly, because that is where the original rights were.

In the newspapers of only a few days ago, there is a picture of Alcatraz—"The Rock."

Certainly no New Mexico Indian would be entitled to claim any interest in that land. In fact, no Indian at all should have any valid claim, because that land belongs to the Federal Government, and it never has passed the title. But here is Alcatraz, a year after the invasion of the Indian tribes. They are there; it is not guesswork, they are there.

And what the Senator from Montana has stated is true: with this precedent, all a man has to do is go back to his own tribe and suggest some sort of legislation to obtain title.

Mr. President, we have spent some $400 million so far in settlement of Indian claims. That will all be completely thrown away if the House bill is passed.

The PRESIDING OFFICER (Mr. GOLDWATER). The question is on agreeing to the committee amendment.

Mr. HARRIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I spoke yesterday on the measure (H.R. 471) that has been pending, and gave some of my own strong views on this matter. I did so after consulting with a number of representatives of the Indian community that we have in Chicago.

We have a very large resident group of Indians there, who are deeply concerned not only about problems affecting themselves personally and directly in urban areas, but also problems affecting Indians living in other areas of the country.

Today I should like to speak on another aspect of the issue and relate it back to the program enunciated by the President, and to indicate why I am not only supporting this bill because of my own deep convictions about the rightness of it but also because I support it because it will enable the President and the administration to fulfill a program that it had outlined heretofore. I think that the importance of the issue is really a weather vane for a new Indian policy and that this is a several step program.

Mr. President, several of our colleagues may be asking: Why is this issue important? Why should the Senate amend its own Interior Committee bill?

I believe it is important to go back to the original version of this bill on the merits alone—merits which my distinguished colleagues are pointing out in our discussion. There is, however, an importance beyond the merits, a significance wider than a single tribe in a single State.

Restoration of trust title for the Blue Lake lands to the Taos Pueblo people will signal something else to all America, Indian and non-Indian alike. It will say that this Congress and this Government mean a new beginning for the American Indian. A beginning of respect in substance, not just form. For decades we non-Indian Americans have saluted the forms of Indian life: feathers and dances, paint and spears. We have praised Indian art and retold Indian stories. But now we must turn a corner—not saluting the forms the less, but respecting the substance the more.

The American Indians residing in large numbers in Chicago feel very strongly about this. When I visited their community in uptown Chicago recently, they pointed out to me: No, we have not marched on city hall, we have not had riots, we have believed in the due process of law, and we have believed in the democratic process being responsive to the needs and hopes and promises and aspirations of our people. But we need to see more action, we need to see the system work, we need to see some responsiveness, and we need to have our faith restored that the process of justice will prevail in the legislative chambers.

We must now say to American Indian tribes and communities:

Your religious practices are equally sacred with ours.

Your local governmental functions should be in your own hands, as ours are, in our counties and cities.

Federal officials who help you shall be no longer your masters but your servants as they are for us.

These are new doctrines. This is a new start.

I am proud to point out that President Nixon has himself signaled the turning of this corner. In his historic message of July 8, 1970, the President described nine specific steps he hopes the Congress will take as a new beginning for Indians:

1. Termination is morally and legally unacceptable . . . because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups.

2. We must reject the suffocating pattern of paternalism and empower a tribe or group of tribes or any other Indian community to take over the control or operation of Federally-funded and administered programs in the Department of Health, Education and Welfare and the Department of the Interior whenever the tribal council or comparable community governing group votes to do so.

3. Every Indian community wishing to do so should be able to control its own Indian schools, and with respect to non-Indian schools to which Indian children must go, the special federal funds for this purpose should be channelled directly to Indian tribes and communities to give Indians the ability to help shape the schools which their children attend.

4. The President proposed a new Indian Financing Act to broaden the existing Revolving Loan Fund from $25 million to $75 million and to provide additional incentives in the form of loan guarantees, loan insurance and interest subsidies to encourage *private* lenders to loan more money for Indian economic projects.

5. An additional $10 million is to be allocated in this fiscal year to Indian health programs.

6. Some seven urban Indian service centers will be strengthened to reach out and bring existing public services to the thousands of urban Indians lost in the anonymity of the city, often cut off from family and friends.

7. An Indian Trust Counsel Authority should be created to assure independent legal representation for the Indians' natural resource rights.

8. A new, additional Assistant Secretary of the Interior should be established for Indian and Territorial Affairs.

These are the first eight points in the President's landmark message. Some have already been taken up by the Senate Interior Committee, although the most thorough consideration of the President's legislative proposals will be given by the 92d Congress. Almost all of the proposals are the outgrowth of recommendations made many times by Indian groups themselves. Additional consultations are being and will be conducted in order to insure that the views of Indian tribes and communities are fully taken into account before the reform legislation is reintroduced in the new Congress.

These eight points represent a wholly new approach to the sustance of Indian

problems. The President's ninth point is the matter now before this body, and I would like to quote it in its entirety.

No government policy toward Indians can be fully effective unless there is a relationship of trust and confidence between the federal government and the Indian people. Such a relationshrip cannot be completed overnight; it is inevitably the product of a long series of words and actions. But we can contribute significantly to such a relationship by responding to just grievances which are especially important to the Indian people.

One such grievance concerns the sacred Indian lands at and near Blue Lake in New Mexico. From the fourteenth century, the Taos Pueblo Indians used this area for religious and tribal purposes. In 1906, however, the United States government apppriated these lands for the creation of a national forest. According to a recent determination of the Indian Claims Commission, the government took said lands from petitioner without compensation.

For 64 years the Taos Pueblo has been trying to regain possession of this sacred lake and watershed area in order to preserve it in its natural condition and limit its non-Indian use. The Taos Indians consider such action essential to the protection and expression of their religious faith.

The restoration of the Blue Lake lands to the Taos Pueblo Indians is an issue of unique and critical importance to Indians throughout the country. I therefore take this opportunity wholeheartedly to endorse legislation which would restore 48,000 acres of sacred land to the Taos Pueblo people, with the statutory promise that they would be able to use these lands for traditional purposes and that except for such uses the lands remain forever wild.

