



Termination of federal supervision over the Klamath Tribe of Indians, Oregon, 1928-1961
by William Lynn Beaird

A thesis submitted to the Graduate Faculty in partial fulfillment of the requirements for the degree of
MASTER OF ARTS in History
Montana State University
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Abstract:

Over twenty-five years elapsed between the first Klamath request for a termination of federal supervision in 1928 and Congressional enactment of the Klamath Termination Act in 1954. In the interim period, terminal legislation for the Klamath remained before Congress almost constantly. The type of legislation changed repeatedly in the twenty-five year period, from incorporation and final enrollment to liquidation, voluntary withdrawal, and finally termination. Yet, throughout the period members of Congress regarded the Klamath as one of the most advanced tribes in the nation and considered the tribe ready for a termination of federal supervision.

Throughout the period from 1928 to completion of termination in 1961, the Klamath tribe remained split over terminal procedures. Two fierce and antagonistic factions developed that opposed each other on nearly every major issue before the Klamath. The deep factionalism destroyed all possibilities for unified tribal action and subjected the Klamath to the desires of Congress and the Bureau of Indian Affairs. While the tribe united behind a voluntary withdrawal bill between 1947 and 1953, the Interior Department refused to endorse the measure and the tribal unanimity fell victim to the termination movement after 1953.

Department refusal to endorse voluntary withdrawal and the resultant return of tribal factionalism caused Congress to enact an unsatisfactory withdrawal bill. As a compromise between the tribal factions, the House subcommittee added a withdrawal provision to the act that nearly resulted in the economic and ecological destruction of the Klamath Basin. Only last minute amendments in 1957 and 1958 prevented the termination act from wrecking the Basin. The efforts of three Oregon Democrats, Senator Richard L. Neuberger and Representatives Edith Green and Albert Ullman, saved the Basin from the eminent calamity and allowed termination to proceed smoothly to completion in 1961.

Unfortunately, termination proved less effective than its proponents had predicted. Only about one-third of the enrolled Klamath received full control over their own money and affairs, while the other two-thirds lived under supervision on the local level. The federal government established guardianships and trusteeships for all minors and over 35 per cent of the adult withdrawees, while another one-fifth of the tribe remained in a tribal business entity under the supervision of the United States National Bank of Portland. In the final analysis, termination developed into a transfer of responsibilities from the federal government to local agencies and freed few Klamath from supervision.

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TERMINATION OF FEDERAL SUPERVISION OVER THE KLAMATH
TRIBE OF INDIANS, OREGON, 1928-1961

by

WILLIAM LYNN BEAIRD

A thesis submitted to the Graduate Faculty in partial
fulfillment of the requirements for the degree

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History

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Bozeman, Montana

March, 1974

ACKNOWLEDGMENTS

Behind an effort such as this paper many people play important roles. While any attempt at enumeration invariably neglects many instrumental individuals, certain people deserve special mention. I apologize to anyone this enumeration omits.

First, I owe a special debt to my major advisor, Dr. Thomas Wessel. His revisions, suggestions, and words of encouragement made this effort bearable and worthwhile. Without Dr. Wessel's patience and perception, this thesis would have been immeasurably more difficult if not impossible.

I also want to thank the Department of History, Government, and Philosophy at Montana State University for its great help. The financial aid in the form of a teaching assistantship and the contribution toward a research trip to Seattle permitted me to attend Montana State and allowed me to write a more comprehensive thesis. I must also express my appreciation to the staff members of the Department for their kindness and assistance throughout my attendance at Montana State.

Mrs. Ann Kennedy, archivist at the Federal Records Center in Seattle, also deserves a special mention. Her knowledgeable and enthusiastic aid during my visit to Seattle made the task of examining Klamath records manageable. In addition, her comprehensive Xeroxing of the many pages I desired made my research at the Records Center much easier.

I must also give Mrs. Dee Strong a special commendation for her outstanding typing job from an often less than readable manuscript. Her perseverance and excellent work allowed me to complete this work weeks earlier than may otherwise have been possible.

Last, but certainly not least, I owe a special debt to my parents. One can hardly overestimate the contributions, both financial and spiritual, of my parents. Their faith in me and their many words of support gave me added incentives to continue my education. It is for these contributions that I dedicate this thesis to Mom and Dad.

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ABSTRACT

Over twenty-five years elapsed between the first Klamath request for a termination of federal supervision in 1928 and Congressional enactment of the Klamath Termination Act in 1954. In the interim period, terminal legislation for the Klamath remained before Congress almost constantly. The type of legislation changed repeatedly in the twenty-five year period, from incorporation and final enrollment to liquidation, voluntary withdrawal, and finally termination. Yet, throughout the period members of Congress regarded the Klamath as one of the most advanced tribes in the nation and considered the tribe ready for a termination of federal supervision.

Throughout the period from 1928 to completion of termination in 1961, the Klamath tribe remained split over terminal procedures. Two fierce and antagonistic factions developed that opposed each other on nearly every major issue before the Klamath. The deep factionalism destroyed all possibilities for unified tribal action and subjected the Klamath to the desires of Congress and the Bureau of Indian Affairs. While the tribe united behind a voluntary withdrawal bill between 1947 and 1953, the Interior Department refused to endorse the measure and the tribal unanimity fell victim to the termination movement after 1953.

Department refusal to endorse voluntary withdrawal and the resultant return of tribal factionalism caused Congress to enact an unsatisfactory withdrawal bill. As a compromise between the tribal factions, the House subcommittee added a withdrawal provision to the act that nearly resulted in the economic and ecological destruction of the Klamath Basin. Only last minute amendments in 1957 and 1958 prevented the termination act from wrecking the Basin. The efforts of three Oregon Democrats, Senator Richard L. Neuberger and Representatives Edith Green and Albert Ullman, saved the Basin from the eminent calamity and allowed termination to proceed smoothly to completion in 1961.

Unfortunately, termination proved less effective than its proponents had predicted. Only about one-third of the enrolled Klamath received full control over their own money and affairs, while the other two-thirds lived under supervision on the local level. The federal government established guardianships and trusteeships for all minors and over 35 per cent of the adult withdrawees, while another one-fifth of the tribe remained in a tribal business entity under the supervision of the United States National Bank of Portland. In the final analysis, termination developed into a transfer of responsibilities from the federal government to local agencies and freed few Klamath from supervision.

INTRODUCTION

On August 13, 1961, the federal government terminated all federal supervision over the Klamath Tribe of Indians in southcentral Oregon. The termination ended the ninety-five year existence of the reservation and granted the Indians complete freedom from the Bureau of Indian Affairs. Members of the tribe had clamored for their independence since the late 1920's, but only after thirty years of almost constant activity in Congress did the tribe achieve its final goal. Unfortunately, final triumph produced certain unforeseen costs, and many of the Klamath merely exchanged federal supervision for an equally stifling local supervision.

Tribal members had openly called for an end to federal supervision as early as 1928. In 1928 several Klamath testified before a Senate subcommittee. At the hearing, the Indians had split over the method they felt most ideally terminated federal supervision, yet their testimony motivated Congressional action toward a "final settlement."¹ The movement reached its peak in 1934 when a "final enrollment" bill passed both Houses of Congress. President Roosevelt vetoed the bill, however, and ended all realistic hopes for a Klamath final settlement bill before World War II.²

During the 1930's, a tribal division developed that separated the tribe into two fierce factions. Ironically, while the leading personalities of each of the two factions remained constant between

1930 and 1960, the stands of the factions often switched. Wade Crawford led one faction that originally advocated incorporation, switched to federal purchase of tribal lands, and finally supported liquidation of tribal assets to private purchasers. Boyd Jackson and his group initially supported liquidation and opposed incorporation, then moved to support incorporation, and finally favored federal purchase of the tribal assets. While the stands of the two factions changed periodically, the two groups almost invariably held opposing views on any issue. The factionalism doomed any hopes of a united tribal effort, and left the tribe at the mercy of the erratic whims of Congress and the Bureau of Indian Affairs.³

As the force of the New Deal Indian administration waned after World War II, Congressional proponents of final settlement again initiated appropriate legislation for the Klamath. Although World War II and the resignation of John Collier as Indian Commissioner had weakened the Indian Reorganization Act, the Bureau of Indian Affairs mustered enough strength to effectively oppose the Congressional liquidation bills. While Congress did not enact terminal legislation for the Klamath immediately after World War II, the failure proved only temporary. Within six years, the pro-termination people gained control of the Indian Bureau and Congress.

The temporary lull in the termination movement created the atmosphere for the only real united Klamath effort. Between 1947 and

1953, the two Klamath factions agreed on a desirable plan of action and created bi-factional support for voluntary withdrawal. In this brief period, the factional leaders displayed a rare unanimity while working together for Congressional enactment of a voluntary withdrawal bill. The Klamath forged a viable alternative to liquidation and asked only for Congressional concurrence. Unfortunately, the Interior Department opposed the Klamath proposal, and consequently refused to report favorably on the plan. As a result of the Department's inaction, Congress refused to pass the bill the Klamath desired. When the Interior Department finally presented an alternative to voluntary withdrawal in 1953, the proponents of termination had gained control of the Bureau and Congressional machinery. In 1953 Congress passed House Concurrent Resolution 108 of the 83rd Congress that made termination the official goal of Congress. The reemergence of the termination movement shattered Klamath unanimity and caused the reappearance of tribal factionalism.⁴

The 83rd Congress passed the Klamath Termination Act and President Eisenhower signed the bill into law on August 13, 1954.⁵ Despite the voluminous testimony taken in hearings and the large number of investigations concerning the Klamath, Congress failed to pass a satisfactory law. Criticism of the act arose almost immediately. The critics pointed to the many shortcomings of the law and predicted economic, social, and ecological disaster if Congress allowed the act

to run its course to completion. Former members of the Collier regime initiated the attacks, but the administrators of the termination act soon joined the amendment forces. Within two years, newspaper editors and citizens all across Oregon united with the earlier critics and called for immediate amendment to the law in order to avert the predicted catastrophe.

The Oregon Congressional delegates responded to calls for amendment by introducing amendatory legislation in 1957 and 1958. Oregon Democratic Senator Richard L. Neuberger led the amendment forces in the Senate while his fellow Oregon Democrats, Edith Green and Albert Ullman, headed the movement in the House. These three individuals not only introduced amendment bills, but also conducted and participated in hearings, investigated all possible alternatives, and finally pushed through two amendment bills. In 1957 the Oregon delegates succeeded only in delaying completion of the termination act; but in the next session of Congress, they managed to pass a federal purchase bill. Federal purchase eliminated many of the economic and ecological dangers inherent in the original act, and provided for an orderly completion of termination in 1961.⁶

When the federal government terminated supervision over the Klamath in 1961, the Indians nominally abandoned their wardship status. In reality, however, most of the Klamath remained in a subordinate status. Only about one-third of the tribal members received full

control over their affairs. Under the provisions of the Act, the government decided that nearly one-half of the tribe required protection in handling their affairs. Almost one in every seven of the enrolled members decided to remain in the tribal business entity.

Under this trusteeship, the United States National Bank of Portland performed most of the duties the Bureau of Indian Affairs had formerly handled. In short, while the federal government ended federal supervision and the Klamath Tribe ceased to exist in 1961, over 60 per cent of the Klamath remained in a wardship status.⁷

INTRODUCTION FOOTNOTES

¹Superintendent L. D. Arnold to the Senate Committee on Indian Affairs, Report on Testimony Taken by Subcommittee, November 16, 1958, Klamath Agency Records, Record Group 75, Federal Records Center, Seattle.

²Congressional Record, 73d Congress, 2d session, June 8, 1934, p. 10773; June 15, 1934, pp. 11298-99; June 18, 1934, p. 12457.

³Theodore Stern, The Klamath Tribe, Seattle, 1965, p. 250.

⁴H. Con. Res. 108, 83d Congress, 1st session, 1953.

⁵Public Law 587, 83d Congress, 2d session, 1954.

⁶Congressional Record, 85th Congress, 1st session, August 2, 1957, p. 13488; August 6, 1957, pp. 13714-15; August 15, 1957, p. 14818; Public Law 132, 85th Congress, 1st session, 1957. and: Congressional Record, 85th Congress, 2d session, August 23, 1958, p. 19585. Public Law 731, 85th Congress, 2d session, 1958.

⁷Stern, The Klamath Tribe, pp. 254-55. See also: Governors' Interstate Indian Council, Study on Termination of Federal Supervision on Indian Reservations, Report submitted by Committee at Missoula, Montana Conference, August 13, 14, 15, 16, 1961, p. 26.

CHAPTER I

EARLY KLAMATH HISTORY

The Klamath Termination Act of 1954 ended nearly 100 centuries of Klamath tribal existence. For nearly 10,000 years, the ancestors of the Klamath and Modoc tribes occupied the regions of present-day southern Oregon and northern California.¹ The tribes settled in the Klamath Basin, a fault-caused trough of highlands located in the southwestern reaches of the Cascade Mountains.² The Basin, nearly 100 miles long and 25 miles wide, provided many fish in its streams, abundant game in its vast forests, and numerous roots and berries in its rich pumic soil.³ Mountains and forests encircled the Klamath Basin and afforded the Klamath and Modoc protection from many of the surrounding hostile tribes. Nature did not totally isolate the Klamath and Modoc, however, and the Basin people periodically contacted the Plateau tribes to the north and the California tribes to the south.⁴

Although the Klamath Basin provided a hospitable atmosphere, the Klamath and Modoc tribes remained quite small. Anthropologists estimated that the aboriginal population of the two tribes numbered only 1200 to 2000 individuals with the Klamath accounting for two-thirds of the total.⁵ According to anthropologists, six triblets combined to form the Klamath tribe, while three triblets made up the Modoc tribe.⁶

The Klamath triblets generally inhabited the northern portion of the Basin, centering around the Klamath Marsh and Upper Klamath Lake, while the Modoc triblets lived in the southern Basin near Lower Klamath and Tule Lakes.⁷

The two tribes not only inhabited different portions of the Klamath Basin, but also exhibited slightly different lifestyles. The Klamath survived largely by fishing. The tribal members caught and dried tons of fish during the early Spring "runs" of suckers and salmon, and preserved the fish as their main staple food.⁸ The Klamath supplemented their fish diet with roots such as the "camas," and pond-lily seeds they called "wokas."⁹ Unlike the Klamath, the Modoc lived primarily as hunters. The Modoc diet consisted largely of deer, antelope, and mountain sheep. The Modoc also supplemented their diet with "wokas," but they relied more heavily on berries and seeds than did their northern kinsmen.¹⁰

The two tribes' lifestyles differed somewhat, yet their similarities far outnumbered their differences. The tribes spoke languages so similar that linguistic experts concluded the Klamath and Modoc had only recently separated and that they had never separated totally.¹¹ Tribal ceremonies also exhibited remarkable resemblance, as did their clothing and the structure of their homes.¹²

Due to the geographic isolation of the Klamath Basin, white contact came somewhat belatedly to the Klamath and Modoc. The initial

contact with the white man occurred in 1826 when the Canadian adventurer, Peter Skene Ogden, visited the Basin. Ogden found the Klamath "with but a single horse and uneasily awaiting raids by joint parties of Cayuse and Nez Perces."¹³ In 1836 a group of French-Canadian trappers contacted the Klamath and took a party of tribal members to the trading post at the Dalles.¹⁴ Immediately thereafter, Klamath and Modoc contact with whites at the Dalles and elsewhere increased rapidly.

In 1843 and again in 1846, the explorer and "Pathfinder," Captain John C. Fremont, traversed the Klamath Basin. While the Klamath treated the young Captain with courteous hospitality during his first visit, Fremont's 1846 expedition met with resistance in the Klamath Basin. Near Upper Klamath Lake members of one of the Klamath triblets attacked Captain Fremont's party and killed three Delaware Indians who accompanied the expedition. Fremont's reprisal proved swift and decisive. He and his troops attacked an innocent Klamath triblet and indiscriminately killed men, women, and children.¹⁵ This merciless slaughter left a lasting impression on the Klamath.