Our past Indian policies of subordination and paternalism are now just as outdated as the conquest policies of the ancient past. We must establish a new policy for American Indians: a policy of self-determination.

Today we begin to write a new slate, in a new time. We should restore trust title to the Blue Lake lands because it is morally right to do so, but we should take this action also because of what it will become. It will become a signal to the future, a sign that this Congress considers Indians not only as first Americans, but as equal Americans, whose institutions and beliefs are to have the same independence and respect which we non-Indians share for our own.

Mr. President, I am really very humble, when the present occupant of the chair, the Senator from Arizona (Mr. GOLDWATER) has spent a lifetime in finding ways to restore the faith of the Indians in this great democratic process. He has been a friend and protector long before I even developed an interest in the subject.

I have been extremely negligent in overlooking the feelings and hopes and aspirations of a constituency of my own. I have related myself to their problems as problems in their new State, the State of Illinois. I have tried to help them with their problems of housing and mass transportation, the problems they face of employment and job skills, and so forth, and relate them to their new experience and, for some of them, a strange urban area which to many of them seems almost a jungle, in the harshness with which it deals with life. But they have come there because of the conditions in which they found themselves in their native lands.

Therefore, I feel that I am arriving late on the scene, but I hope to make up for it with the intensity of my interest in the problem now. I am delighted to add my voice, for what it may be worth, to right something that I feel is wrong and also to help the President fulfill a program to which he has pledged himself and for which the administration is fighting valiantly at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GOLDWATER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHWEIKER). Without objection, it is so ordered.

The question is on agreeing to the committee amendment in the nature of a substitute.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. JORDAN of Idaho (after having voted in the affirmative). On this vote I have a pair with my colleague (Mr. CHURCH). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. COTTON (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Kentucky (Mr. COOPER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. SPARKMAN. (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia (when his name was called). On this vote I have a pair with the distinguished Senator from New Mexico (Mr. MONTOYA). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. STEVENS (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Oregon (Mr. PACKWOOD). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) and the Senator from Maryland (Mr. TYDINGS) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kentucky (Mr. COOPER) are absent because of death in their respective families.

The Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "yea."

The respective pairs of the Senator from Kentucky (Mr. COOPER) and that of the Senator from Oregon (Mr. PACKWOOD) have been previously announced.

The result was announced—yeas 21, nays 56, as follows:

[No. 408 Leg.]

YEAS—21

Allen	Ervin	Magnuson
Allott	Fannin	Metcalf
Anderson	Hansen	Stennis
Bennett	Hruska	Talmadge
Bible	Jackson	Thurmond
Byrd, Va.	Jordan, N.C.	Williams, Del.
Ellender	Long	Young, N. Dak.

NAYS—56

Aiken	Hart	Muskie
Baker	Hartke	Nelson
Boggs	Hatfield	Pastore
Brooke	Holland	Pearson
Burdick	Hollings	Percy
Cannon	Hughes	Prouty
Case	Inouye	Proxmire
Cook	Javits	Randolph
Cranston	Kennedy	Ribicoff
Curtis	Mansfield	Schweiker
Dole	Mathias	Scott
Eagleton	McCarthy	Smith
Fong	McGee	Spong
Goldwater	McGovern	Stevenson
Goodell	McIntyre	Symington
Gore	Miller	Tower
Griffin	Mondale	Williams, N.J.
Gurney	Moss	Young, Ohio
Harris	Murphy	

PRESENT AND ANNOUNCING LIVE PAIRS, AS PREVIOUSLY RECORDED—5

Jordan of Idaho, for.
Cotton, for.
Sparkman, for.
Byrd of West Virginia, for.
Stevens, for.

NOT VOTING—18

Bayh	Eastland	Packwood
Bellmon	Fulbright	Pell
Church	Gravel	Russell
Cooper	McClellan	Saxbe
Dodd	Montoya	Tydings
Dominick	Mundt	Yarborough

So the committee amendment in the nature of a substitute was rejected.

Mr. DOLE. Mr. President, H.R. 471, as amended, which has been reported by the Senate Committee on Interior and Insular Affairs is claimed by its proponents to protect the sacred areas described by the Taos Pueblo Indians and to protect the ecology of the area by keeping the land in a wilderness status. The bill reported out by the committee does not do this and it is unsatisfactory to the Taos Indians and to the administration. Pres-

ident Nixon, in his Indian message of July 8, 1970, said:

No government policy toward Indians can be fully effective unless there is a relationship of trust and confidence between the Federal government and the Indian people. Such a relationship cannot be completed overnight; it is inevitably the product of a long series of words and actions. But we can contribute significantly to such a relationship by responding to just grievances which are especially important to the Indian people.

One such grievance concerns the sacred Indian lands at and near Blue Lake in New Mexico.

The President went on to urge prompt enactment of H.R. 471 as it originally came out of the House of Representatives.

The unamended version of H.R. 471 seeks to right a wrong that was done to the people of Taos Pueblo in 1906 when 48,000 acres in the Blue Lake area, in addition to other lands, were taken from them by the United States.

The Taos Indians have occupied their present pueblo since the year 1400. Being a sedentary people, they have continually used and occupied a well-defined area around the pueblo for hunting, gathering, grazing, and farming; however, the latter occupation has been relied upon less because of the 7,000 foot elevation and the 100-day growing season. These people value above all things their Indian culture, their Indian religion, and their traditional way of life.

On February 2, 1848, when the United States acquired sovereignty over New Mexico by the Treaty of Guadalupe Hidalgo, the Taos Indians owned all of the lands which they then used and occupied exclusively.

In 1906 the United States took 130,000 acres of the Taos Indians' land for inclusion in the Carson National Forest. The taking was by Executive order of the President. The Indians were not consulted, they were not paid, and they did not agree to the taking. The 48,000 acres in the original H.R. 471 is included in the 130,000 acres.

The primary plea of the Taos Indians is that their religious privacy be protected as it would be by H.R. 471. They assert the profound belief that the trees and all life and the earth itself within the watershed are comparable to human life and must not be cut or injured, but must be protected by wilderness status as is provided by H.R. 471. Under the provisions of the Wilderness Act the Federal Government has set aside nearly 11 million acres with an additional 4.4 million acres being considered for inclusion by the Forest Service. Giving title to the 48,000 acres to the Taos Indians would support this commendable trend and would at the same time indicate the respect of the white man and his government for the venerable and precious heritage of the Indian people. The Indians do not seek return of the total 130,000 acres which were taken from them but only the 48,000 containing the sacred land necessary for the life of their religion.

Arguments have been made that the conservation of the land and the water rights of downstream users would be jeopardized. The Taos people have used and occupied the watersheds of the Rio Pueblo and Rio Lucero for 700 years or more. They have always practiced conservation of those watersheds; they yield clear water today because of their long-standing care. The Indians feel that today it is more important than ever that the natural conditions of those watersheds be preserved as the source of pure water in those streams. The life of the Pueblo Indians depends upon that source of water even more than does the welfare of the non-Indians downstream because they obtain their drinking water directly from the Rio Pueblo. For these reasons, the Taos people want the protections of H.R. 471, which require the Secretary of the Interior to "be responsible for the establishment and maintenance of conservation measures for these lands, including without limitation, protection of forests from fire, disease, insects or trespass, prevention or elimination of erosion, damaging land use, or stream pollution, and maintenance of stream flow and sanitary conditions."

The Indians of Taos Pueblo have always accommodated their need for the waters of the Rio Pueblo and the Rio Lucero to the needs of non-Indians downstream. The methods of allocating those waters, which have been in force between Taos Pueblo and the non-Indian users downstream since 1893, have operated fairly for Indian and non-Indian users. The Taos delegation in a statement before the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs on July 9, 1970, said:

A complaint was made by non-Indians concerning the flow of the Rio Lucero; and investigation was made by tribal and Bureau of Indian Affairs officials; the investigation disclosed no infringement of non-Indian water rights. The record shows that we have cooperated with our non-Indian neighbors, and are seeking ways to improve the effectiveness of cooperation with them." Furthermore, Taos Pueblo fully endorses the provisions of H.R. 471, which expressly protects existing methods of allocating water, stating that nothing in the bill shall ". . . impair any vested water rights.

Mr. President, the question of equity is on the side of the Indian in this matter before us and for that reason I fully support passage of the original H.R. 471.

Mr. CRANSTON. Mr. President, I strongly support, and am a cosponsor of, an amendment to H.R. 471, as reported by the Senate Committee on Interior and Insular Affairs. This amendment, of which Senators HARRIS and GRIFFIN are the principal sponsors, would substitute the original House-passed bill for the bill recently reported by the Senate committee by a split vote.

Basically, the issue is whether or not to grant "Indian title" for the sacred Blue Lake lands. The House bill would restore to the Taos Pueblo of New Mexico trust title to these lands. The Senate committee bill would not. Instead, it would grant an undefined right to "exclusive use" of the area, which would remain under Forest Service supervision. I am convinced that to deny the Taos Pueblo title to these lands constitutes not only a denial of justice, but also seriously jeopardizes their right to pursue their religion and culture, which are dependent on the Blue Lake and its associated shrines in the 48,000 acres in question.

In 1965, the Indian Claims Commission determined that the Taos Indians had established "Indian title" to 130,000 acres of land in northern New Mexico, including the 48,000 acres described in H.R. 471, and that this land was wrongfully taken from the Taos without compensation in 1906. The Taos have consistently refused monetary compensation. Monetary compensation is entirely out of the question in this case. All of the Taos religion and culture is dependent on the 48,000 acres of sacred land. They have no other church or shrine and no possibility of constructing either. Only restoration of the land itself can redress its wrongful taking.

It has been asserted that granting trust title to these lands would set a legislative precedent and other tribes might then seek similar legislation. Several groups and organizations interested in conservation and wildlife preservation have voiced their objections to these provisions on the grounds that taking land out of a national forest and granting it to a specific group constitutes a very dangerous precedent. I am not convinced that this is the case. Especially because the Blue Lake question is unique and unparalleled in the history of Indian-U.S. Government relations, I doubt that it could be construed as a precedent of danger to the future of national forest or national parklands.

The Department of the Interior has pointed out that this is the only instance of a tribal claim for land continuously used and occupied by the tribe after deprivation of title, and the only instance of a tribal claim for land, which once restored, would not be subject to commercial development but would be restricted to traditional and religious uses. Except for such uses, the land would remain forever wild. The Taos Pueblo's continuous possession and religious use of the 48,000 acres is clearly unique. Restoration of trust title is appropriate to meet the needs of the Taos Pueblo and will not establish a legislative precedent nor harm the public interest.

The Taos Pueblo unalterably opposes the substitute bill reported by the Senate committee. This substitute simply fails to correct the fundamental problem inherent in the present permit system—that of Forest Service control of the religious sanctuary of the Taos people. Forest Service supervision is provided by the committee bill despite what I understand to be the preference of the Department of Agriculture that jurisdiction over these lands be transferred to the Interior Department. I might also point out that the multiple use policies applicable to the Carson National Forest are incompatible with the religious uses of the land.

In addition, the committee bill provides for an undefined right to "exclusive use" of the 48,000 acres in question, yet also provides for the automatic termination of Indian exclusive use rights if the provisions of the act are not complied with. However, the provisions are

vague and uncertain, and at the very least would intensify the present conflicts between the Taos Pueblo and the Forest Service.

I would also like to point out, in reference to the arguments about precedent setting, what Leonard Garment said in an October 5, 1970, letter to Senator ALLOTT:

> The newly-proposed substitute itself continues an undesirable precedent, i.e., statutorialy carving out pieces of a National Defense for "exclusive use."
>
> To sequester the use of a section of such lands, by statute, yet still call it a *National* Forest seems to be an inconsistency, compounded by the fact that the result is misleading to the public.

It seems rather obvious that the substitute bill is but a continuation of the present unacceptable permit system. It does not offer the security which the Taos Pueblo has sought for so many years and it threatens to jeopardize rather than insure the privacy of their religious practices.