While the Fremont attack probably quieted the Klamath hostility, the Modoc continued periodic hostilities against the whites until 1873. In 1852, for instance, the Modoc habit of attacking wagon trains ended in a reprisal from the citizens of Yreka, California. Under the pretense of council, the Californians, under one Ben Wright, killed forty-one Modoc warriors.¹⁶ This massacre temporarily quieted the Modoc, but

in 1870 the Modoc chief, Captain Jack, led a portion of the tribe off a newly established reservation. This action led to the famous skirmishes in the Lava Beds of California in 1872-73.¹⁷ This so-called Modoc War ended in 1873 and resulted in severe punishment to the errant Modoc. Federal officers hung five of the main leaders at Fort Klamath, and sent a portion of the tribe to the Quapaw Reservation in the Indian Territory.¹⁸ With the end of the Modoc War armed hostilities ceased among the Modoc and the tribal members returned to the reservation.

Even before the time of the Modoc War, the Klamath and the Modoc had agreed to the establishment of a reservation located in the Klamath Basin. The tribes signed the initial treaty on October 14, 1864, agreeing to cede some 13,700,000 acres of land to the United States.¹⁹ In December of 1869, Congress amended the treaty slightly, and the Klamath and Modoc signed it again. Finally, on February 17, 1870, President Grant formally proclaimed the Klamath Reservation.²⁰

Federal administration of the Klamath reservation began in the midst of President Grant's so-called Peace Policy. Under the Peace Policy, the Government assigned each reservation to a particular religious denomination. In 1870 President Grant appointed the Methodist Episcopal Church as the moral guardians of the Klamath.²¹ The Methodists maintained a missionary on the reservation from 1870 on, and the Klamath remained largely Methodist well into the twentieth century.²²

On the heels of President Grant's Peace policy came the movement

toward allotment of the Indians. Throughout the 1880's, Congressmen and students of Indian affairs discussed the desirability of allotment. As the debates raged the proponents gradually gained the upper hand, and on February 8, 1887, President Cleveland signed the General Allotment Act into law.²³

The champions of allotment assured the public that if only the Indians abandoned the custom of owning land in common and adopted the Western practice of individual ownership, civilization would follow. Proponents of allotment felt that the assignment of land in severalty could not fail to act as a "civilizing influence." Over forty years later, the Merriam Commission Report described the allotment phenomenon very well. The report concluded: "It almost seemed as if the government assumed that some magic in individual ownership of property would in itself prove an educational civilizing factor, but unfortunately this policy had for the most part operated in the opposite direction."²⁴

Initial allotment procedures began almost immediately on the Klamath Reservation. In early 1888, the Superintendent of the Klamath Reservation reported that his office had enrolled over 800 of the individuals on the reservation for allotment.²⁵ Boundary disputes delayed actual surveying and assignment of allotments at Klamath, but between 1895 and 1897 Major Charles E. Worden surveyed 775 of 1,020 allotments.²⁶ Again in 1897, land claim suits interrupted the allotment process. Conflicting claims between the Oregon and California Land

Company and allotted Indians initiated litigation procedures.²⁷ The suit dragged on for several years, but finally in 1906 an exchange of lands ended the dispute and allowed allotment to continue.²⁸

In 1909 Congress authorized the allotment at Klamath of the Modoc Indians still living on the Quapaw Reservation in Oklahoma. Soon thereafter, on April 15, 1910, the Bureau of Indian Affairs closed the Klamath allotment rolls, and no Klamath born after that date received an allotment.²⁹ As a part of a successful claim judgment in 1938, however, the Federal Government set aside \$375,000 to be paid as \$1,500 in-lieu payments to the unallotted Klamath.³⁰ By that time, many of the original allottees had already lost control of their lands.

Between 1895 and the closing of the rolls in 1910, the Bureau of Indian Affairs issued allotments totaling 244,688 acres on the Klamath Reservation.³¹ Beginning in 1913 and continuing until 1924, several Klamath allottees received patents in fee for their land.³² As happened on most other reservations, the Klamath alienated much of this fee patented land. In 1947, the Agency records showed that Klamath allottees had held 106,350 acres in fee patents, and that the owners had sold 100,179 acres of this to whites.³³ In 1954, Bureau of Indian Affairs' records revealed that Indians had alienated a total of 107,659 acres of unrestricted property on the Klamath reservation.³⁴

The Klamath fared much better than many tribes under the General Allotment Act. Nevertheless, the tribe still lost about one-

tenth of their reservation through alienation. More importantly, however, the Klamath managed to hold on to the vast tribal timberlands, and prevented this valuable resource from sale as "surplus" land. Once the Bureau of Indian Affairs opened this land to lumbering in the twentieth century, the Klamath tribe would become one of the richest groups in America.³⁵

CHAPTER I FOOTNOTES

¹Theodore Stern, The Klamath Tribe, (Seattle, 1965), p. 4.

²Ibid., p. 3.

³Ibid.

⁴Ibid., p. 4. Stern notes that the Klamath had most contact with the Plateau tribes to the north, while the Modoc had more contact with the California tribes to the south. This factor, Stern maintains, accounted for the differences in lifestyles that will be seen below.

⁵Ibid., p. 5.

⁶For a listing of all nine triblets and their geographic locations, see Stern, The Klamath Tribe, p. 19.

⁷U. S. Congress, House, Committee on Interior and Insular Affairs, Investigation of Bureau of Indian Affairs, H. Rept. 2503, 82d Cong. 2d sess., 1952, House Miscellaneous Reports on Public Bills, VIII, 422.

⁸Stern, The Klamath Tribe, p. 11-12.

⁹Ibid.

¹⁰Ibid., p. 14.

¹¹Investigation of Bureau of Indian Affairs, H. Rept. 2503, p. 421.

¹²Stern, The Klamath Tribe, pp. 7-8.

¹³Ibid., p. 22.

¹⁴Ibid.

¹⁵Ibid., p. 25. According to Stern, Fremont was probably attacked by members of the Klamath Falls triblet, while he directed his reprisal against the Lower Williamson triblet.

¹⁶Stern, The Klamath Tribe, pp. 28-29. Fairfax Downey, Indian-Fighting Army (Fort Collins, Colorado, 1941), p. 141, states that 38 Modocs were treacherously killed by a group of Oregonians rather than by Californians as Stern says.

¹⁷Investigation of Bureau of Indian Affairs, H. Rept. 2503, pp. 421-22. For a more complete account of the Modoc War, see: Downey, Indian-Fighting Army, Chapt. VIII, pp. 139-152.

¹⁸Ibid.

¹⁹U. S. Congress, Senate and House, Subcommittees on Indian Affairs of the Committees on Interior and Insular Affairs, Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, on S. 2745 and H. R. 7320, 83d Congress, 2d session, (Washington, D.C.), 1947), pp. 206-7.

²⁰Stern, The Klamath Tribe, p. 42.

²¹Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, p. 36.

²²Ibid., see also: Stern, The Klamath Tribe, pp. 111-121, for a good treatment of various religious movements on the reservation.

²³Harold Fey and D'Arcy McNickle, Indians and Other Americans, (New York: Harper and Brothers, 1959), p. 68.

²⁴Fey and McNickle, Indians, p. 84.

²⁵Stern, The Klamath Tribe, p. 132.

²⁶Ibid., pp. 132-33.

²⁷Malcom Epley, "Great White Father Pays Klamath Tribe for Grab of Land Long Ago," Portland Oregonian (Portland, Oregon), October 29, 1939. This article contains a good short summary of the Klamath claims and their struggle for compensation through the courts.

²⁸Ibid.

²⁹Stern, The Klamath Tribe, p. 138-39.

³⁰Epley, "Great White Father," Portland Oregonian (Portland, Oregon), October 29, 1939.

³¹Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, p. 207.

³²Stern, The Klamath Tribe, p. 144.

³³U. S. Congress, Senate, Subcommittee on Indian Affairs of the Committee on Public Lands, Klamath Indians, Oregon, Hearings, on S. 1222, 80th Congress, 1st session, (Washington, D. C., 1947), p. 184.

³⁴Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, p. 207.

³⁵In July of 1934, John Collier described the Klamath as the "richest community on earth" due to their vast wealth in timber. Collier estimated the Klamath per capita worth at more than \$28,000, and said that few if any communities could match such a figure. Collier's statements are covered very well in: H. C. Hunter, "Klamath Tribe Richest Group in America," Seattle Times, July 25, 1934, (Seattle, Washington).

CHAPTER II

EARLY ATTEMPTS AT TERMINATION

In the ninety years between establishment of the Klamath Reservation and the passage of the Klamath Termination Act, the Tribe faced many trying problems. The Bureau of Indian Affairs tried to make the Klamath into farmers, attempted to educate the children, and started the tribal forestry program. By 1929, however, the Klamath had advanced to a point where many Indians and non-Indians considered the tribe capable of self-management. Beginning in 1929, and continuing until the opening of World War II, tribal members and Oregon Congressional representatives attempted to incorporate or to dissolve the tribe completely. World War II ended these efforts, but the Klamath political struggles of the 1930's provided an impetus for the later termination act.

The geography and climate of the Klamath Basin combined to doom all efforts to develop agriculture on the Klamath Reservation. Agency superintendents continuously attempted to mold the Klamath into yeoman farmers, but Mother Nature defeated these attempts with monotonous regularity. Superintendents wrote almost annually of "heavy frosts," "unprecedented heat," and "unusually dry and frosty" weather.¹ By the second decade of the twentieth century, the Klamath had largely abandoned agriculture. A few of the Indians continued dry land farming, dairying,

and ranching in a small way, but the Klamath turned increasingly to their tribal timber for their livelihood.²

When the Klamath saved the tribal forest from white encroachment following allotment, they preserved their most valuable asset. Forest experts estimated the original stand of Klamath timber at over seven billion board feet.³ Once the Indian Bureau decided to open this massive untapped resource to lumbering, the Indians realized a continuous source of income.

In 1913 the Indian Bureau's Forest Service initiated lumbering activities on the Klamath Reservation.⁴ From the beginning the Forest Service planned the annual cuts in a manner that assured sustained-yield management of the forest. Under sustained-yield management, each year's cut equaled the annual growth in the forest, thus insuring that the forest would remain productive indefinitely. Paucity of roads, railroads, and sawmills in the area limited the volume of timber the lumbermen cut during most of the first decade of lumbering at Klamath. By the decade of the 1920's, however, the annual cut averaged over 150 million board feet, and quite often the cut topped 200 million board feet a year.⁵

In 1922 the Bureau of Indian Affairs began the practice of paying the enrolled tribal members a per capita share of the forestry proceeds.⁶ In 1922 each enrolled Klamath received \$230; and by the beginning of the Depression of the 1930's, the payments averaged \$600

annually.⁷ With these payments alone, a Klamath family of five earned \$3,000 a year and lived quite comfortably. Many Klamath families did just that. In 1929 an investigator from the Indian Field Service noted:

While a few of them use this money to improve their homes and to increase their herds of stock, yet a very large percentage of them attempt to live on this income without working. This is an exceedingly bad condition as it removes the necessity for work which is essential for the progress and development of any people.⁸

While many criticized the per capita as unearned income, the Klamath grew financially independent and paid for most of the administration of their reservation.

In 1927 the Klamath children began attending the Oregon public schools, and the Bureau of Indian Affairs closed the Agency schools.⁹ The superintendent of the Agency plunged wholeheartedly into sending the Klamath children to the public schools. In 1932 the superintendent's Annual Report noted that about two-thirds of the Klamath children attended the county schools.¹⁰ The superintendent expressed disappointment that the full-bloods possessed poor attendance records, but added that the mixed-bloods attended more regularly, "varying about with the degree of Indian blood."¹¹ Attendance records aside, the performance of the Klamath students during the 1931-32 school year pleased the superintendent. He characterized public school attendance as "the greatest socializing factor we have," and concluded that in the schools "children of both races mingle and the Indian pupils, no doubt, learn nearly as

much through association as in the classroom."¹²

As the Klamath gained financial independence and increased their education, they became progressively more restive. In 1928 a Senate subcommittee held hearings in Klamath Falls, and several Klamath Indians attended. At the hearings, the Klamath voiced their dissatisfaction with Bureau of Indian Affairs administration.¹³ The testifying Klamath complained of governmental mismanagement, unfair property restrictions, and bureaucratic suppression of Indian development.¹⁴ The Klamath carried the attacks even farther, however, and offered alternatives to federal supervision.¹⁵

The Klamath presented two different alternatives to federal supervision. The first alternative called for a "final settlement." Under "final settlement" the federal government would sell the tribal lands and credit the proceeds of such sales on a per capita basis to Klamath tribal members. More significantly, however, certain of the Klamath advocated an end to federal supervision and the incorporation of tribal assets under Klamath supervision. The Institute for Government Research had suggested such tribal corporations in the famous Merriam Report, and the Klamath support of a corporation represented one of the earliest Indian-initiated advocacies of incorporation.¹⁷

Klamath Superintendent, Leroy D. Arnold, dismissed the incorporation plan as "entirely out of the question," and attributed Klamath complaints to selfish desires for shares of the great Klamath wealth.¹⁸

Mr. Arnold admitted that certain of the Klamath possessed the skill and knowledge to handle their own affairs, but doubted "if the time will ever come when the management of the affairs of these Indians should be turned over to them to handle as they see fit."¹⁹ Arnold felt that the Klamath displayed a great "lack of appreciation" and concluded, "If the time ever comes when they are under the supervision of the state or that they are placed on their own responsibility, they may then appreciate the interest and assistance the Indian Service gave them."²⁰

Although the Klamath failed to impress Superintendent Arnold with their arguments, the Senators proved more responsive. In 1929, during the second session of the 70th Congress, tribal delegates in Washington, Wade and Ida Crawford, forwarded the corporation idea. Secretary of the Interior, Ray L. Wilbur, assisted the Crawfords and together they wrote a plan of incorporation for the Klamath Tribe that in many ways foreshadowed the Indian Reorganization Act of 1934.²¹ Republican Senator Charles McNary of Oregon introduced the Klamath Incorporation Bill, S. 5753, on February 9, 1929.²²

The Crawfords drafted S. 5753 and convinced Senator McNary to introduce it without authorization from the tribe.²³ The unauthorized move alienated the faction of the Klamath Tribe that favored "final settlement."²⁴ The final settlement faction succeeded in having Republican Senator Frederick Steiwer and Republic Representative

Butler, both of Oregon, introduce "final enrollment" legislation. On February 4, 1929, Senator Steiwer introduced a final enrollment bill, and Representative Butler introduced a similar bill in the House four days later.²⁵ While the incorporation plan and the final enrollment proposals all failed to advance beyond committee, the bills served to initiate the Klamath pursual of termination legislation, and split the tribe into two fierce factions.

During the first session of the 71st Congress, Senator McNary again introduced legislation for the incorporation of the Klamath Tribe.²⁶ Once again, the bill died in committee. Also during the first session, Senator Steiwer placed another final enrollment bill before Congress. The Oregon Senator introduced the bill on January 16, 1930, reported it from committee with amendments on May 22; and on May 23, 1930, the final enrollment bill, as amended, passed the Senate.²⁷ The bill then proceeded to the House of Representatives where the Speaker referred it to the House Committee on Indian Affairs.²⁸ The Indian Affairs committee studied the bill, and on June 14, 1930, reported it with an amendment to the Committee of the Whole House. The House, however, took no further action on the bill during the second session.²⁹ During the third session of the 71st Congress, the House twice passed over S. 3156 without prejudice; but as the third session of the Congress closed, the final enrollment bill died, having never come to a vote in the House.³⁰

In early 1932, Senator Steiwer again placed a bill for final enrollment in the Senate hopper.³¹ The proposal moved smoothly through the Senate Committee on Indian Affairs. The Senate committee proposed amendments, reported the bill, and on April 11, 1932, the final enrollment legislation passed the Senate.³² The House committee reported the bill with an amendment, but again, the House adjourned without further action on final enrollment.³³

During the same session, Senator McNary introduced a Klamath incorporation bill as did Representative Butler.³⁴ Both of the incorporation plans suffered the fate of the earlier incorporation bills and died in committee. The failure of the 1932 incorporation proposals marked the end of the Klamath attempts at gaining incorporation rights from Congress. Beginning in 1933 and continuing until World War II, Klamath legislative efforts revolved around final enrollment.

The election of President Franklin Roosevelt in 1932 meant a change of administration in the Bureau of Indian Affairs. President Roosevelt appointed Harold Ickes as the new Secretary of the Interior and John Collier as Indian Commissioner. Secretary Ickes and Commissioner Collier brought with them new ideas on Indian administration. Commissioner Collier eagerly supported the idea of tribal incorporation and succeeded in gaining passage of the Indian Reorganization Act of 1934. This act encouraged incorporation for Indian tribes and sought to make the reservations profitable financial entities.

As a part of the new Indian administration, Commissioner Collier appointed several Indians to important administrative positions. On June 1, 1933, he appointed Wade Crawford Superintendent of the Klamath Reservation.³⁵ Crawford, a personal friend of the Commissioner, had long supported Klamath incorporation and consequently worked for Klamath acceptance of the Indian Reorganization Act.³⁶

While Crawford sought to get Klamath acceptance of the Indian Reorganization Act, final enrollment remained more prominent in Congress. In the first session of the 73rd Congress, a final enrollment bill, S. 1508, remained in the Senate Committee on Indian Affairs.³⁷ The second session, however, brought the action the final enrollment supporters desired. In early June, Secretary Ickes transmitted a favorable report on S. 1508 to the Senate committee.³⁸ The Senate committee again amended the bill and reported it favorably to the Senate floor.³⁹ The Senate quickly approved the bill and sent it to the House for consideration. The House Committee on Indian Affairs immediately gave the bill unanimous support, and on June 15, 1934, S. 1508 passed the House of Representatives.⁴⁰

The triumph of final enrollment in Congress proved to be short-lived. Upon leaving Congress, the bill ran into opposition. On June 18, 1934, the Senate received notice that President Roosevelt had vetoed final enrollment for the Klamath.⁴¹ In returning the bill to Congress, the President attached a short veto message pointing out that "this

bill improperly excludes certain Indians from existing rights."⁴² The Presidential veto and the passage of the Indian Reorganization Act on June 18, 1934 effectively ended all realistic hopes of final enrollment for the Klamath before World War II. While Senator Steiwer and Representative Pierce continued to introduce final enrollment legislation periodically through 1938, all these bills expired in committee.⁴³ As World War II neared, Congress turned its attention from domestic affairs to international relations and temporarily forgot Klamath legislation.

The appointment of Wade Crawford, leader of the Klamath incorporation faction, failed to quiet proponents of final enrollment among the Klamath. On the contrary, the appointment deepened the already serious tribal factionalism. In 1935 Superintendent Crawford attempted to attain Klamath support for the Indian Reorganization Act.⁴⁴ The final enrollment faction defeated the Indian Reorganization Act on the Klamath Reservation by a vote of 408 to 56.⁴⁵ Due to the battle over the acceptance of the Indian Reorganization Act, the tribal split opened even wider; and soon thereafter, 260 Klamath signed a petition that called for Crawford's removal.⁴⁶ By May 1, 1937, Commissioner Collier felt that Wade Crawford could no longer handle the affairs at Klamath and dismissed the Superintendent.⁴⁷ The harsh dismissal alienated Crawford, and he withdrew all support of the New Deal Indian administration. Beginning in 1936, Wade Crawford inaugurated an

offensive against the Bureau of Indian Affairs that lasted over twenty years and culminated in the Klamath Termination Act of 1954.

CHAPTER II FOOTNOTES

¹Theodore Stern, The Klamath Tribe, Seattle, 1965, pp. 57-60. For an idea of the extremes of climatic conditions see Annual Narrative Report, 1930, Annual Statistical Reports, pp. 54-58, Klamath Agency Records, Records of the Bureau of Indian Affairs, Record Group 75, Federal Records Center, Seattle. Hereafter Agency Records will be cited as RG 75, FRC, Seattle. Also see U. S. Congress, Senate, Subcommittee on Indian Affairs of the Committee on Public Lands, Klamath Indians, Oregon, Hearings, on S. 1222, 80th Congress, 1st session, August 1947, p. 450.

²Inspection Investigation and Report, File 150, p. B-4, RG 75, FRC, Seattle.

³Ibid., p. B-3.

⁴U. S. Congress, Senate, Subcommittee on Indian Affairs of the Committee on Indian Affairs, Klamath Indians, Removal of Restrictions, Hearings, on S. 1313, 79th Congress, 2d session, 1946, p. 5.

⁵For volumes of timber cut from 1913-1947, see Klamath Indians, Oregon, Hearings, p. 114. Also, see Operating Income and Expense Report, 1924-1934, 55-A134, RG 75, FRC, Seattle.

⁶Klamath Indians, Oregon, Hearings, p. 114.

⁷Ibid.

⁸Inspection and Investigation Reports, File 150, p. B-4, RG 75, FRC, Seattle.

⁹Ibid., p. B-7. While Stern gives the date of initial public school attendance by the Klamath as 1926, The Klamath Tribe, p. 210, the 1927 date is the one used more often.

¹⁰Narrative Section--Annual Statistical Report, 1932, Annual Statistical Reports, p. 2, RG 75, FRC, Seattle.

¹¹Ibid.

¹²Ibid., p. 16-17.

¹³Since the Senate subcommittee hearings were not printed, the best source readily available is Superintendent Leroy D. Arnold to Senate Subcommittee on Indian Affairs, Report on Testimony Taken by Subcommittee, November 16, 1928, RG 75, FRC, Seattle.

¹⁴Ibid., pp. 6, 36, 45, 46, 59, 60.

¹⁵Ibid., pp. 6, 59, 60, 62, 63.

¹⁶Ibid., pp. 62-63.

¹⁷Ibid., pp. 6, 59, 60, 62, 63.

¹⁸Ibid., pp. 6, 62-63.

¹⁹Ibid., p. 62.

²⁰Ibid., p. 41.

²¹Stern, The Klamath Tribe, p. 249. See also, Klamath Indians, Oregon, Hearings, pp. 133-34.

²²Congressional Record, 70th Congress, 2d session, February 9, 1929, p. 3119.

²³Klamath Indians, Oregon, Hearings, p. 134. Also, Stern, The Klamath Tribe, p. 134.

²⁴Stern, The Klamath Tribe, p. 249.

²⁵Congressional Record, 70th Congress, 2d session, February 4, 1929, p. 2737; and February 8, 1929, p. 3109. S. 5675, 70th Congress, 2d session, 1929.

²⁶Congressional Record, 71st Congress, 1st session, November 18, 1929, p. 5686. S. 2142, 71st Congress, 1st session, 1929.

²⁷Congressional Record, 71st Congress, 2d session, January 16, 1930, p. 1682; and May 22, 1930, p. 9330; and May 13, 1930, p. 9421. S. 3156, 71st Congress, 1st session, 1929.

²⁸Congressional Record, 71st Congress, 2d session, May 26, 1930, p. 9621.

²⁹Congressional Record, 71st Congress, 2d session, June 14, 1930, p. ____.

³⁰Congressional Record, 71st Congress, 3d session, January 5, 1931, p. 1417; January 19, 1931, p. 2582.

³¹Congressional Record, 72d Congress, 1st session, January 5, 1932, p. 1287.

³²Congressional Record, 72d Congress, 1st session, March 24, 1932, p. 6783; and April 11, 1932, p. 7902. Also, U. S. Congress, Senate, Final Enrollment of Indians of the Klamath Indian Reservation, S. Rept. 461 to accompany S. 2671, 72d Congress, 1st session, 1932, pp. 1-2.

³³Congressional Record, 72d Congress, 1st session, June 8, 1932, p. 12396. Also see, U. S. Congress, House, Final Enrollment of Indians of the Klamath Indian Reservation, H. Rept. 1562, To Accompany S. 2671, 72d Congress, 1st session, 1932, pp. 1-2.

³⁴Congressional Record, 72d Congress, 1st session, February 9, 1932, p. 3571; and March 21, 1932, p. 6609.

³⁵Stern, The Klamath Tribe, p. 249.

³⁶Ibid.

³⁷Congressional Record, 73d Congress, 1st session, April 22, 1933, p. 2138.

³⁸U. S. Congress, Senate, Final Enrollment of the Klamath Indian Reservation, S. Rept. 1341 To Accompany S. 1508, 73d Congress, 2d session, 1934, pp. 1-2.

³⁹Ibid., see also, Congressional Record, 73d Congress, 2d session, June 8, 1934, p. 10773.

⁴⁰Congressional Record, 73d Congress, 2d session, June 15, 1934, pp. 11298-99.

⁴¹Congressional Record, 73d Congress, 2d session, June 18, 1934, p. 12457. Although the author found no mention of the fact in any material, John Collier was probably instrumental in this veto, since the Indian Reorganization was signed by the President on the same day he vetoed the Klamath Final Enrollment Bill.

⁴²Congressional Record, 73d Congress, 2d session, June 18, 1934, p. 12457.

⁴³Congressional Record, 74th Congress, 1st session, March 4, 1935, p. 2821; March 7, 1935, p. 3173; and June 21, 1935, p. 9898; 74th Congress, 2d session, March 31, 1936, p. 4643; and April 8, 1936, p. 5219; 75th Congress, 1st session, February 19, 1937, p. 1398; 75th Congress, 1st session, February 19, 1937, p. 1398; 75th Congress, 3d session, May 11, 1938, p. 6714.

⁴⁴Stern, The Klamath Tribe, p. 249.

⁴⁵Ballots--Beatty, Chiloquin, and Sprague River, June 15, 1935--Wheeler-Howard Bill, 60-A641, RG 75, FRC, Seattle.

⁴⁶Klamath Indians, Oregon, Hearings, p. 135.

⁴⁷For a complete discussion of Wade Crawford's dismissal, see U. S. Congress, Senate, Committee on Indian Affairs, Dismissal of Wade Crawford, Superintendent Klamath Indian Reservation, Oregon, Hearings, before the Committee on Indian Affairs, Senate, 75th Congress, 1st session, 1937.

CHAPTER III

THE POST WAR LIQUIDATION MOVEMENT

The beginning of World War II marked the end to early attempts at final settlement of the Klamath estate. Once the war neared an end, however, the proponents of final settlement initiated a new offensive against the Collier administration. From 1945 to 1947, the congressional proponents of terminal legislation introduced and held hearings on new liquidation bills. While these early postwar efforts failed to enact a terminal bill for the Klamath, the new attacks crippled and eventually killed the Collier administration.

The approach of World War II halted all efforts at final settlement for the Klamath. This temporary interruption granted the anti-final settlement forces in the Bureau of Indian Affairs a short breather, but, ironically, the lull proved destructive to the Collier regime. By 1941 the New Deal Indian Bureau began to falter, and as the war proceeded the once-promising and dynamic administration declined rapidly. In the turbulent war years, the congressional critics of the Indian Reorganization Act renewed their attacks on the Bureau of Indian Affairs. With the new attacks, antagonisms grew between Commissioner Collier and key members of Congress, principally Democratic Senator Burton K. Wheeler of Montana, and Republican Senator Arthur V. Watkins of Utah.

The Congressional antagonisms and the wartime priorities resulted in crippling budget cuts and a five-year exile in Chicago for the Indian Bureau. Finally, in early 1945, a frustrated John Collier resigned and William A. Brophy assumed the duties as the new Commissioner of Indian Affairs. Unfortunately, ill health plagued much of the new Commissioner's tenure. Mr. Brophy served just over three years as Commissioner, and in June of 1948, John R. Nichols succeeded Brophy.¹

Both Brophy and Nichols served capably, but without distinction. Neither man possessed the forceful character and dynamism of John Collier, and they could not curb the continuing decline of Collier's program. While the Act continued to be the "foundation of policies formulated by the Bureau and the Department" until 1950, the critics of the Indian Reorganization Act made serious inroads in the late 1940's.² In 1945, the final settlement forces of the Klamath Tribe and Oregon citizens interested in liquidating the Klamath Indian Reservation persuaded Oregon's Republican Senators Wayne Morse and Guy Cordon to introduce liquidation legislation.³ The introduction of this bill signified the declining strength of the Indian Reorganization Act, and initiated the movement that culminated in the termination acts of 1954.

Beginning in August of 1946, the Senate Committee on Indian Affairs conducted hearings on the Klamath liquidation bill. This bill, S. 1313, contained provisions that not only terminated federal supervision, but also liquidated all the tribal assets of the Klamath. It

removed all restrictions on Indian property and instructed the Secretary of the Interior to issue patents in fee to the Klamath who held their properties in trust. The bill also created a three-member Appraisal Board. The President appointed one of the appraisers with the advice and consent of the Senate, and selected another from a list the Governor of Oregon submitted. The Klamath tribe elected the third and final member of the Board by popular vote. These three men then determined the "fair market value of all tribal property," and reported this figure to the Secretary of the Interior within one year of the bill's enactment. The act then authorized and directed the Secretary of the Interior to purchase the Klamath property at this "fair market value," and to begin administering the former tribal property as national forest lands.⁴

The bill also outlined the procedures for the division of the tribal assets among the withdrawing members and the termination of their tribal ties. Within one year after the Interior Department purchased the land and conveyed the title to the United States, the Secretary paid each enrolled Klamath his "pro rata share of the purchase price of such tribal lands." In addition, each Klamath received a pro rata share of tribal funds in the U. S. Treasury and any monies that the Indian Bureau may have credited to the individual in the Bureau books. To protect the monies of minors and non compos mentis, the bill contained a provision whereby the Secretary paid the shares of such

individuals "to a legal guardian appointed for such purpose." Finally, Section 6 of the bill provided that, "Upon acceptance by a member of the Klamath Tribe of the amount payable to him under this act, such member shall have all the duties, rights, benefits, and immunities of other citizens of the United States."⁵

The liquidation bill attracted wide support in south-central Oregon. When Senator Morse introduced the bill in July, he submitted as a part of the Congressional Record several telegrams he had received from Klamath Falls in support of the bill. The supporters included the Judge of the County Court, the President of the Rotary Club, the Lions Clubs, the American Legion, Klamath Post No. 8, and several interested citizens of Klamath County. The telegrams stated that the petitioners believed in the "principle" of the bill, that they considered the bill beneficial to the Indians, Klamath County, and the State of Oregon, and urged Senator Morse to introduce the bill.⁶

Oscar L. Chapman, Acting Secretary of the Interior, held a different opinion on the bill. In a letter to the Chairman of the Senate Committee on Indian Affairs, Chapman enumerated several objections to S. 1313, and advised against enactment of the bill. The Secretary stated that the federal government had "no legal or moral obligation to buy the tribe's present assets," and that he saw no reason "from the standpoint of national policy, for this purchase by the United States." Chapman added that he found no logical reason for the Department of

convert the Klamath tribal assets into cash and to distribute the money "for the temporary advantage and financial gain of the living members of the tribe."⁷ The Department regarded the Klamath assets as belonging to all the tribal members--past, present, and future, and considered it the Bureau's duty to conserve the assets for the benefit of all future Klamath generations.