It has become rather fashionable to discuss the plight of American Indians, who have suffered countless injustices at the hands of their white brothers generally, and the U.S. Government in particular. Such discussion inevitably turns to the need for positive action to rectify this unfortunate past relationship. Regrettably little concrete action has accompanied this rhetoric.

I believe that restoration of trust title to the sacred Blue Lake lands to the Taos Pueblo Indians can mark a significant break with past policies and can go far toward building new trust and confidence between American Indians and the U.S. Government. I, therefore, respectfully urge that the House version of H.R. 471 be passed without further delay.

Mr. GRIFFIN. Mr. President, in his historic message of July 8, 1970, on Indian affairs, President Nixon outlined a number of proposals designed to change the direction of our Indian policies. He specifically cited enactment of H.R. 471, the Taos-Blue Lake legislation passed by the House as an important and symbolic step toward development of a new relationship of trust and confidence between Indians and the Federal Government.

H.R. 471 was passed by the House of Representatives on September 9, 1969. A similar bill was passed by the House during the 90th Congress.

The purpose of this legislation is to convey trust title to the Pueblo de Taos Indians in New Mexico of approximately 48,000 acres of land they have used since the 14th century—land which the United States took from the Indians in 1906 without payment of any compensation. Under the House passed bill, use of the land would be restricted to religious and traditional purposes.

Except for these restricted uses the land will remain forever wild. Under the language of this amendment, the land shall be maintained as a wilderness as defined in section 2(c) of the act of September 3, 1964 (78 Stat. 890)—a protection these lands have heretofore not enjoyed.

Mr. Michael Nadel, assistant executive director and editor of the Wilderness Society, in a statement before the Interior Committee, endorsed H.R. 471 and expressed the view of his organization that the Indians will comply with the Wilderness provisions. He testified that:

> We have this faith by virtue of the intensity of the Indian in his respect for nature, and the inseparability of nature from his religious and cultural beliefs.

The 48,000 acres would be a part of the Pueblo de Taos Reservation, and would be governed under the laws and regulations applicable to other trust Indian lands administered by the Department of the Interior.

Under the present arrangement, the Indians have used 32,000 acres of the land under Forest Service permits dating back to 1940. The Taos have never been satisfied with the arrangement, and it has been the source of continuous controversy and conflict. During the Senate Interior hearings, the Department of Agriculture agreed that Forest Service supervision has not been satisfactory.

For nearly 70 years the Taos have patiently pleaded with the Federal Government to restore the sacred Blue Lake lands, considered by the Indians as a source of all its life, a natural cathedral containing holy places of their ancient religion which remains the central force of their cultural life. But they have never been able to regain their land, and they have only been allowed use of the wilderness area under a Forest Service permit.

The Senate committee bill, reported by a divided vote, would deny the Indians restoration of title and would merely confirm an uncertain right to use the area under continued Forest Service supervision. The committee bill is not satisfactory to the Taos or to the administration.

According to the Indian Claims Commission, in a decision of September 8, 1965, the Taos had clearly established Indian title to an estimated 130,000 acres by aboriginal use since the 14th century, and the U.S. Government had extinguished Indian title to the land without payment by adding the land to the Carson—formerly Taos—National Forest in 1906. The Commission directed that the Indians be paid the value of the 130,000 acres at that time. The value has not been determined. The judgment would be reduced accordingly if the Taos receive trust title to the 48,000 acres within the tract.

The religious significance of this particular land to the Taos Indians is best described in the Indian Claims Commission findings of fact:

> One of the precepts of Pueblo philosophy and religion is that a way of life was established in the beginning by Mother Nature and the Pueblo's forefathers, and that things should be done as they were in the past.
>
> The native religion of the Taos Indians is to this day very much involved with the daily life of the people. This religion does now and has for centuries tied them closely to the land. The land and the people "are so closely tied together that it is what might be technically called a symbiotic relationship—the people, by their prayers and their religious function, keep the land producing; and the land keeps the people."
>
> Starting with the northernmost part of the eastern claim area, the most important site identified on petitioner's Exhibit No. 84(a) is Blue Lake. This is the most sacred shrine of the Taos Indians. It is claimed to be their church. In August every year the entire adult population of Taos Pueblo goes to Blue Lake for ancient religious ceremonies which have continued uninterrupted for centuries. On the first day a ceremony is held in the Canyon of the Taos River, east of the Pueblo. Then on the second day, the Indians go to the Blue Lake and there hold ceremonies during the day and night.

Since the Taos lost title to the area in 1906, some commercial timber harvesting has occurred. A sacred lake was dynamited. A cabin was constructed a few hundred yards from their most sacred shrine. These acts had the same meaning to these particular Indians as the vandalizing of a church would have in a Christian community.

Of course, none of these acts were permitted with the knowledge that they violated the religion of the Taos people.

The Indians have also been under more pressure from the Forest Service from time to time to agree to more permits from sportsmen and other non-Indians to use the lands.

As Congressman SAYLOR stated on the floor of the House on June 18, 1968:

> The need for privacy to practice their religion is at the center of the conflict between the Pueblo de Taos Indians and the Forest Service. In the early days when the Forest Service emphasis was on preservation of the resource, the conflicts were few. In recent years, however, when greater emphasis has been placed on multiple use and on recreational use, the Indian use and the Indian values have been placed in jeopardy. It is the intrusion into the area by non-Indians, principally interested in camping and recreation, that causes the trouble. The presence of the non-Indians threatens destruction of the Indian religious life.

Congressman WAYNE ASPINALL, chairman of the House Interior and Insular Affairs Committee, has expressed similar views.

Although the Taos religion-culture is largely secret, it is clear that it depends for its continuance on the undisturbed existence of the shrines. No other tribe can make that claim. As anthropologist John J. Bodine of the American University stated in his letter dated July 10, 1970, included in the appendix to the Senate hearings:

> If Blue Lake and the surrounding lands are not returned to the Tribes, it will effectively destroy the Taos culture.
>
> All of Taos religion is dependent on the Blue Lake and its associated shrines in the 48,000 acres in question. They have no other "church" nor any possibility of constructing one. Therefore, monetary compensation for Blue Lake is out of the question. It provides them with no alternative whatsoever. There is only one Blue Lake just as there is only one Mecca.

Cathedrals, mosques, and temples are generally respected as structures of sanctity and significance because they are important in the religious lives of men and women. What the Indians of Pueblo de Taos are asking is that equal consideration—no more and no less—be extended to the shrine where they have performed their religious obligations for at least as long as the famed cathedrals of Europe have been in use.

Mr. Bodine's observations are fortified by the testimony of the Taos Pueblo del-

egation before the Senate Interior Committee. I invite my colleagues to examine that testimony, which begins on page 105 of the hearings.

From the standpoint of the merits of the claim, the Indian Claims Commission judicially determined in 1965 that the lands were wrongfully taken from the Taos in 1906. Nevertheless, the Indians have rejected monetary payment. In so doing, they have stated to all America that a culture and a religious tradition so unique cannot be compensated for by dollars and cents.

It has been argued that justice cannot be done for the Taos Indians by granting them trust title to the Blue Lake lands because this would set a legislative precedent and other tribes might seek similar relief.

The struggle of Taos de Pueblo for its sacred Blue Lake area is unprecedented in the history and experience of American Indians. As the Department of the Interior pointed out during the Senate hearings this is the only instance of a tribal claim for land continuously used and occupied by the tribe after deprivation of title, and the only instance of a claim for land, which once restored, would not be subject to commercial development, but could be used only for traditional and religious purposes.

The view of the Interior Department that this legislation would not set a legislative precedent is also held by former Interior Secretary Stewart Udall, who in testifying on H.R. 471 before the Senate Interior Committee, stated that—

> In the eight years I was Secretary there was no other tribe that came and presented any case to me; there was nothing that ever came to my attention of this kind . . . based in a paramount way on religious reason and religious argument.

Secretary Udall went on to say:

> I have come to believe that the Taos de Pueblo have a very special and very singular relationship that can be distinguished from any other.

In a letter to the Interior Committee dated July 8, 1970, former Secretary Hickel made these observations concerning this issue:

> H.R. 471 is not unique in proposing the grant of federally owned land to an Indian tribe. In almost every session Congress considers many similar bills. Several of these bills have been enacted. There is a difference in this bill in that here the Indians are entitled to be paid for the land, and in the view of the tribe no money payment can adequately compensate for this land. There has been some feeling that if the Pueblo Taos Indians are given this land a precedent will be set whereby other Indian tribes will seek the return to them of the land to which they are determined by the Indian Claims Commission to have had Indian title. We do not think this is necessarily the case. In a great many of the cases the land for which tribes are being compensated is not in the proximity of their present holdings. Moreover, a few of the tribes have expressed a desire to have such land returned to them. We view the question of whether Indian tribes are to be given money payment or their land returned as one that will have to be decided on the merits of each case.

The distinguished chairman of the Interior Committee, in referring to the committee-approved substitute bill in a floor speech on October 13, 1970, stated:

> It should, however, be recognized that H.R. 471, as reported by the Interior Committee deals only with the specific fact situation presented by the Pueblo de Taos claim. It represents an effort to provide a final settlement to a long-standing conflict over the use and administration of the lands in question. It does not, however, represent a precedent for future cases or an expression of national policy on the handling of religious, sacred, or ceremonial land claims which have been or which may be advanced by other Indian communities. In ordering H.R. 471 reported to the Senate the committee has made clear that it was reserving a decision on the national issues presented by sacred and ceremonial land claims until there was an adequate opportunity to develop a comprehensive policy.

Senator JACKSON'S observation that the legislation applies only to the specific Taos problems and does not represent a precedent holds true whether the solution is restoration of title or provision for continued use by the Taos people.

I certainly endorse Senator JACKSON'S desire to move toward the development of a comprehensive policy on the issues presented by sacred and ceremonial land claims, and commend him for his leadership in introducing S. 4469, which could be a first effort toward a national policy for recognition of continued protection of sacred tribal places.

Considerable national attention has been focused recently on the problems and plight of the American Indians, and with justification. As President Nixon said in his recent message to Congress on Indians on July 8, 1970:

> This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands, and denied the opportunity to control their own destiny.

This legislation is the first of the President's recommendations in the field of Indian affairs to reach the floor of the Senate. By the enactment of this legislation, we will be according justice and demonstrating commitment to a group of Americans who have been neglected in many respects for too long.

In the Taos' efforts to regain their lands, we can perceive in Indians everywhere a rebirth of pride in their race and culture. This new era of human dignity promises to enrich American society as a whole.

There should be no further pressure on the tribes to dismantle their governments, to abandon their cultures, and to cease in practicing their ancient religions.

President Nixon called for such a policy in his statement to the National Congress of American Indians on September 27, 1968, stating:

> We must recognize that American society can allow many different cultures to flourish in harmony, and we must provide an opportunity for those Indians wishing to do so to lead a useful and prosperous life in an Indian environment . . . the Indian people have long responded to deprivation and hardship by seeking to utilize the processes of orderly change. We must seek to demonstrate to them all that our society is responsive to their patient pleas and help them to live among us in prosperity, dignity and honor.

Normally, bills involving Indian land claims in other States do not generate mail from my constituents. However, this legislation has been endorsed by the Michigan Indian Commission, United Tribes of Michigan, Michigan Council of Churches, Indian constituents, and non-Indian constituents.

Because of the uniqueness of this particular Indian land claim; because the Taos Indians without question had established Indian title to a much larger area; because of the singular close religious significance which this land has to the daily lives of the Taos people; and because enactment of this bill would go far toward restoring Indian trust and confidence in the Federal Government, I strongly urge enactment of this legislation in the form as passed by the House.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 471) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is on final passage. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ALLOTT. Mr. President, I shall not take long nor detain the Senate long, but I deem this vote of such importance that I want to make my position very clear. Despite the fact this is a bill which has been endorsed by my administration, I feel very strongly that is a bad bill and that it sets a precedent which the Senate will live to regret. I will go so far as to say that if this bill passes today, there is no Member of the Senate, who will not wish 100 times he had not voted for it because of the precedent it sets. I am also ever mindful of the great knowledge that the senior Senator from New Mexico has in this area, and I am mindful of his long knowledge and long study of this subject. The junior Senator from Arizona probably is the only other man in the Senate who has comparable knowledge, and that knowledge is also very great.