Chapman conceded that certain Klamath tribal members possessed the competency to manage their own affairs, but also noted that the Secretary already had the power to grant patents in fee to such competent individuals. He explained, however, that he considered it a mistake to remove restrictions from all Klamath property as the liquidation bill directed. Instead, the Acting Secretary invited all competent Klamath to petition for patents in fee if they desired control over their own property.⁸

Chapman vehemently attacked Section 6 of the bill. He tersely stated that all Indians, including the Klamath, possessed United States citizenship under the provisions of the Act on June 2, 1924.⁹ The Klamath, therefore, needed no special legislation granting them citizenship. Chapman concluded, "Obviously the real intent of Section 6, not adequately expressed, is to deprive the members of the tribe of such special immunities as exemption from local taxation, which they enjoy as a result of treaties or acts of Congress." Finally, the Acting Secretary asked the Congress not to enact a bill "so radical in character"

without the overwhelming approval of the Klamath tribe. Chapman added the Department records revealed that the tribe had twice rejected the bill in general council.¹⁰

As Chapman's letter noted, the Klamath tribe had officially rejected the liquidation bill. Nevertheless, the debate on the liquidation issue left the tribe severely divided. The anti-liquidation forces controlled the Klamath business committee; and in a special meeting of the committee on October 2, 1945, the members adopted a resolution opposing S. 1313. The resolution stated:

This bill is fantastic and this committee should go on record and advise the Senate and the House to withdraw anything that has been introduced until they have heard officially from the General Council and the Business Committee with regard to the liquidation of the Klamath Indian Reservation.¹¹

Also, in the business committee meeting of December 14, 1945, the committee members again refused to support the liquidation bill before Congress.¹²

The anti-liquidation faction also managed to control the general council meetings on October 4 and 5, 1945. At those meetings, the tribal members voted on instructions for their delegates in Washington. That is, the Klamath members decided in general council which bills and matters their delegates supported and opposed while representing the tribe in Washington, D. C. Mrs. Wade Crawford read S. 1313 and suggested the council vote on the measure. The council then voted on the bill, rejected it by a total of 84-40, and therefore refused to

place S. 1313 on the delegates' instruction list. Furthermore, at the general council meeting of December 27, 1945, a Klamath tribal member again attempted to obtain council acceptance of the liquidation bill as a part of the instructions. The attempt also failed, this time for lack of a second.¹³

On August 1, 1946, the Senate Committee on Indian Affairs conducted a short hearing on S. 1313. Wade Crawford and Boyd Jackson, the two Klamath delegates, testified at this hearing. The two Klamath delegates personified the factionalism of the Klamath since Crawford led the liquidation faction and Boyd Jackson guided the anti-liquidation forces. Their testimonies revealed the issues that split the Klamath tribe.

In his testimony, Wade Crawford endorsed S. 1313, objected to Indian Bureau management of the tribal forest, and complained about the "communistic" programs of the "Ickes-Collier regime." In addition, Crawford charged Klamath Superintendent B. G. Courtright with using his position to "coerce, influence, and intimidate the councils and elections of the Klamath Indians." Finally, Crawford called upon the Committee on Indian Affairs to investigate the Klamath Agency operations.¹⁴

Jackson, however, reported that the tribe had officially rejected S. 1313 in the business committee and the general council. He also noted that the Crawfords had instigated the bill without tribal

consent, and asked the committee not to enact the bill. Finally, like Crawford, Jackson welcomed a committee investigation of the Klamath tribal affairs.¹⁵

This short hearing characterized the tragedy of the Klamath situation; the two factions vied for control of the Klamath tribal government, each refusing to compromise with the other. Throughout the turbulent hour-long session, the two delegates agreed only upon the desirability of a congressional investigation. On all other issues surrounding the liquidation question, the two factional leaders held opposing views.

In December of 1946, the Klamath general council again considered delegate instructions, and liquidation legislation again arose as a divisive issue. The business committee submitted a list of delegate instructions to the council for its consideration. This list contained no provision for the support of liquidation since the anti-liquidation forces still controlled the business committee. In the general council, however, Ida Crawford offered a substitute resolution that conspicuously included instructions for the delegates to support liquidation. The council voted Ida Crawford's substitute list down. Before the council concluded, Ida Crawford again offered an amendment to include the liquidation provision on the instruction list. The council again rejected the provision, this time by an even larger margin.¹⁶

In 1947, Acting Commissioner of Indian Affairs, William Zimmerman, appeared before the Senate Post Office and Civil Service Committee. He testified that approximately 40,000 American Indians had achieved a level of competency where they no longer required federal supervision.¹⁷ Zimmerman's testimony gave new strength to the termination advocates in Congress. Since Zimmerman had included the Klamath among the Indians ready to cast off federal supervision, in 1947 the Oregon Congressional delegation again sponsored liquidation legislation for the Klamath. On May 2, Senator Morse introduced a Klamath liquidation bill for himself and Senator Cordon; and on May 13, Republican Representative Lowell Stockton of Oregon introduced a similar bill in the House.¹⁸

In his remarks in the Congressional Record, Senator Morse explained several things regarding the Klamath bill. He first commented that the Oregon Senators introduced the proposal not on their own volition, but on behalf of certain Klamath County officials, several civic bodies, and "a certain faction" of the Klamath tribe. Second, he noted that neither he nor Senator Cordon had taken any position on the bill's merits, and had introduced the bill only because such action initiated hearings that the Indians had desired. Finally, Senator Morse expressed his own dissatisfaction with Indian wardship, voicing the hope that Congressional action in the 80th Congress ended Indian wardship status.¹⁹

The Senate subcommittee on Indian Affairs shared Senator Morse's sentiments, and even before the Senator introduced S. 1222, the subcommittee held hearings in Washington, D. C. concerning the Klamath. These March hearings before the subcommittee in Washington proved indicative of the Klamath hearings throughout the next twelve years. Patterns emerged from these hearings that recurred throughout the numerous hearings on the Klamath situation between 1947 and 1959. While the characters occasionally changed and the relative power of the various factions often fluctuated, the arguments and attitudes of the participants remained fairly constant.

The 1947 hearings illustrated that the split between the liquidation and anti-liquidation forces went far deeper than the one issue, and carried with it many personal animosities. On nearly every issue concerning the Klamath, the Crawfords and Boyd Jackson assumed stances on opposite sides with Jesse Lee Kirk joining Jackson in his opposition to the Crawfords. Moreover, this feud had not developed in the 1940's, but had begun in the early 1930's when Jackson and Crawford first clashed.²⁰ The two factions continually vied for control of the Klamath governmental superstructure throughout the 1940's and 1950's. The struggle for power ceased only with termination in 1961.

The 1947 hearings also emphasized the internal debate over the competency of the Klamath to manage their own affairs. Ida Crawford liked to point to the Indian attendance in public schools since 1927.

In her testimony, she suggested that "the greater number of the children who are twenty-one years of age are high school graduates."²¹ Ida Crawford contended that this educational level prepared the Klamath for living without federal supervision. The Crawfords also stressed the significance of a Klamath Agency report to the Bureau of Indian Affairs in 1945. This report said, in part, "Generally speaking, the Klamaths live much above the average of other Indians in the United States, and, to some degree, better than their white neighbors. Practically all read, write and speak English."²² The report went on to note that the dress, houses, farms, and incomes of the Klamath compared favorably with whites in the area. To the Crawfords, this high degree of Klamath advancement and assimilation indicated a readiness for an end to federal supervision.

The Jackson-Kirk faction, however, viewed the Klamath competency far differently. These men reminded the investigators of the Klamath loss of over 100,000 acres of allotted land between 1910 and 1920. To Jackson and Kirk, the liquidation movement threatened another rash of land alienation and the rapid impoverishment of large numbers of the Klamath. While the Crawfords contended that the educational level of the Klamath and their dealings with their white neighbors protected the Indians from "sharp-practicing people," Jackson and Kirk believed otherwise. Boyd Jackson often pointed to the testimony of Wade Crawford before a House Committee in 1935 when Crawford had said, "Turn that[the

reservation] over to them [the Klamath] tomorrow and all the land sharks and every other kind of land sharks would go there and fleece them of their property. The majority of those Indians are not capable of holding their own."²³ Jackson did not believe that the Klamath had advanced sufficiently in just twelve years to merit liquidation. Wade Crawford, nevertheless, maintained such advancement had occurred, and the competency debate repeatedly resulted in disagreement.

The tragic dilemma of the Klamath superintendent also became apparent in the hearings. If the superintendent involved himself in tribal affairs, Wade Crawford charged him with using the superintendent's office to "coerce, influence and intimidate the councils and elections."²⁴ If the superintendent stood aloof, however, and continued the practices of former Klamath administrators, Senator Watkins charged him with stagnating policies and throttling Indian advancement toward assimilation and emancipation.²⁵ The factional split of the tribe and the congressional concern with liquidation made it nearly impossible for the Klamath superintendents to administer the Klamath Agency effectively.

The inherent attitudes and biases of the Senators also manifested themselves throughout the hearings. While Democratic Senator James Murray of Montana, a liberal New Dealer, opposed rapid termination, the two most vocal committee members, Senator Watkins and Republican Senator Zales Ecton of Montana, favored liquidation legislation.

Senators Watkins and Ecton viewed assimilation and an end to federal supervision as the goals of American Indian policy, and supported procedures aimed toward that end. The two Republican Senators displayed a cultural egocentrism that reinforced their policy goals and blinded them to the cultural diversities that limited the success of rapid assimilation. At one point, for instance, Senator Watkins remarked, " . . . we don't have tribes of white people around here. We don't have Italian tribes or Greek tribes, German or English or Scotch or Irish. Why should they have tribes and councils."²⁶ The Indians needed only to mock the whites to receive all the benefits of civilization.

Senators Watkins and Ecton viewed liquidation legislation as mandatory for the Klamath, and often ignored the presence of opposition to liquidation among the tribal members. When Senator Murray came into a hearing late and queried as to whether or not the Klamath favored such legislation, Senator Watkins answered in the affirmative despite opposition testimony from certain Klamath. Watkins' answer to Senator Murray displayed his attitudes toward terminal legislation. He said:

We have had a large number of witnesses testify here that they wanted that type of legislation, and the testimony of the Indian Service is that this tribe is far enough along in development that it could be put on its own. It is a question now of determining some figures and obstancles [sic] whether obstacles are in the way to that type of approach.²⁷

Senator Watkins' remarks clearly indicated that he thought terminal legislation both necessary and desirable. The Senator seemingly seldom

thought that other alternatives possibly existed between the continuation of past policies and liquidation.

Senator Ecton supplemented his desire for liquidation legislation with a messianic sense of duty. The Montana Republican regarded "fear propaganda" as the major problem in ending federal supervision over Indians. The Indians feared venturing out on their own without federal supervision, therefore, occasionally, "they need to be shoved out." Ecton felt Congress held the responsibility for shoving the Indians out, even without getting a mandate from the tribe. "They [Indians] might turn down a proposition like that [liquidation] for fear that they couldn't go on; but yet if they are educated and qualified, why, I think it is our duty to see that they go on by themselves."²⁸ Throughout the hearings, Senators Watkins and Ecton continually confronted opposition witnesses with the pragmatic tenant of "learn by doing," and the "Puritan ethic," never once attempting to understand the Indian culture on its own terms.

The congressional hearings also revealed strong local support in Klamath County for the principle of liquidation. Local civic groups displayed an obvious interest in the termination procedures, and a great concern over the fate of the Klamath tribal lands. The local Chamber of Commerce refused to accept federal purchase as the solution, however, and had drawn up a substitute proposal that eliminated public ownership and put the Klamath lands on the local tax rolls. Jesse Kirk

drew the committee's attention to a rough draft of the substitute bill that the Indian Affairs committee of the Klamath County Chamber of Commerce had instructed Forrest Cooper to prepare.

Cooper, the counsel for the Interstate Association of Public Land Counties, drafted a bill and modeled it after S. 1313 of the 79th Congress. Cooper's draft differed from the former bill in two important aspects, however. First, the draft denied the Bureau of Indian Affairs any control over the liquidation proceedings. The Cooper bill provided for a special three-member "Klamath Indian Reservation Liquidation Board." The President of the United States appointed the three men "with the advice and consent of the Senate," and this Board assumed the administrative duties of liquidation.²⁹ Since the Indian Bureau opposed termination, Cooper designed his bill in a manner he felt allowed for greater efficiency in liquidation.³⁰

More significantly, however, the Cooper draft suggested that "the surplus lands now owned in common by the tribe be offered for sale at public auction for cash."³¹ This section illustrated the real essence of public concern; the local Oregonians wanted the Klamath lands on the tax rolls to help support the County's financial load. This provision replaced the former bill's proposal that the Secretary of the Interior purchase the tribal lands. The new draft not only provided for a public auction, but also excluded any federal agency from bidding at the auction.³² Undoubtedly, Cooper intended to prevent the

acquisition by the federal government of any more land in a county where the government already possessed such large tracts of forestlands. Seemingly, the prospect of less tax-free land in the county played a prominent role in public support for liquidation.

While the local non-Indian population displayed a favorable inclination toward liquidation, the Klamath showed no semblance of unanimity. In May, trouble arose between Superintendent B. G. Courtright and the Crawford faction of the tribe. By late May, over 150 tribal members had signed a petition calling on Secretary of the Interior Krug to remove Courtright. The petition charged Courtright with interfering in the tribal affairs, dissipating Klamath funds, and creating tribal factions.³³ While Courtright denied all allegations and the charges resulted in no immediate action against the Superintendent, the petition symbolized the growing dissention in the tribe.

On June 5, 1947, the Klamath business committee held a special meeting and discussed S. 1222. Each member present spoke briefly on his opinions concerning the bill. After discussing the topic at some length, the committee members voted to go on record opposing the bill. The committee then appointed a subcommittee of four to draw up, with the aid of Superintendent Courtright, a brief opposing S. 1222.

The subcommittee drew up the brief containing seven major objections to S. 1222, and on June 26, presented the document to the general council for the council's information. The brief denied the

right of Congress to pass legislation to "liquidate, dispose of, or sever our connection with the heritage given us by the Treaty of 1864 without the unanimous consent and agreement of the Klamath Tribes." The committee also refused to consider liquidation until the courts settled the pending suits against the United States involving nearly \$16 million. In addition, the brief stated that since S. 1222 contained the same basic provisions as the former S. 1313, and since the Klamath had rejected the latter, the same attitudes prevailed for S. 1222. The brief also contended that the majority of the tribal members did not possess the readiness to assume the responsibility the liquidation required. The business committee maintained that the tribe required another generation to prepare for termination, even if the federal government aided the tribe fully throughout the time. The Klamath business committee also detected racial prejudice among the members of the local white community and suspected that "sinister and ulterior motives" lay behind local support of S. 1222, as certain people sought liquidation as a method to "obtain possession of undeveloped valuable resources." Finally, the brief concluded: "The Bill [sic] is illogical and would be unconstitutional. It is poorly drafted. It does not express the tribes' views, it was not introduced by the tribe, and it was not officially sponsored by the Tribe."³⁵

On July 9, 1947, the business committee reconvened to consider the subcommittee's brief. The committee approved the brief, and voted

to send copies of the document to various governmental officials and civic groups. The list of officials and groups included: the Commissioner of Indian Affairs, the Klamath County Court, the Chamber of Commerce of Klamath County, the Oregon Senators and Representatives in Congress, the Secretary of the Interior, and the Congress of American Indians.³⁶

At about the same time, the committee received notice of the forthcoming presence of a Senate subcommittee at the Klamath Agency. In response to Klamath requests, the Senate subcommittee on Indian Affairs planned to hold hearings at Klamath to gain an insight into Klamath conditions. Since the subcommittee wanted to begin the hearings on August 18, 1947, the business committee thought it wise to call a general council meeting for July 31 to approve the business committee's brief opposing S. 1222.³⁷

As usual, the anti-liquidation forces of the tribe controlled the general council meeting. Jesse Kirk read a business committee resolution of July 14, 1947. The resolution called for approval of the committee brief on liquidation, authorized the business committee to appear before the coming Senate subcommittee, and appointed five business committee members to escort the Senators during their visit. At the meeting, the tribal delegates, Crawford and Jackson, both expressed their respective views on S. 1222. Wade Crawford then moved to discuss the bill section by section, but the council defeated his

motion by a vote of 53-103. After defeating Crawford's motion, the council then voted overwhelmingly to approve the business committee's resolution.³⁸ The anti-liquidation forces again succeeded in gaining a tribal mandate, and the tribal council again went on record in opposition to liquidation.