I am mindful of the knowledge and the position of the Senator from New Mexico when I announce that I oppose the passage of this measure because I think the Senate had worked out in its committee amendment, which has been rejected and rejected by a sizable vote, a justifiable and equitable settlement of this matter. I believe we should have adopted it, and we could have thus set a precedent for dealing with other problems in the future. There is no policy now for dealing with these problems in the future and we will see a plague of similar bills before the Senate and before the House in the future which there will be little opportunity to avoid on the basis of this precedent, even though it is said it is not a precedent.

For these reasons I will vote against the bill and I hope that all Senators who are mindful of the precedent that this is setting will also vote against it.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Texas (Mr. YARBOROUGH), are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Arkansas (Mr. FULBRIGHT) would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kentucky (Mr. COOPER) are absent because of death in their respective families.

The Senator from Colorado (Mr. DOMINICK), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOPER), the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) would each vote "yea".

The result was announced—yeas 70, nays 12, as follows:

[No. 409 Leg.]

YEAS—70

Aiken	Hart	Percy
Allen	Hartke	Prouty
Baker	Holland	Proxmire
Boggs	Hollings	Randolph
Brooke	Hruska	Ribicoff
Burdick	Hughes	Russell
Byrd, Va.	Inouye	Schweiker
Byrd, W. Va.	Javits	Scott
Cannon	Jordan, N.C.	Smith
Case	Kennedy	Sparkman
Cook	Long	Spong
Cotton	Mansfield	Stennis
Cranston	Mathias	Stevens
Curtis	McGee	Stevenson
Dole	McGovern	Symington
Eagleton	McIntyre	Talmadge
Ervin	Miller	Tower
Fong	Mondale	Tydings
Goldwater	Moss	Williams, N.J.
Goodell	Murphy	Williams, Del.
Gore	Muskie	Young, N. Dak.
Griffin	Nelson	Young, Ohio
Gurney	Pastore	
Harris	Pearson	

NAYS—12

Allott	Ellender	Jordan, Idaho
Anderson	Fannin	Magnuson
Bennett	Hansen	Metcalf
Bible	Jackson	Thurmond

NOT VOTING—18

Bayh	Eastland	Montoya
Bellmon	Fulbright	Mundt
Church	Gravel	Packwood
Cooper	Hatfield	Pell
Dodd	McCarthy	Saxbe
Dominick	McClellan	Yarborough

So the bill (H.R. 471) was passed.

Mr. HARRIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MONDALE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, The Senate's disposition of this proposal today is to be commended. It was done so efficiently and with full regard for the views of all.

It must be said that my colleague from Montana (Mr. METCALF) urged the committee's position on this measure with the great skill and ability that have characterized and distinguished his public service. That the position urged by the committee did not prevail is no reflection on the quality of his advocacy or that of the distinguished senior Senator from New Mexico (Mr. ANDERSON), or of the distinguished Senator from Washington (Mr. JACKSON), the able chairman of the committee.

As in so many cases, the issue here was far from an easy one to decide. The committee itself was closely divided and the position of the House of Representatives—that advocated by the distinguished Senator from Oklahoma (Mr. HARRIS)—ultimately prevailed. I nevertheless commend Senator METCALF, Senator ANDERSON, and Senator JACKSON. They urged their position strongly and with the greatest sincerity.

The same may be said for the distinguished senior Senator from Oklahoma (Mr. HARRIS), the distinguished senior Senator from Massachusetts (Mr. KENNEDY), the distinguished Senator from Michigan (Mr. GRIFFIN), and the many others who urged the position that ultimately prevailed. And once again, may I say that the Senate as a whole is to be commended for disposing of this measure expeditiously and with full regard for the views of every member.

CORRECTION OF CERTAIN PRINTING AND CLERICAL ERRORS IN THE LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. METCALF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 1411.

The PRESIDING OFFICER (Mr. SCHWEIKER) laid before the Senate House Joint Resolution 1411, correcting certain printing and clerical errors in the Legislative Reorganization Act of 1970, which was read twice by its title.

Mr. METCALF. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. METCALF. Mr. President, this is merely a joint resolution to correct printing and clerical errors. There are no substantial changes. However, since it came over from the House, another error has been found, and I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

At the end of the joint resolution, add the following new paragraph:

"(6) The last sentence of section 134(c) of the Legislative Reorganization Act of 1946, as amended by section 117(a) of the Legislative Reorganization Act of 1970, is amended by striking out 'paragraph 5' and inserting in lieu thereof 'paragraph 7'."

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. SCOTT. I understand all these matters have been cleared with the Senator from Delaware (Mr. BOGGS). Is that correct?

Mr. METCALF. With the Senator from Delaware and, in the absence of the distinguished majority leader, with the Senator from Michigan. These are simply clerical errors and enumerations.

Mr. SCOTT. I understand, there is no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the joint resolution.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 1411) was read the third time, and passed.

FEDERAL-AID HIGHWAY ACT OF 1970

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 4418.

The PRESIDING OFFICER (Mr. SCHWEIKER) laid before the Senate the amendments of the House of Representatives to the bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes," which were to strike out all after the enacting clause, and insert:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1970".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "and the additional sum of $2,225,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof the following: "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1977, and the additional sum of $3,500,000,000 for the fiscal year ending June 30, 1978".

Hopi Indians, such as the Rocky Boy Reservation Indians in Montana and the other Indians on reservations in the Montana area.

Any consideration you could give to change the present law to extend this aid to the Montana Indians and to increase it to include all categories of Welfare Assistance would be sincerely appreciated.

With kindest regards.

Yours very truly,

THOMAS H. MAHAN,
Claims Attorney for the State Department of Public Welfare.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. METCALF. I am delighted to yield.

Mr. MONDALE. I was privileged to join with the Senator from Montana in cosponsoring this proposal.

Is it not a fact that many of the same counties in which Indian reservations and large Indian populations are found, are very often, from a real estate standpoint of financing, burdened in the financing of the local share of these welfare costs? Thus, in addition to everything else, without full Federal support for the welfare costs, they are burdened with constantly rising local welfare charges consisting of local shares of the welfare costs. I know that in the State of Minnesota in some cases these costs have risen to the point where there is literally a destruction of the local real estate tax structure.

Therefore, this amendment, if adopted, would go a long way toward relieving them of what is an unfair and disproportionate imposition. Is that correct?

Mr. METCALF. The Senator is correct. The fact is that in many counties a substantial amount of the land owned by Indians is in a trust status, and therefore is not taxable either for State or county purposes.

Second, if we adopt this amendment, we will have recognized that we have a Federal responsibility for the Indians, and, therefore, the State responsibility will be taken over.

Some of the discrimination among Indians—and we have discrimination all over the Western United States—will be alleviated. The second thing, of course, is that we will have Indians who are on the reservation and have low income, and have no opportunities for employment, given a chance to have a substantial welfare payment.

Mr. MONDALE. Would the Senator yield further?

Mr. METCALF. Certainly.

Mr. MONDALE. Is it not the case that a few of the Indian reservations now enjoy the 100-percent feature?

Mr. METCALF. The Navajos and the Hopis.

Mr. MONDALE. So that what the Senator's amendment would do is simply apply to all Indians similarly situated the same treatment?

Mr. METCALF. All over America.

Mr. MONDALE. I am proud to join in cosponsoring the amendment, and I hope it will be adopted.

Mr. HARRIS. Mr. President, will the Senator yield?

Mr. METCALF. I am glad to yield.

Mr. HARRIS. Mr. President, I am very pleased to be a cosponsor of the amendment now offered by the distinguished Senator from Montana. He has done a great service in suggesting this amendment. I think it gets at a problem which, as has been rightly pointed out, is a tremendous problem, and one which the Senate ought to meet. I hope the amendment will be adopted.

Mr. RIBICOFF. Mr. President, will the Senator yield for a question?

Mr. METCALF. I yield.

Mr. RIBICOFF. I wonder if the Senator could generally enlighten the Senate as to how many beneficiaries would be affected, as of now, if the Senator's amendment were adopted.

Mr. METCALF. I have talked about Indians. The Interior Committee's definition of an Indian is a person with one-fourth Indian blood. I do not know how many Indians in that category there are in America. In Montana there are 27,000 Indians in that category, but only about 4,000 of those 27,000 are eligible to have relief or welfare programs.

Mr. RIBICOFF. I mean, does not the Department of the Interior or Health, Education, and Welfare know at the present time how many Indians are covered? Because if the Federal Government picks up 80 percent of the cost, they must know what the numbers are.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order, please.

Mr. METCALF. The Federal Government picks up 80 percent of the cost of welfare for only the Navajos and the Hopis. The Federal Government does not pick up any of the cost of welfare for the Blackfeet, the Crows, the Papagoes, the Sioux, and all those other Indian tribes that are all over the Western United States.

Mr. RIBICOFF. I mean, historically, does the Senator know why the Federal Government picked up the costs for two tribes, and not the others?

Mr. METCALF. Because of the great ability of the distinguished Senators from New Mexico, Mr. ANDERSON and Mr. Chavez, who got this special treatment for Indians in their area.

Mr. RIBICOFF. Those two Indian tribes are in New Mexico only?

Mr. METCALF. That is right. But my amendment would not only provide that 80 percent would be given, but would provide that 100 percent of the contribution be given to all Indian tribes all over the United States, the Western United States.

Mr. RIBICOFF. But the Senator does know the number involved, or the total cost?

Mr. METCALF. What?

Mr. RIBICOFF. The Senator does not know the number involved, or the total cost?

Mr. METCALF. I do not know the number involved, and I have not been able to ascertain the number from either the Department of Health, Education, and Welfare or the Department of the Interior. But it is a matter of common justice that every Indian on welfare should have this contribution from the Federal Government.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. FANNIN. I think there are approximately 600,000 Indians in the United States. Is that not the figure?

Mr. METCALF. But the 600,000 Indians are not all on welfare.

Mr. FANNIN. No; I understand. But when we are talking about numbers, is it not true that what we are talking about, mostly, is the reservation Indians, as far as the Western United States is concerned?

Mr. METCALF. That is what I am talking about.

Mr. FANNIN. So we really have more tribes than the Navajo and the Hopi involved, and more than the State of New Mexico, because a large part of the Navajo Reservation is in Arizona, as well as the Hopi Reservation.

Mr. METCALF. The Navajos and the Hopis are already taken care of.

Mr. FANNIN. I understand; but among the Papagoes and all these other tribes, there are approximately 60 to 90 reservations in the State of Arizona, depending on how you count reservations, and I ask the Senator how those reservations are covered.

Mr. METCALF. The only reservations covered are the Navajo and the Hopi reservations. They get payment of their welfare costs from the Federal Government. My amendment would provide that all of the costs of welfare for all of the Indians in all of the reservations all over the United States would be paid, 100 percent.

Mr. RIBICOFF. If the Senator is correct——

Mr. FANNIN. I was just trying to help the Senator understand.

Mr. RIBICOFF. Yes. I appreciate that very much, because I think we have a basic problem. I appreciate what the Senator is trying to do, but I think we should have the facts before us. However, we do not have the facts. Between the Interior Department and HEW, we ought to have those figures. The Senator's amendment, as I understand it, covers all Indians all over the United States, regardless of whether or not they are on reservations.

Mr. METCALF. That is correct. If they are Indians and on welfare, they are going to be compensated 100 percent.

Mr. RIBICOFF. So if an Indian lived in Washington, or in the State of Connecticut, and could be so identified, then the cost to the State of Connecticut or the District of Columbia, the entire cost, would be chargeable to the Federal Government?

Mr. METCALF. That is correct.

Mr. RIBICOFF. I think it is unfortunate that we do not have the figures. I am very sympathetic with what the Senator is trying to do. I would hope that if the amendment is adopted and goes to conference, by the next time around, between the departments, they could enlighten the Senator as to the number of people involved.