Once the Senate subcommittee on Indian Affairs arrived in Klamath Falls and began to conduct the hearings, the familiar patterns emerged. During the early part of the hearings, the subcommittee questioned Superintendent Courtright and his staff about the administration of the reservation. Again Senator Watkins admonished the superintendent for not moving quickly enough toward Klamath independence, while more than 150 Klamaths had charged Courtright with meddling and coercion just three months before.³⁹ Courtright's testimony illustrated many administrative shortcomings, yet, the committee members never fully appreciated that the tribal factionalism made effective administration difficult, and magnified any staff failures.

The hearings at Klamath Falls also reinforced the committee's perception of public opinion concerning the reservation. The citizens and local officials testified overwhelmingly in favor of liquidation. The supporters of such legislation included: the Klamath County Judge, the Mayor of Klamath Falls, the Klamath County sheriff, the Lake County Judge, the president of the Lake County Chamber of Commerce, a local school teacher, and other interested people in the community. No local

non-Indian really testified against liquidation, although a few expressed certain limited qualifications concerning S.1222.⁴⁰

The testimony of the Klamath Indians during the latter part of the hearings exhibited the usual tribal split. The overwhelming acceptance vote on the business committee's resolution opposing liquidation had seemingly indicated strong tribal opposition to S. 1222. At the hearings, nevertheless, those tribal members testifying split almost evenly for and against liquidation. Those Klamath for liquidation asked for full citizenship and an end to the corrupt administration of the Indian Bureau. Those Klamath against liquidation feared massive loss of tribal and individual assets, and complained that liquidation robbed future generations of their share of the tribal assets. The two groups found no issue upon which they agreed, and the hearings merely intensified the already serious antagonisms.

The anti-liquidation faction succeeded in dooming S. 1222 through their control of the business committee and the general council. The Jackson-Kirk faction even managed to gain all three delegate positions in the October tribal elections.⁴¹ In December of 1947, however, the Crawford liquidation forces scored a victory in the new business committee elections.⁴² The victory of the Crawford faction meant that the business committee remained in the hands of the pro-liquidation group for the next two years. While the anti-liquidation faction remained in control of the general council, Crawford's control

of the business committee forced Jackson's faction to compromise.

The two factions continued to fight bitterly in intra-tribal politics with the business committee and the general council often clashing.⁴³ On the matter of liquidation, nevertheless, the two groups moved toward compromise. This period of compromise resulted in a more relaxed attitude toward the question of liquidation, and allowed the Klamath and Congress time to seek more viable alternatives. Between 1949 and 1953, the Klamath tribe and Congress abandoned the strictly bipolar discussions of liquidation versus the status quo. Increasingly in this period Congress and the Klamath explored the previously untouched area between the two poles and sought a compromise solution satisfactory to both factions. With this relaxation of liquidation pressure, the anti-liquidation forces moved from the defensive for the first time since World War II ended. Since the faction temporarily needed no defense, they could concentrate their efforts toward an equitable solution. This relaxed exploration resulted in the movement toward voluntary withdrawal.

CHAPTER III FOOTNOTES

¹William Zimmerman, Jr., "The Role of the Bureau of Indian Affairs Since 1933," Annals of the American Academy of Political and Social Sciences, May, 1957, p. 34.

²Ibid., p. 33.

³S. 1313, 79th Congress, 1st session (1954). Congressional Record, 79th Congress, 1st session, July 25, 1945, p. 8042.

⁴S. 1313, 79th Congress, 1st session, Sec. 2(a), 3(a) and (b), and 4(a).

⁵Ibid., Section 4(b) and (d) and Sec. 6.

⁶Congressional Record, 79th Congress, 1st session, July 25, 1945, p. 8043. The Lake County Court also endorsed the principle of the bill: See, U. S. Congress, Senate, Subcommittee on Indian Affairs of the Committee on Public Lands, Klamath Indians, Oregon, Hearings, on S. 1222, 80th Congress, 1st session (Washington, D. C., 1947), p. 366.

⁷U. S. Congress, Senate, Committee on Indian Affairs, Klamath Indians, Removal of Restrictions, Hearings, on S. 1313, 79th Congress, 2d session (Washington, D. C., 1946), p. 3.

⁸Ibid.

⁹43 (U. S. Statutes) 253 (1947).

¹⁰Klamath Indians, Removal of Restrictions, Hearings, pp. 3-4.

¹¹Business Committee Minutes, Business Committee Meeting, October 2 and 9, 1945, Klamath Agency Records, RG 75, FRC, Seattle, pp. 6-7.

¹²Klamath Indians, Removal of Restrictions, Hearings, p. 188.

¹³Ibid., pp. 13 and 14.

¹⁴Ibid., pp. 6, 8, 17, 20, and 21.

¹⁵Ibid., pp. 13, 14, and 16.

¹⁶Klamath Indians, Oregon, Hearings, p. 188.

¹⁷Arthur V. Watkins, "Termination of Federal Supervision: The Removal of Restrictions Over Indian Property and Person," Annals of the American Academy of Political and Social Sciences, May, 1957, p. 49. Senator Watkins contends that Zimmerman's testimony "served as an effective stimulus toward renewed consideration of an end of wardship." Such an interpretation is not quite accurate since it belies the fact that there had been a congressional effort to liquidate the Klamath Reservation for at least two years prior to Zimmerman's testimony.

¹⁸S. 1222, 80th Congress, 1st session, 1947. H. R. 3431, 80th Congress, 1st session, 1947. Congressional Record, 80th Congress, 1st session, May 2, 1947, pp. 4457-58; May 13, 1947, p. 5227.

¹⁹All of Senator Morse's remarks are found in: Congressional Record, 80th Congress, 1st session, May 2, 1947, pp. 4457-58.

²⁰While the author found no specific incident that led to the Crawford-Jackson split, a reading of the hearings and the minutes of the tribal business committee and general council revealed the consistent split. The earliest evidence of the split can be found during the tenure of Crawford as Superintendent at the Klamath Agency when he and Jackson clashed over issues of timber sales and incorporation. Also, Jackson led the campaign to have Crawford removed as superintendent in the mid-1930's. For a good feel for the intensity and origins of the split one should peruse: U. S. Congress, Senate, Committee on Indian Affairs, Dismissal of Wade Crawford, Superintendent Klamath Indian Reservation, Oregon, Hearings, 75th Congress, 1st session, (Washington, D. C., 1937).

²¹Klamath Indians, Oregon, Hearings, p. 31. This statement by Ida Crawford proved contrary to fact, however, when in a later hearing the Superintendent of Klamath County Schools showed that between 1939 and 1947 only 16 Klamath students had graduated from Klamath County schools. He also noted that the Klamath had an exceptionally high drop out rate. See: Klamath Indians, Oregon, Hearings, pp. 335, 338, and 342.

²²This report was compiled by Superintendent in early 1945 and is contained in part in: U. S. Congress, House, Committee on Interior and Insular Affairs, Investigation of the Bureau of Indian Affairs, H. Report 2503, 82d Congress, 2d session, 1952, House Miscellaneous Reports on Public Bills, VIII, p. 423. Also, for Wade Crawford's references to the report, see: Klamath Indians, Oregon, Hearings, pp. 45-46.

²³Klamath Indians, Oregon, Hearings, p. 148.

²⁴Klamath Indians, Removal of Restrictions, Hearings, p. 19.

²⁵Klamath Indians, Oregon, Hearings, p. 86.

²⁶Ibid., p. 79.

²⁷Ibid., p. 112. Senator Watkins made this statement despite the fact that only the Crawfords had testified in favor of the legislation. While the opposition Klamath had not yet testified, Watkins surely should have known the position of Boyd Jackson in opposition.

²⁸Ibid., p. 83.

²⁹For a copy of the rough draft see: Klamath Indians, Oregon, Hearings, pp. 166-170. For provisions concerning the "Liquidation Board," see Section 2 of the draft.

³⁰Ibid., p. 166.

³¹Ibid. One might note the similarities to the General Allotment Act's provisions for "surplus lands."

³²Ibid., p. 167, Section 8.

³³"Indians in Petition Battle," Klamath Falls Herald and News, May 24, 1947 (Klamath Falls, Oregon), p. 1.

³⁴Business Committee Minutes, Business Committee Meeting, June 5, 1947, Klamath Agency Records, RG 75, FRC, Seattle, pp. 6-8.

³⁵All summaries of the subcommittee's brief come from: General Council Minutes, General Council Meeting, June 26, 1947, Klamath Agency Records, RG 75, FRC, Seattle, pp. 17-18.

³⁶Business Committee Minutes, Business Committee Meetings, July 9-11, 14, 1947, Klamath Agency Records, RG 75, FRC, Seattle, pp. 1-2.

³⁷General Council Minutes, General Council Meeting, July 31, 1947, Klamath Agency Records, RG 75, FRC, Seattle, pp. 1-2.

³⁸Ibid., p. 3. The second vote approved the business committee resolution 95-4.

³⁹Such admonitions are scattered throughout: Klamath Indians, Oregon, Hearings, but for two specific examples on leasing procedure and relief appropriations see pp. 253-54, and p. 259, respectively.

⁴⁰Most of the testimony from non-Indian citizens can be found in: Klamath Indians, Oregon, Hearings, pp. 325-75.

⁴¹General Council Minutes, General Council Meeting, October 16, 1947, Klamath Agency Records, RG 75, FRC, Seattle, p. 21.

⁴²Business Committee Minutes, Business Committee Meeting, November 9, 1948, Klamath Agency Records, RG 75, FRC, Seattle, p. 1. The author has found no real evidence as to how the Crawfords managed to gain control of the business committee in 1947, when they had never controlled it since the early 1930's.

⁴³Ibid., pp. 2-3. Also, Business Committee Minutes, Business Committee Meeting, November 23, 1948, Klamath Agency Records, RG 75, FRC, Seattle, pp. 1-3.

CHAPTER IV

THE VOLUNTARY WITHDRAWAL MOVEMENT

As the tribal factions moved toward compromise, they sought a solution acceptable to both groups. Crawford and Jackson discovered the basis for this solution in a draft for a bill that Superintendent Courtright had presented to the Senate subcommittee in August of 1947. Courtright's draft allowed certain tribal members to withdraw from the tribe, provided for payment of a pro rata share to each withdrawing member, and permitted tribal members not desiring to withdraw to remain in the tribe.¹ This rough draft contained certain flaws and lacked all the needed details, yet, the bill became the basis for discussion during the next five years.

Before 1947, the Klamath had displayed an obvious lack of unanimity and had rejected Congressional efforts toward a liquidation bill. Ironically, between 1947 and 1953, when the Klamath united to support voluntary withdrawal, Congress refused to enact the bill the Indians desired. While Congressional members never really expressed their reasons for not enacting voluntary withdrawal legislation, undoubtedly, Interior Department opposition played a significant role. Repeatedly between 1947 and 1953, the Department neglected to report favorably on the Klamath proposals. Only in 1953 did the Department present an alternative to voluntary withdrawal. By that time, however,

Congress had passed House Concurrent Resolution 108 of the 83d Congress, and termination replaced voluntary withdrawal as the Congressional goal.

Throughout all of 1948 and 1949, the withdrawal question remained in the background on the Klamath Reservation. During this period, the factions consolidated their new positions within the tribal political superstructure and studied new courses of action. The delegate instructions for 1949 directed the tribal delegates "to oppose any bill which provides for the liquidation of the Klamath Reservation."² At the same time, the instructions directed the delegates "to have introduced and, if possible, enacted into law a bill which will provide for voluntary withdrawal of individual members of the Klamath Tribes."³ By late 1948, the tribe had abandoned liquidation and had embraced voluntary withdrawal as the new panacea.

The tribe based the voluntary withdrawal legislation on Superintendent Courtright's earlier draft, and merely sought to modify and complete the bill to make it acceptable to all factions. Since the bill allowed certain members to withdraw while the others remained together, the tribe needed provisions for a transitional tribal government. In early 1949, the tribal chairman, Seldon E. Kirk, appointed a special committee of eight tribal members "who believe in the perpetuation of the Klamath Reservation," to draw up a new constitution.⁴ Although middle-of-the-roader Seldon Kirk headed the special committee, the Jackson faction dominated the membership. The committee wrote a

new Constitution, but in mid-1949, the Klamath Tribe defeated the document in a secret ballot election.⁵ In June of 1949, the general council authorized joint meetings between the special committee and the Crawford-led business committee in hopes of reaching a compromise.⁶

By this time, the two factions realized that if either side hoped to achieve its ends, the two groups needed to work together. Each faction's power so closely approximated the other that neither side possessed a chance of success without the other's cooperation. In the fall of 1949, therefore, the business committee and the special committee began holding joint sessions to discuss tribal policy.

The two committees, with the aid of the tribal attorneys, worked on drafts of a constitution and a voluntary withdrawal bill. By mid-December 1949, the tribal attorneys had drafted the two documents and subsequently brought them before the joint committee for amendment and approval.⁷ The two committees discussed the two manuscripts at some length in the meetings on December 12 and 13, 1949, and voiced their opinions of the various provisions. The factional differences occasionally arose during the often lengthy debates over the withdrawal bill, but the joint committee still managed to reach a tentative agreement on the bill. The two groups modified and amended several provisions and instructed the attorneys to redraft certain sections of the bill.

When the new draft returned from Washington, the joint committee still disapproved of several provisions the attorneys had redrafted.

The two committees held another joint session of February 1, 1950, amended certain portions of the bill, and on the next day presented the amended draft to the General Council. One of the tribal attorneys read the bill before the council and explained a few of the more complicated sections. The council discussed the bill, amended it slightly and voted to hold a tribal referendum to approve the draft in two weeks. Boyd Jackson and Wade Crawford, in a rare moment of agreement, moved, however, to delete the section of the bill calling for a tribal referendum, and sought immediate council approval instead.⁸ This sudden move surprised the tribal chairman since neither Jackson nor Crawford had suggested such a motion in any of the joint sessions. The two factional leaders explained that a referendum necessitated further delay and expense, and expressed the desire for the delegates to introduce the bill as quickly as possible. While Chairman Kirk spoke against the motion, the council voted fifty-five to one to delete the referendum section, and then voted unanimously to approve the bill. Chairman Kirk went on record in opposition to the bill, but his protest proved futile as the council endorsed the bill wholeheartedly.⁹

Under the provisions of the bill, any adult member of the tribe who decided to withdraw from the tribe applied for a withdrawal certificate. The Commissioner of Indian Affairs then approved this application. The Commissioner's approval entitled the withdrawer to

his share of the tribal assets. Upon withdrawing, the withdrawee received "80% of the value of his share of tribal assets and 100% of any allotted or inherited restricted property owned by such member."¹³ A board of three qualified appraisers determined the value of tribal assets, and computed the amount due to each individual withdrawee. The board also reset the value of the assets, and the Commissioner reexamined the tribal roll semi-annually to assure each withdrawee his fair share of the tribal assets at the time of withdrawal. Finally, the bill provided that upon withdrawing, each withdrawee gained all the "rights, duties, liabilities, privileges, and immunities of a full citizen of the United States" and of his home state. At the same time, the withdrawing member lost all rights to membership in the tribe.¹¹

Since the bill contained provisions for both withdrawal and for continuation of the tribe, the bill satisfied both tribal factions. The delegates sincerely hoped that this end to serious tribal factionalism illustrated to Congress the desirability of such legislation. Unfortunately, the Interior Department and Congress disappointed the Klamath tribe and moved very slowly on voluntary withdrawal.

The tribe again endorsed voluntary withdrawal on February 9, 1950, when the general council voted on the delegate instructions. These instructions directed the delegates to seek enactment of the voluntary withdrawal bill.¹² The delegates actively followed the instructions and began almost immediately to seek enactment of the bill.

The delegates succeeded in their early efforts; and in mid-May, Oregon Congressmen introduced the bill in the House and Senate. On May 10, Representative Stockman introduced the bill in the House, while on May 19 Senator Cordon introduced it in the Senate.¹³

By early July, the tribal delegates wrote optimistically to the general council on the chances of voluntary withdrawal. The delegates noted that they and the tribal attorney testified favorably on the bill before the House subcommittee on Indian Affairs. According to the delegates, only the need for a report from the Indian Bureau held up the passage of the bill, and Jackson and Kirk expected a favorable report soon thereafter.¹⁴

The delegates' optimism proved unfounded. The Interior Department continued to delay a favorable report on the bill throughout 1950. Without the Bureau's approval, the bill languished in the Senate and House committees. The Bureau failed to submit the report to the committees before the end of the congressional session, and when Congress adjourned, the withdrawal bill died.