Mr. METCALF. I would be delighted if they could enlighten me. But it is a matter of justice that an Indian who is on welfare should be compensated by the Federal Government instead of by the State government.

Mr. RIBICOFF. But if an Indian lives in the State of Connecticut and receives welfare——

Mr. METCALF. And is on welfare.

Mr. RIBICOFF. He would be receiving welfare on the same basis as any other resident of the State of Connecticut, and the State of Connecticut would contribute its 50 percent and the Federal Government its 50 percent. What happens in the State of Montana? Do not the State of Montana, the State of Arizona, the State of Washington, and the State of Utah treat the Indians the same as they do every other person who may be indigent and on welfare in their respective States?

Mr. METCALF. Except for the Navahos and the Hopis.

Mr. FANNIN. If the Senator will yield, I am very concerned about the welfare of the Indian and would like to clarify the difference in these programs. From the standpoint of the reservation Indian, we have a different program than we have as far as the nonreservation Indian is concerned. The nonreservation Indian is treated the same as any other citizen, whereas the reservation Indian comes under a different program, administered by the BIA.

It would be very difficult to administer this program other than in the areas where they have the tribes. If we start saying an Indian in Chicago or in New York or Illinois is entitled to such treatment, how do you make that determination, or how do you find that Indian and give him that treatment?

Mr. METCALF. Many Indians, of course, from Montana are in Chicago.

Mr. FANNIN. Yes; I realize that. I am interested in this proposal and would like to find how it would work.

Mr. METCALF. Because of the unfortunate relocation program that a former Secretary of the Interior put into effect, we have reservation Indians from Montana and Arizona in Los Angeles who are on welfare. And, since we have a Federal responsibility for Indians, why should the State of California have to take care of those Indians that we have moved to Los Angeles, or the State of Illinois take care of those Indians that we have moved to Chicago, when we have a responsibility to take care of these welfare Indians, on the reservation or off the reservation?

I can remember a generation ago, in 1937, when I was in the Legislature of the State of Montana, we had the Indians coming down to us from so-called Hill 57, asking for welfare. They asked for appropriations and they asked for help. We failed to do that, and a whole generation has gone by. We have failed to take care of the welfare and we have failed to provide opportunities for these Indians. So we have the same problem over again, a generation later.

This is what I am trying to do: I am trying to say that the Federal Government should assume its responsibility for its Indian wards, and that if they are on welfare, wherever they are, we will pay the welfare.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. MANSFIELD. May I say, in support of the amendment offered by my distinguished colleague, of which I am a cosponsor, that when he used the word "ward," I think he told the whole story. The Indians do occupy a peculiar position in American society. They are a minority group about which we have forgotten a great deal, from whom we have taken a great deal, who are the subjects of dire poverty on their reservations as well as in the large cities.

I think that this is doing no more than what is just for these people, from whom we took this country, who have received so little consideration, and who should be given a good deal more in the way of compensation than they have received up to this time. I think we can forget the sympathy and the figures and the numbers and recognize a reality and face up to it.

Mr. RIBICOFF. There is no question that what the majority leader says is true, that of all the minority groups, the Indians are lowest in the scale, whether it is poverty, social, economic condition——

Mr. METCALF. Income.

Mr. RIBICOFF. Lower than the blacks, the Mexicans, the Spanish-speaking, any group in American society that we can name. Their poverty is the direst of all and deserves consideration. I am very sympathetic. I am going to support the Senator's amendment.

I do not know what will happen to it in conference, but I would hope that the next time we have a social security bill, between the Interior Department and Health, Education, and Welfare, they would supply some information so we can address ourselves in a little more depth and a little more understanding of the nature of this problem.

Mr. LONG. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. LONG. As the Senators have pointed out, a problem of discrimination is involved here, and I would be willing to agree to the amendment and see whether we can work it out with the House in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1128

Mr. CANNON. Mr. President, I call up my amendment No. 1128.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 46, line 10, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

On page 46, line 14, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

On page 46, line 21, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

On page 121, line 21, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

Mr. CANNON. Mr. President, this amendment is very simple. It is one that I had printed and ready to offer prior to the submission of amendment No. 1150 by Senator PERCY, which the Senate adopted by an overwhelming vote of 52 to 9. Senator PERCY's amendment proposed a work exemption of $2,400 prior to the loss of social security benefits. My amendment No. 1128 proposes an exemption of $2,500 prior to loss of benefits under the social security provisions. It means that a person could earn $8.33⅓ more per month before losing social security benefits than he would under the amendment offered by Senator PERCY.

I am sure that in view of the overwhelming vote of 52 to 9 that occurred on the Percy amendment——

The PRESIDING OFFICER. The Chair interrupts the Senator to state that the amendment is not in order.

Mr. CANNON. The amendment is not in order?

The PRESIDING OFFICER. It is not in order. That part of the bill already has been amended.

Mr. CANNON. I was going to withdraw it, anyway, in view of the fact that the amendment had been adopted. But I did want to comment on it, because I am sorry that the time limitation on the previous amendment had not been used up, and this amendment therefore occurred at an earlier time than was intended. Otherwise, I would have proposed mine as a substitute.

However, I am sure that the Senate would not want to begrudge the recipients of social security the opportunity to earn another $100 per year before losing their social security benefits. I regret that it is not possible to give them the opportunity to earn $2,500 per year before losing the social security benefits, in view of the high cost of living and the increasing cost, due to the inflation that has been taking place in this country during the past 2 years.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. HARTKE). The Senator will state it.

Mr. COOK. If the Senator were to submit this amendment as an amendment to another section of the bill, other than the section which has already been amended, would the amendment then be in order?

The PRESIDING OFFICER. If the amendment amends a part of the bill which has not previously been amended, then the amendment would be in order.

Mr. COOK. I thank the Chair.

Mr. CANNON. I thank the Senator. I will see if I can find a spot for it.

AMENDMENT NO. 1130

Mr. CANNON. Mr. President, I call up my amendment No. 1130.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without

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