The tribal delegates remained optimistic even after the first attempt at voluntary withdrawal legislation ended in failure. These men assumed that the tribal unanimity assured the bill's passage, and continued to push for congressional action. The tribal council again endorsed the bill and as the first session of the 82d Congress opened, Senator Cordon and Representative Stockman again introduced the Klamath

Voluntary Withdrawal Bill.¹⁵

The Department of the Interior again failed to prepare the necessary report on the bill. In August of 1951, therefore, the Klamath general council approved a resolution that instructed the executive committee of the general council to inform the Secretary of the Interior of the Klamath position. The resolution directed the committee "to immediately commence deliberations on the contents and anticipated effects of such legislation."¹⁶ The resolution further requested a report from the executive committee on their findings with hopes of "obtaining an enlightened public opinion from the Tribal [sic] membership upon the matters involved in such legislation."¹⁷

As the Senate and House bills languished in the committees without a Department report, the Klamath executive committee met to study and discuss withdrawal. The executive committee examined the bill, discussed the provisions, and redrafted the original bill with several small modifications. The committee offered the redraft as a substitute for the earlier bills in the Senate and House, and presented this redraft to the tribal council for approval. On December 10, 1951, the general council approved the committee's redraft and directed the delegates to offer the redraft as a substitute to the pending bills in Congress.¹⁸

During 1952, Congressman Stockman and Senator Cordon introduced no substitute legislation for the Klamath. Apparently, the tribal

delegates failed to convince the Oregon congressmen to introduce the redraft; and when the 82d Congress adjourned in late 1952, the pending withdrawal bills died, having never advanced beyond the committees. In 1953, nevertheless, the Klamath delegates again sought enactment of withdrawal legislation.¹⁹

As the 83d Congress convened in 1953, the Klamath delegates again succeeded in getting the Oregon congressmen to introduce withdrawal legislation. On February 20, Senator Cordon introduced the bill in the Senate, and four days later Republican Congressman Sam Coon of Oregon introduced the legislation in the House.²⁰ Soon thereafter, however, the tribe discovered that the new Secretary of the Interior, Douglas McKay, had decided upon a new approach toward Indian affairs. The Department, under McKay's direction, refused to endorse the Klamath voluntary withdrawal bill, and instead proposed a bill that provided for the establishment of a tribal corporation.²¹

The Department's proposal contained a provision that terminated federal supervision and contemplated the formation of an independent, private, tribal corporation. The tribal delegates, Jackson and Crawford, expressed their preference for voluntary withdrawal over the Department's plan. Nevertheless, after a discussion before the House subcommittee on Indian Affairs, the two Klamath agreed to explore the feasibility of the Department's bill, and to report back to the subcommittee during the next session of Congress.²² As the congressional session closed

in 1953, Crawford and Jackson returned to Oregon and initiated investigations into the desirability of tribal incorporation.

As the delegates prepared to leave for home, Congress took action that doomed all Klamath attempts at voluntary withdrawal. On August 1, 1953, Congress passed and President Eisenhower signed House Concurrent Resolution 108. The resolution said, in part:

That it is declared to be the sense of Congress that, at the the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following-named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from the disabilities and limitations specifically applicable to Indians: the Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatomi Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are on the Turtle Mountain Reservation, North Dakota.²³

The passage of House Resolution 108 ended all chances for Klamath voluntary withdrawal, and initiated the movement that culminated in the termination acts of 1954.

CHAPTER IV FOOTNOTES

¹Klamath Indians, Oregon, Hearings, pp. 556-57.

²General Council Minutes, General Council Meeting, November 12, 1948, Klamath Agency Records, RG 75, FRC, Seattle, p. 15.

³Ibid. These instructions were reindorsed on February 9, 1950, by the General Council. See: General Council Minutes, General Council Meeting, February 9, 1950, Klamath Agency Records, RG 75, FRC, Seattle.

⁴Stern, The Klamath Tribe, p. 250.

⁵General Council Minutes, General Council Meeting, June 16, 17, and 20, 1949, Klamath Agency Records, RG 75, FRC, Seattle, p. 94.

⁶Ibid.

⁷Business Committee Minutes, Business Committee Meetings, December 12 and 13, 1949, Klamath Agency Records, RG 75, FRC, Seattle. These minutes contain a lengthy discussion of both the constitution and the voluntary withdrawal bill. Since the constitution does not directly concern the termination movement, it will not be discussed other than to say that the tribe adopted the constitution in 1950, and then only after it was linked with the voluntary withdrawal bill. See: Stern, The Klamath Tribe, p. 250.

⁸General Council Minutes, General Council Meeting, February 2, 1950, Klamath Agency Records, RG 75, FRC, Seattle, pp. 4, 9, 13-14, and 14-16.

⁹Ibid., pp. 14-16.

¹⁰Ibid., p. 7.

¹¹Ibid., pp. 6 and 7.

¹²General Council Minutes, General Council Meeting, February 9, 1950, Klamath Agency Records, RG 75, FRC, Seattle.

¹³Congressional Record, 81st Congress, 2d session, May 10, 1950, p. 6861; May 19, 1950, p. 7297. H. R. 8459, 81st Congress, 2d session, 1950. S. 3624, 81st Congress, 2d session, 1950.

¹⁴All references to the delegates' letter come from: General Council Minutes, General Council Meeting, July 6, 1950, Klamath Agency Records, RG 75, FRC, Seattle, p. 6.

¹⁵General Council Minutes, General Council Meeting, November 2, 1950, Klamath Agency Records, RG 75, FRC, Seattle, p. 13. Also, Congressional Record, 82d Congress, 1st session, February 1, 1951, p. 849. March 7, 1951, p. 2116. S. 738, 82d Congress, 1st session; H. R. 3094, 82d Congress, 1st session.

¹⁶General Council Minutes, General Council Meeting, August 9, 1951, Klamath Agency Records, RG 75, FRC, Seattle, pp. 1-2.

¹⁷Ibid., p. 2.

¹⁸For copies of the redraft, see, General Council Minutes, General Council Meeting, August 30, 1951, Klamath Agency Records, RG 75, FRC, Seattle, pp. 1-2. For another copy of the redraft and the record of the tribal council vote, see: General Council Minutes, General Council Meeting, December 10, 1951, Klamath Agency Records, RG 75, FRC, Seattle, pp. 1-4. Also, the general council minutes for October 25, 1951, p. 16, noted that Wade Crawford moved for adoption of the withdrawal bill with certain amendments that the minutes did not enumerate. Boyd Jackson opposed this motion, and it was defeated 66-22. The sketchy manner of the minutes leaves one at a loss as to what amendments Crawford proposed, and why Jackson opposed the motion of December 10. The lack of unanimity in the votes suggests, however, that the two factions were beginning to reopen old points of contention.

¹⁹Unfortunately, the author has no information that tells the official actions of the Klamath tribe after December of 1951. This lack of information resulted when the Bureau of Indian Affairs Regional Office in Portland, Oregon, refused the author admittance into the Klamath Records from 1952 until dissolution of the tribe in 1961. From 1951 forward, therefore, all the information in this paper must necessarily be gleaned from periodicals and Congressional sources. The treatment must consequently be sketchy at best concerning official Klamath actions. Hopefully, the Bureau will open the records in the near future so that a more precise account can be related; but until that time, the author must rely on more indirect sources for tribal opinion.

²⁰Congressional Record, 83d Congress, 1st session, February 20, 1953, p. 1293; February 24, 1953, p. 1380. S. 1034, 83d Congress, 1st session; H. R. 3402, 83d Congress, 1st session.

²¹For a rough draft of the Department's bill, see: U. S. Congress, House, Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Klamath Voluntary Withdrawal Act, Hearing, 83d Congress, 1st session, on H. R. 3402 (Washington, D. C., 1953), p. 7.

²²Ibid., pp. 7, 9, 11.

²³H. Con. Resolution 108 of August 1, 1953, 67 Statues B132.

CHAPTER V

THE KLAMATH TERMINATION ACT

Congress and the Bureau of Indian Affairs initiated the final push toward Klamath termination in Mid-August, 1953. The next year proved eventful for the Klamath; and on August 13, 1954, President Eisenhower signed the Klamath Termination Act. In just over one year, the Bureau of Indian Affairs proposed an alternative to the Klamath voluntary withdrawal bill, discussed and amended the new proposal, and Congress enacted the Klamath Termination Act. With the passage of the Act, the Klamath began their long and difficult journey toward termination of federal supervision.

Soon after the Klamath delegates left Washington to gather information toward tribal incorporation, the Indian Bureau commenced discussions toward Klamath termination. House Resolution 108 had directed the Interior Department to examine past legislation pertaining to Indian tribes, and to report to the Congress not later than January 1, 1954 as to possible terminal legislation.¹ Two weeks after Congress passed Resolution 108, the Indian Bureau called Klamath Superintendent, Erastus J. Diehl, to Washington for preliminary discussions.² Diehl remained in Washington for one month, and in mid-September returned to Klamath after numerous discussions with the Department of the Interior concerning terminal legislation for the

Klamath.

After Superintendent Diehl departed for Oregon, the Bureau of Indian Affairs reviewed the proposed Klamath legislation. On September 25, 1953, the Secretary of the Interior revised and approved the draft for discussions in the field.³ On September 29, the Klamath executive committee convened to discuss the Departmental bill. At this meeting, the committee decided to appoint Wade Crawford and Boyd Jackson as delegates to gather pertinent data concerning the proposed legislation.⁴

During the next six weeks, Jackson and Crawford collected information and met with the Klamath County Court and the Governor of Oregon. On November 14, the two delegates reported their findings to the executive committee. Based on the data they had gathered, Jackson and Crawford reported that they deemed tribal incorporation impractical. The two men revealed a plan for forming a tribal cooperative as an alternative to incorporation. The executive committee listened to the cooperative plan, studied its general features, and voted to table action until January 14, 1954. The committee hoped at this later date to discuss the two proposals with a representative from the Department of the Interior.⁵

Crawford and Jackson remained active in this interim period. On December 8, the two delegates, along with Superintendent Diehl and the area representative of the Bureau, again met with the Governor. The men discussed the bill in an attempt to discern the opinion of the state

officials toward termination. While the Governor made no real commitment in opposition to or support of the bill, he did agree to appoint a special committee on Indian Affairs to work in conjunction with the Klamath.⁶ The Governor appointed individual experts in the fields of forestry, irrigation, agriculture, and other pertinent areas, and directed these men to make relevant studies for the Klamath as the needs arose.

In meetings on December 14 and 16, the executive committee again discussed the Department's bill, and voted to reject the bill in principle.⁷ On the next two days, December 17 and 18, the general council studied the Department's bill and the alternative plan providing for a cooperative. The council took no immediate action on either of the bills, but voted to consider the drafts at a meeting on January 14, 1954. In the meantime, the council authorized tribal Chairman Seldon Kirk to arrange several community meetings on the subject of termination.⁸

In accordance with the council's directive, the tribe held three major meetings in three strategic locations on the reservation, and several other smaller gatherings in other locations.⁹ The tribe conducted these meetings strictly for informational and discussion purposes, and made no policy decisions. The tribal leaders hoped that the meetings informed the tribal members and prepared these people for the important council meeting on January 14.

On January 14 and 15, the general council held their scheduled meetings. At the meetings, the assistant to the Commissioner, Langan, read the Department's bill and discussed it at some length with the council.¹⁰ After hearing Langan's presentation, the tribe voted to accept the bill, subject to certain modifications.¹¹ The council directed the tribal executive committee to select six more tribal members to work with the committee on formalizing the desired modifications.¹²

Also at the January meeting, the general council reversed a 1953 decision to elect delegates to serve for the whole 83d Congress. The council decided instead to hold new elections for delegates to the second session of the Congress.¹³ This election proved important since the old tribal factions began to reappear at about this same time. Jackson and Crawford had worked together on the tribal cooperative, but tribal rejection of this plan left the two old foes on opposite sides of the termination issue. The split between these two men rendered a death blow to tribal harmony and factionalism again returned. While Jackson's anti-termination group succeeded in winning both delegate positions, the end to tribal harmony doomed Klamath chances of withstanding the congressional pressure for termination.¹⁴

Boyd Jackson also managed to control the joint meetings of the executive committee and the special six-member legislative committee. The joint committee met on February 4, 5, 6, 8, and 9, discussed the

termination bill at great length, and developed the modifications the tribe desired.¹⁵ Three significant facts emerged from these joint meetings. First, Wade Crawford refused to attend these meetings and to take part in the discussions. Although he belonged to the executive committee, Crawford attended none of the joint meetings, and therefore missed the debates on termination.¹⁶ At these meetings, the joint committee refused, by a vote of seven to four with two not indicating, to send out ballots for a straw vote on termination among tribal members.¹⁷ While Chairman Kirk and tribal Secretary Dibbon Cook printed a sample ballot and advocated the straw vote, the joint committee refused to consent to the referendum. Finally, the joint committee modified the Department's bill in order to allow for "eventual termination" rather than for immediate termination.

The committee planned to insure eventual termination through the establishment of a tribal trusteeship. The trusteeship plan provided for a nine-year existence with the federal government acting only in a supervisory capacity. Once the nine years ended, the tribal members took full control of the trusteeship and ran the institution on their own. Under this plan, the tribe retained the old provisions of voluntary withdrawal by allowing any member to sell his share in the organization back to the tribe for cash.¹⁸ While the committee also made other minor modifications, this one provision for a tribal trusteeship revealed the Jackson faction's opposition to immediate termination

and their desire for the old voluntary withdrawal plan.

Long before the Klamath presented their modifications to the Department's bill, congressional proponents of termination had introduced specific terminal legislation for the Klamath. On January 18, 1954, Senator Watkins introduced the Klamath termination bill in the Senate, and Republican Representative Arthur L. Miller of Nebraska introduced it in the House.¹⁹ These two members of the subcommittees on Indian Affairs introduced the Department of Interior's bill and scheduled hearings for mid-February. When Boyd Jackson and Jesse Kirk arrived in Washington, they began almost immediately testifying before the joint sessions of the two subcommittees on Indian Affairs.

While the Klamath termination bill consisted of some twenty-five sections, four sections contained the real essence of the bill. The bill directed the tribe to prepare, within six months of enactment, a tribal roll, and to submit this roll to the Secretary of the Interior. If the tribe included someone who did not desire inclusion on the roll, or excluded anyone who wanted and deserved inclusion, the aggrieved individuals filed appeals with the Secretary within ninety days. The Secretary then decided on the appeals and published the final roll in the Federal Register.²⁰

The bill also ordered the Secretary of the Interior to settle all multi-owned allotments. The Secretary possessed the option of either dividing the land among the heirs, or if division proved

impractical, to sell the tract and divide the proceeds among the heirs. If the Secretary chose to sell the land, however, the heirs to the land received the first chance to buy the land for "not less than the appraised value" of the tract. In addition, this section allowed the Secretary to issue fee patents to the owners of land on the reservation within three years from the enactment of the act. Finally, the section provided the means for sale and exchange of lands between the tribe and any tribal members, with the Secretary's permission.²¹

The act further authorized the tribe "to select and retain the services of qualified management specialists." While the act defined none of the qualifications of the management specialists, it did outline the duties of these men. The section directed these men to make studies and reports on the Klamath reservation and resources relative to termination, and to file a report with recommendations for plans of management. Congress required the completion of such studies and reports within eighteen months of enactment of the bill, and granted the tribe an additional six months in which to prepare a plan of management for the tribal assets. While the act instructed the Secretary to provide any and all assistance that the tribe requested, the responsibility for selecting a management plan lay largely with the management specialists and the tribe.²²

Section 7 of the Klamath Act contained the most significant portion of the bill. This section granted the Klamath tribe three

options for future tribal operations. The tribe either submitted a plan for incorporation or named a trustee or trustees and offered the plan to the Secretary for approval before the two-year deadline. Once the Secretary approved the Klamath proposal, the tribe left federal supervision and began managing their own affairs. If, however, the tribe failed to submit plans for a corporation or trusteeship, the Secretary appointed a trustee for the tribe. This trustee immediately initiated proceedings for the liquidation of the tribal assets. The act required completion of such liquidation within three years of the initiation of the procedures. The tribe, therefore, either formed a corporation, appointed a trustee, or faced liquidation. The joint tribal committee had opposed this section and had proposed the nine-year tribal trusteeship to counter the Department's provision.²³

The subcommittees on Indian Affairs began their joint hearings in mid-February, 1954.²⁴ The United States Representative from the congressional district which contained the reservation opened the testimony on a prophetic tone. He noted that the tribe enjoyed a high standard of living and possessed valuable timber and mineral resources. Coon added that he wholeheartedly supported President Eisenhower's pledge to free the Indians from federal control as quickly as possible. He concluded, however, that the issue merited careful consideration. "If we proceed with care we can show the way for other tribes to take their places with full equality in society, but if we do not act wisely,

we could do damage that might never be undone."²⁵

E. Morgan Pryse, the Area Director of the Bureau of Indian Affairs, also testified on the overall competency of the tribe. He briefly related the past history of the Klamath tribe, detailed the tribe's achievement in education, and talked rather extensively about their financial well-being. He pointed out that less than 10 per cent of the Klamath required welfare assistance, that the tribe enjoyed an average annual income of nearly \$2 million, and realized an average annual family income of over \$4,000.²⁶ The Area Director observed that this annual family income compared favorably with that of the white families in the area. Pryse foresaw little real chance of a massive alienation of Indian land following termination, and closed by saying the Klamath showed a great deal of talent and ability.

Superintendent Diehl followed Pryse in testifying. Diehl furnished the subcommittees with additional details concerning the Klamath competency and ability. He elaborated on the high educational level that Pryse had mentioned. The Superintendent updated Pryse's figure of twenty illiterate Klamath, noting that two tribal members had achieved literacy since the earlier report from the reservation. In addition, Diehl advised the committee that minor children under eighteen comprised 1,096 of the 2,043 total enrolled members. In response to an inquiry by Senator Watkins, the Superintendent added that all but a very few of the children between age six and eighteen had attended the

public schools for at least some time. Of those children not attending the public schools, several had gone to boarding schools for Indians.²⁷

According to Diehl, the Klamath had achieved not only a high degree of education, but also a remarkable degree of assimilation and development. While remarking that the full bloods displayed slightly less tendency toward acceptance and use of modern conveniences, the Superintendent quickly added that he had noticed no really pronounced difference between the full bloods and the mixed bloods. Diehl felt, in fact, that both groups possessed the ability to handle their own affairs completely and enumerated no real fears toward the possible consequences of terminal legislation.²⁸

In a rather brief discussion before the subcommittee, Associate Commissioner of Indian Affairs, H. Rex Lee, gave an explanation of the bill and recommended possible amendments. He first observed that the provision allowing the tribe options on management plans required a slight amendment. The Associate Commissioner proposed adding a fourth option whereby the tribe exercised the right to suggest a plan of management even after the trustee had begun liquidation proceedings.²⁹ This provision applied only if the tribe had failed to submit a plan of management originally and then later agreed on a plan. This option allowed the tribe a last minute chance to belatedly avoid liquidation if they so desired.

Lee and Lewis Sigler, the Bureau of Indian Affairs' program

counselor, also suggested a strengthening of the provision giving the Secretary power over guardian appointments. The counsel questioned the right of the Secretary under present laws, and recommended a more explicit provision in the act. Lee supported the counsel's recommendation, and asked the subcommittee to consider an amendment that assured the protection of minors and incompetent tribal members.³⁰

The two tribal delegates, Boyd Jackson and Jesse Kirk, opposed the termination bill in their testimony before the joint subcommittee. As the delegates testified, the familiar patterns of debate again emerged. Jackson again pleaded for more time and understanding from the committee. Senator Watkins replied to Jackson's plea by maintaining that ninety years of federal administration surely prepared the Klamath, or else, the tribe needed a new teacher. Jackson countered by illustrating the progress the Klamath had made in recent years. He noted that the tribe had agreed to transfer jurisdiction over several areas from the federal government to the Oregon government. Jackson also remarked that the Klamath had adjusted very well to the repeal of the state ban on liquor for Indians. Finally, he directed the subcommittees' attention to the Klamath initiation surrounding the voluntary withdrawal efforts. Jackson claimed these actions showed the progress the Klamath had made and expressed the need for more time for the tribe to complete the transition from wardship to independence.³¹

The messianic Watkins refused to accept Jackson's plea for

additional time. The Utah Senator felt Congress had the duty "to take the shackles off" the Klamath and to free the tribe "to make a mistake or two" in the process of learning by doing. Jesse Kirk answered the Senator by claiming that the Indians enjoyed more privileges than the whites. Kirk, of course, referred to the per capita payments from the tribal forest and the Indian immunity from taxation. The Senator disagreed strenuously with Kirk and charged him with "standing in the way of your own progress." According to Watkins, as free Americans the Indians had the "privilege" of paying taxes and to thereby "take up part of the load."³²

Watkins also accused Jackson and Kirk of not truly representing their people. Watkins pointed to the fact that both delegates had voted against the straw vote Seldon Kirk had proposed in January. The Senator admonished the delegates for not seeking the sentiment of the tribe and refused to acknowledge that Kirk and Jackson represented the feeling of the majority. Watkins believed that the Klamath people misunderstood the intentions of Congress. He felt the Indians thought that Congress sought liquidation of the tribal assets when the congressmen merely proposed to give the people freedom to choose what they wanted. Considering the intelligence, talent, and wealth of the tribe, Watkins regarded the "last step" to final termination of federal supervision as "a very small one indeed," and saw no reason for the Klamath to fear the move.³³

While not an official delegate, Wade Crawford also attended the hearings. Like Jackson and Kirk, Crawford opposed the termination bill, but his testimony differed in two significant ways. He spent the largest part of his time making accusations toward the Jackson faction, and submitted a substitute for the Department's bill.

Like Senator Watkins, Crawford accused Jackson and Kirk of not truly representing tribal sentiment. He further charged Boyd Jackson with ruling the tribal council with "the iron hand of old Hitler and Mussolini" and of denying the Klamath a secret ballot vote.³⁴ Concerning the proposed straw vote, Crawford stressed the fact that both Jackson and Kirk voted against the motion. He neglected to relate, however, that he had not attended any of those vital meetings, and therefore, had not voted on the resolution at all.

Crawford also used the actions of Boyd Jackson to substantiate the need for substitute legislation. According to Crawford, Jackson had blocked all terminal legislation over the last thirty years.³⁵ Crawford attributed Jackson's reluctance for termination to the latter's desire to keep "his feet in our tribal trough."³⁶ While Crawford had long supported terminal legislation and freedom from federal supervision, he opposed H. R. 7320 and its Senate equivalent due to the three-year planning provision. Crawford regarded this three-year provision as an unnecessary delay since he claimed the Bureau and the tribe possessed all the information the tribe needed for satisfaction of terminal

provisions. He questioned the need of six months for the preparation of a tribal roll and stated that the tribe needed no more time to submit a plan under the provisions of the termination bill. While Crawford supported the basic tenants of the termination bill, he objected to allowing the Bureau of Indian Affairs and Boyd Jackson another three years to administer the reservation.³⁷

To carry out his desire for immediate terminal legislation, Wade Crawford suggested S. 1222 of the 80th Congress as a substitute. Crawford had supported the bill when Senator Morse introduced it in 1947, and still regarded the bill as a viable alternative in 1954. The bill had provided for the appraisal of the reservation, followed by federal purchase. Also, under the act the Secretary of the Interior divided the proceeds of the sales on a per capita basis and granted fee patents to all Indian landowners.³⁸ To Crawford, this plan achieved the same objectives as the Department's 1954 bill, and it accomplished the goals in far less time. Furthermore, Crawford concluded that the tribe opposed a corporation, a cooperative, or a trusteeship, but informed the committee that at least 50 per cent, and probably 80 per cent, of the tribe approved of terminal legislation.³⁹ While he presented no data to support his contention, Crawford welcomed a tribal referendum to validate his position.

While the members of the two subcommittees surely considered the nine-year proposal of the Jackson faction and Crawford's substitute

bill, neither plan appealed to the Congressmen. The messianic sense of duty and urgency of the two subcommittee chairmen, Seantor Watkins and Republican Representative Ellis Y. Berry of South Dakota, permeated the hearings. Both of these men viewed Jackson's proposal as unnecessarily long. At the same time, the budgetary policies of Secretary of the Treasury George Humphrey stressed economy, and the federal government rejected any suggestion of federal purchase of the Klamath tribal assets. Therefore, the joint subcommittees regarded the two Klamath proposals as unsatisfactory. The committee decided, however, to accept the invitation to go to Klamath and hold further investigations. On April 19, 1954, the joint subcommittees conducted a day-long hearing in Oregon.

The joint hearing at Klamath Agency revealed an interesting development. Whereas at earlier hearings the public witnesses had expressed nearly unanimous support for terminal legislation, the non-Indian witnesses now enunciated some definite reservations. The officials no longer spoke only of tribal competency and additional revenue sources. The witnesses now spoke of need for federal aid to education, increased public welfare burdens, and a larger caseload for the juvenile probation office in Klamath County.⁴⁰

The state and local officials first experienced the problems related to an end to federal supervision when Congress passed Public Law 280 of the 83d Congress.⁴¹ This law conferred jurisdiction over many civil and criminal offenses committed on the reservations to several

states, including Oregon. As a result of the law, the state of Oregon assumed many of the responsibilities that the Bureau of Indian Affairs and other federal agencies had formerly handled. The correspondent increase in the workloads tended to dim the former enthusiasm that surrounded terminal legislation.

In addition to the reserved statements of certain public officials, one prominent individual criticized the hasty actions of Congress toward termination. The Reverend Lloyd F. Holloway of the First Methodist Church of Klamath Falls opposed the bill due to the three-year time limit. Reverend Holloway expressed his doubts that the period provided enough time for the Klamath to properly incorporate or organize.⁴²

The Reverend Holloway also objected to the termination plan's origination with the whites rather than with the Indians. In a letter to the Klamath Falls Herald and News, Holloway had stated, "The fact that Senate bill 2745 originated in the minds of the white people has stirred many of the Indians to feel that this type of legislation is a land grab."⁴³ George Abbot, the House Interior and Insular Affairs Committee's counsel, objected to Holloway's statement, feeling that the Reverend's statement contained rather malicious and unwarranted criticism. While the Reverend explained that he objected only to the time element and in no way intended to criticize the committee actions, his statement carried certain suggestions of congressional haste. Whether

he intended to imply such impatience on the part of Congress or not, the Reverend's intimation proved quite prophetic.

Not all public officials voiced objections or reservations, however. The mayors of Klamath Falls, Paul O. Landry, and Chiloquin, James Chipman, both endorsed the principles of termination. Both agreed that the Klamath displayed the characteristics of competent citizens and that the Indians had made rapid progress toward complete assimilation in recent years. While the mayors expressed the desire for the subcommittees to seek the Indian opinions, they assured the members of the committee that the public accepted the Indians as common citizens.

The Klamath witnesses exhibited a wide range of views on termination although two major factions again emerged. The Jackson faction opposed the House bill and either opposed termination in any form or spoke in favor of eventual termination. The Jackson faction asked for more time and longer deliberations before Congress decided to terminate supervision. Certain members of this faction pointed out that undue haste endangered the Klamath homeland, and therefore, suggested more time to avoid such costly mistakes.⁴⁴

In addition, the faction members consistently asked for more time to prepare for management of their own affairs. As Jackson and his followers saw the situation, the tribe required more than three years to learn all the intricacies of self-management. While the witnesses varied the time necessary for learning the responsibilities, all

considered three years too short.⁴⁵

Finally, the Jackson faction agreed, almost unanimously, that any bill aimed at termination needed a voluntary withdrawal provision. Factionalism prevented effective management, the Jackson faction contended; therefore, they favored the withdrawal of the liquidation faction followed by self-management by the remaining members of the tribe. The witnesses felt effective management required the withdrawal of the Crawford faction to prevent factional disruption.⁴⁶

The Crawford faction also generally opposed the Department's bill. While some members of this group favored the bill in principle, they only supported the option allowing for liquidation. The members of the Crawford faction wanted to end federal supervision, liquidate the tribal assets, and receive their fair share of the proceeds of the liquidation sales. All the witnesses from Crawford's group agreed that the tribal split doomed any effort at effective management and advocated liquidation as the solution.⁴⁷

The two factions no longer appeared as distinct as the factions in 1947, however. The members of the factions, in fact, often agreed with certain points members of the opposition faction had expressed. Nearly all the witnesses opposed the Departmental bill, and most regarded voluntary withdrawal as a necessary precursor to any effective management plan. In short, the witnesses considered the Department's bill impractical, unrealistic, and less desirable than voluntary withdrawal.

Throughout the hearing, Abbot and Congressman Berry reiterated that under the provisions of the bill a majority of the tribe decided the plan of management. They expressed the feeling that if a majority decided to form a corporation, the minority still possessed the opportunity to sell their share and withdraw. Yet, the Congressman and counsel failed to recognize the majority themselves. The two men called for majority rule and still refused to recognize that the majority of the tribe declared tribal incorporation or organization not only unlikely but impossible. Berry and Abbot saw the factionalism, yet ignored the implications of the split. Unknowingly, their attitudes left the tribe only one option. Since the tribe lacked the harmony necessary for incorporation or the appointment of a trustee, the Department's bill necessitated liquidation. When the members of the subcommittees ignored the voice of the Klamath, they, in fact, sentenced the tribe to liquidation.

While the Congress refused to introduce any voluntary withdrawal legislation for the Klamath in 1954, the Oregon members of Congress did introduce another bill at the request of the tribe. On May 18, 1954, Coon introduced a bill providing for a per capita payment to the Klamath of \$250 out of their tribal funds in the United States Treasury. On June 22, Senator Cordon introduced the same bill in the Senate.⁴⁸

After the completion of the hearing at Klamath, the joint subcommittee returned to Washington to begin further studies of the bill.

The constant struggle between Crawford and the two tribal delegates, Jackson and Kirk, hindered the progress of the subcommittee, but by late June the Senate subcommittee had prepared its report on the bill. While the Senate subcommittee offered over twenty amendments to the original bill, only a very few of the amendments made any significant changes in the bill.

The Senate amendments first provided that under the law anyone age twenty-one or older qualified as an adult.⁴⁹ While this change appeared minor, the original bill had not defined "adult," although the draft used the term repeatedly. The definition, therefore, aimed at preventing any legal fights over just who qualified under the provisions of the act.

The Senate committee also clarified the question concerning the closing of the tribal rolls. While the original bill closed the rolls, the wording of the provision never outlined the specific machinery for such closure. The Senate amendment kept the provision calling for completion of the roll by the tribe within six months of enactment, and also kept the machinery for appeal to the Secretary of the Interior. The Senate committee merely added a sentence stating that, "At midnight of the date of enactment of this Act the roll of the tribe shall be closed and no child born thereafter shall be eligible for enrollment."⁵⁰

The committee added an amendment that more clearly defined the role of the management specialists. Whereas the original draft only

directed the tribe to select "qualified" management specialists, the amendment defined "qualified." According to the new proposal, the board of specialists necessarily included tax consultants. In addition, the amendment required that studies of the reservation and the resources included appraisals of the tribal property and the feasibility of continued sustained yield. The original version of the bill had only required the latter of the two provisional duties.⁵¹

The new Senate draft also incorporated the per capita payment bill into the text of the terminal legislation. The old draft had not provided for any payment of a per capita to the tribal members. The new version, however, contained a section providing the \$250 per capita the Klamath had earlier requested.⁵² While Congress had not acted upon Gordon and Coon's Klamath per capita bills, the committee included the bills in the termination bill.

The committee granted the Klamath tribe a fourth option in future management plans as well. The original bill had provided that if the Klamath failed to agree on a plan of management, the Secretary appointed a trustee to begin liquidation proceedings. In the Klamath hearing, however, Lee had requested that the committee add an amendment giving the Klamath a last minute chance to form a management plan. The Senate committee version, therefore, included a provision allowing the Klamath to organize even after liquidation began. Once the tribe agreed on a plan, all proceedings toward liquidation ended, and the Secretary

allowed the Klamath to organize.⁵³

Throughout the new draft, the Senate committee granted additional time for completion of the bill's provisions. The committee amended the bill so that the management specialists had two years instead of eighteen months to submit their reports to the Secretary. In addition, the bill lengthened the time for tribal submittance of a management plan from two to three years. Once the tribe submitted a plan, the new bill allowed the Secretary another year to transfer title to the tribe. Finally, the amended bill granted the trustee the Secretary had appointed in the event of no tribal plan a full four years to complete liquidation rather than the earlier three years.⁵⁴

At the end of the bill, the Senate committee added a new section. This section provided for "a program of education and training" for the Klamath before final termination of federal supervision. According to the new section, the program aimed at preparing the tribal members "to earn a livelihood, to conduct their own affairs, and to assume their responsibilities as citizens without special services because of their status as Indians."⁵⁵

The Klamath bill with the Senate committee's amendments came before the Senate on July 6, 1954. The Senate agreed to the committee bill as amended, and passed the bill by a voice vote. On July 7, the bill proceeded to the House where the Speaker referred it to the House Committee on Interior and Insular Affairs.⁵⁶

The House committee studied the Klamath bill the Senate had passed, and held numerous sessions with Boyd Jackson, Jesse Kirk, Wade Crawford, and their respective attorneys. The tribal faction leaders continued to clash throughout the many sessions, and only in late July did the two groups agree on a compromise measure. Only after the House committee added a section similar to the old voluntary withdrawal bill did the factional leaders reach an accord.

The Senate bill had contained no specific provision for withdrawal from the tribe. Although the committee members assumed that an individual had the right to withdraw from any future tribal organization, the act provided no machinery for withdrawal before incorporation or the formation of a trusteeship. In order to provide for voluntary withdrawal, the House committee needed to affix a new section to the bill. Before affixing the additional provision, however, the House committee first removed the section providing the tribe with the four options for plans of management.⁵⁷

The House committee replaced the options by giving the management specialists more comprehensive duties. The specialists developed into far more than the mere data collectors of the Senate bill. Under the House version of the Klamath bill, the specialists became the real administrators of the act from beginning to end. These men guided the tribe toward completion of the act's provisions, and assumed the roles of executors of the tribal estate.

The House committee granted the management specialists four duties beyond the original directive to make relative studies and reports. The specialists authorized an appraisal of the Klamath tribal assets. The appraisal provision required the appraisers to finish the appraisal within twelve months of their employment. This appraisal set the "fair market value" of the tribal property, and provided the basis for the completion of the other provisions of the act.⁵⁸

Immediately after the appraisers completed their work, the management specialists arranged for a tribal referendum. In this election, each adult tribal member chose for himself and, if he headed a household, his family between withdrawal and remaining in the tribe.⁵⁹ If the individual chose to withdraw, the management specialists converted the withdrawer's interest in the tribal estate into cash. If the member chose to stay in the tribe, however, he participated in a management plan the management specialists designed for the remaining tribal members.

To raise the cash necessary to pay off the withdrawers, the specialists selected a proportional amount of the tribal estate for selling. The administrators then sold the portion of the reservation they had earlier selected and distributed the proceeds to the withdrawers. Each time the specialists accumulated \$200,000 from the sales, they divided the money and gave each withdrawer his pro rata share. Furthermore, the withdrawing members received the right to use any or

all of their shares to buy tribal land they desired for themselves.⁶⁰

The management specialists also selected a plan of management for the remaining Klamath. The specialists reserved the right to decide between a corporation, a trusteeship, or another "legal entity." The provision required the approval of the Secretary and the Klamath tribe, however, before the plan went into effect.⁶¹ While the act gave no outline as to how the specialists determined the management plan, presumably the administrators made the necessary studies and reports and selected the plan most profitable for the tribe.

On August 3, 1954, the House version of the Klamath bill went before the House of Representatives. Democratic Congressman Lee Metcalf of Montana questioned Berry of the House subcommittee as to whether or not the Klamath tribe had approved the section dealing with the management specialists. Berry assured the Montana Congressman that both tribal factions had agreed on the provision, and Congressman Metcalf allowed consideration of the bill to continue. The clerk read the bill and the amendments, and the House voted to accept the amended bill.⁶²

Since the bill passed the two houses in two different forms, the Houses needed to agree on a single version. The Senate avoided the need for a long conference committee, however, and on August 5 agreed to the House amendments. The bill then went to the President, and on August 13, 1954, President Eisenhower signed the Klamath Termination Act into law. Beginning on August 13, 1954, the Klamath started on the long and difficult journey to an end to federal supervision.⁶³

CHAPTER V FOOTNOTES

¹H. Con. Res. 108 of August 1, 1953, (67 Stat. B132).

²U. S. Congress, Senate and House, Termination of Federal Supervision Over Certain Tribes of Indians, Part 4, Joint Hearings, on S. 2745 and H. R. 7320, (Washington, D. C., 1954), p. 220.

³Ibid., part 4-a, p. 6.

⁴Ibid., part 4, p. 220.

⁵Ibid.

⁶Ibid., p. 221.

⁷Ibid., part 4-a, p. 2. Also, see: U. S. Congress, House, Terminate Supervision Over Klamath Tribe of Indians, H. Rept. 2483 To Accompany S. 2745, 83d Congress, 2d session, p. 6.

⁸H. Rept. 2483, 83d Congress, 2d session, p. 6.

⁹Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4, p. 222.

¹⁰Ibid.

¹¹H. Rept. 2483, 83d Congress, 2d session, p. 6.

¹²Termination of Federal Supervision Over Certain Tribes of Indians, Part 4, Joint Hearings, p. 222.

¹³Ibid.

¹⁴For reference to Crawford-Jackson harmony on the cooperative plan, see: Stern, The Klamath Tribe, p. 251. Again, the Bureau's refusal to allow the author to see tribal council minutes after 1952 forces the author into speculation over the reason for new elections in 1954. However, the author suspects that the call for new elections was instigated by the Jackson faction in an attempt to gain some say in the actual termination process, and to try to prevent wholesale liquidation. While the Jackson faction was successful at the elections, the victory proved hollow and Jesse Kirk and Boyd Jackson could not stop termination.

¹⁵The comments concerning these meetings came from copies of the minutes submitted to the subcommittees on Indian Affairs by Wade Crawford. These minutes, while quite sketchy and general in content, are useful and can be found in: Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4, pp. 306-322.

¹⁶Again one must speculate, but quite possibly Crawford's recent defeat in the delegate elections prompted his absence. He was probably preparing his case to be presented before congressional hearings in Washington and wanted to take no part in the joint tribal committee actions.

¹⁷Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4, p. 311. Crawford later used Jackson's and Kirk's negative votes as the basis for arguing that neither of the duly elected delegates really knew how the tribe felt due to their refusal to hold a vote.

¹⁸Ibid., p. 323, Sec. 7, for this specific provision. See pp. 322-26 for a copy of all the modifications made by the joint committee.

¹⁹Congressional Record, 83d Congress, 2d session, January 18, 1954, pp. 322 and 407. S. 2745 and H. R. 7320, 83d Congress, 2d session, 1954.

²⁰S. 2745, 83d Congress, 2d session, Sec. 3. This bill can be found in: Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, p. 196.

²¹Ibid., Sec. 8 (a), (b), (c), and (d), p. 197.

²²Ibid., Sec. 5 (a), (b), p. 196.

²³Ibid., Sec. 7 (a), (b), pp. 196-97.

²⁴H. Rept. 2483, 83d Congress, 2d session, p. 6. While this report says the hearings started on February 15, the pointed hearings begin with the February 23 session at which the tribal delegates testified.

²⁵Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4, p. 211.

²⁶Ibid., pp. 212-13. For a complete transcript of Pryse's remarks, see pp. 211-19. For a more compact compilation of data concerning the Klamath reservation and people, see pp. 206-08, for a report from the Bureau of Indian Affairs entitled, "Background Data Relating to the Klamath and Modoc Tribes and the Yahooskin Band of the Snake Indians, Generally Referred to as the Klamath Tribe Located on the Klamath Reservation in the State of Oregon."

²⁷Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4, pp. 224 and 225.

²⁸Ibid., p. 224.

²⁹Ibid., pp. 242-43.

³⁰Ibid., pp. 248-51.

³¹Ibid., pp. 260 and 261-62.

³²Ibid., pp. 274-76.

³³Ibid., pp. 275-6.

³⁴Ibid., p. 280.

³⁵Ibid., p. 279. Also: Stern, The Klamath Tribe, p. 250, notes quite accurately that each of the two factional leaders had made a complete 180° turn about since the 1930's. Crawford who had supported a tribal corporation now favored termination or withdrawal, while Jackson had supported final settlement in the 1930's, but now opposed such terminal legislation.

³⁶Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4, p. 280.

³⁷Ibid., pp. 303 and 304.

³⁸Klamath Indians, Oregon, Hearings, pp. 1-3.

³⁹Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4, p. 295.

⁴⁰Ibid., Part 4a, pp. 25-29, 30-31, and 32-34.

⁴¹Sixteen (U. S. Statutes 1162 (1970)).

⁴²Termination of Federal Supervision Over Certain Tribes of Indians, Joint Hearings, Part 4a, p. 39.

⁴³Ibid.

⁴⁴Ibid., pp. 48, 50, 56.

⁴⁵Ibid., pp. 50-51, 63, 65, 68.

⁴⁶Ibid., pp. 60, 61, 68, and 91.

⁴⁷Ibid., pp. 68-69, 71, 72-73, 75, 77, 78, 80, 81, and 91.

⁴⁸Congressional Record, 83d Congress, 2d session, May 18, 1954, p. 6781. H. R. 9188, 83d Congress, 2d session, 1954; June 22, 1954, p. 8561. S. 3637, 83d Congress, 2d session, 1954.

⁴⁹U. S. Congress, Senate, Committee on Interior and Insular Affairs, Termination of Federal Supervision Over Property of Klamath Tribe, Oregon, S. Rept. 1631, 83d Congress, 2d session, 1954; Senate Miscellaneous Reports on Public Bills, IV, p. 1. For another copy of the amendments see: Congressional Record, 83d Congress, 2d session, July 6, 1954, pp. 9717-9718.

⁵⁰Senate Rept. 1631, 83d Congress, 2d session, p. 1.

⁵¹Ibid.

⁵²Ibid., p. 2.

⁵³Ibid.

⁵⁴Ibid., pp. 1, 2, and 3.

⁵⁵Ibid. One might wonder why such an amendment was added since presumably the Senate committee and the Bureau were ready for an end to federal supervision. Critics of the act later brought this dichotomy up as they criticized the bill, but no one seemed to notice the provision as contradictory at the time of passage.

⁵⁶Congressional Record, 83d Congress, 2d session, July 6, 1954, pp. 9717-20; July 7, 1954, p. 9977.

⁵⁷U. S. Congress, House, Committee on Interior and Insular Affairs, Terminate Supervision Over the Klamath Tribe of Indians, H. Rept. 2483, 83d Congress, 2d session, 1954, House Miscellaneous Reports, VII, p. 2.

⁵⁸Ibid., p. 1.

⁵⁹Ibid.

⁶⁰Ibid., pp. 1-2.

⁶¹Ibid.

⁶²Congressional Record, 83d Congress, 2d session, August 3, 1954, pp. 13119 and 13122.

⁶³Congressional Record, 83d Congress, 2d session, August 5, 1954, pp. 13415-16; August 19, 1954, p. 15095. Public Law 587, 83d Congress, 2d session, 1954.

CHAPTER VI

GROWTH OF CRITICISM

As Harold Fey and D'Arcy McNickle noted, "On the surface, it would seem that if any Indian tribe was in a position to dispense with trusteeship protection and the social services provided by the federal government, the Klamath tribe was ready in 1954."¹ House Resolution 108 of the 83d Congress had listed the Klamath among those tribes ready for termination and the tribe had long paid most of its administrative expenses. Tribal members intermarried freely with the whites, so that full bloods made up only 15 per cent of the tribe and all spoke and most wrote English. In addition, many people had testified on Klamath readiness and competency for termination. Nevertheless, criticism arose almost immediately after Congress enacted the Klamath Termination Act.

Former members of the Collier regime initiated the assaults, but the censures soon spread. By early 1955, Oregon newspaper editors joined in the attacks. Within a few months, even the management specialists assigned to supervise the Klamath Act called for amendments to the act. Throughout 1956, the critics multiplied as civic groups, and conservation organizations discovered the shortcomings of the law.

As the clamor for amendment grew, members of the Oregon congressional delegation introduced amendatory legislation. The congressional

members introduced bills to defray the termination costs for the Klamath, and to delay the completion dates of the termination law. The movement for amendment failed in 1956, but in 1957 Congress passed the stopgap legislation.

In November of 1954, the National Congress of American Indians reiterated its earlier opposition to termination during its annual meeting at Omaha, Nebraska. The National Congress, under the direction of D'Arcy McNickle and other prominent Indian figures, severely criticized the House subcommittee on Indian Affairs. The critics pointed to the obvious cultural biases of the legislators and the subcommittee's obsession with a "final solution," as detrimental to the Indians of the United States. The Indians maintained that the subcommittee's concern with passing a law to stimulate the Indians toward ending federal wardship showed two basic flaws. According to the National Congress, the subcommittee's desire for a "final solution" revealed the legislators' belief that "the complex problems of human adjustment, changed ways of living, can be brought about by law alone." At the same time, the subcommittee's attitude hinted that, when necessary, Congress used termination as a club "to make Indians conform to the wishes of Congress." The National Congress concluded that the Indians needed a Point Four program with educational and health benefits rather than termination provisions. The Indians contended that the alleviation of poverty, ill-health, poor education, and social maladjustment eventually

resulted in "'assimilation,' in fact, and 'termination,' with honor."²

In early 1955, the editor of The Christian Century magazine, Harold Fey, took up the cause of the Indians and initiated an offensive against the Klamath Termination Act. Fey criticized the actions of Secretary of the Interior Douglas McKay. According to Fey, the Secretary paid the expenses of Wade Crawford, not an official Klamath delegate, from tribal funds. This payment allowed Crawford to go to Washington and testify in favor of termination. This payment came at a time when the two official tribal delegates, Boyd Jackson and Jesse Kirk, had won election while opposing terminal legislation. Fey contended that Crawford, "a very persuasive and unscrupulous man, managed to convey the impression that the Klamath people wanted what he wants."³

Fey also questioned the motivation behind the House subcommittee's inclusion of the per capita payment in the termination bill. Fey surmised that such an inclusion undoubtedly had some effect on the Klamath delegates. If the subcommittee members suggested that such a per capita had little chance of success unless Congress included it in the termination bill, the payment undoubtedly influenced the actions of Jackson and Kirk. The tribe wanted this per capita badly, and the delegates feared electoral reprisal if they returned to Klamath without the \$250 payment.⁴

The Christian Century editorial also attacked Secretary McKay's selection of the management specialists. Fey noted that only one of the

three managers, Eugene Favell of Lakeview, Oregon, had had any experience in dealing with large tracts of timber. One of the other specialists, Thomas B. Watters, had worked as a real estate dealer and had once served as mayor of Klamath Falls. William L. Phillips, the third manager, had formerly sold automobiles in Salem, Oregon, and had managed Secretary McKay's successful bid to the Oregon governorship in 1948. Fey questioned the qualifications of the three men and suggested that the management specialists' qualifications lay "chiefly in the fact that each is said to have acquired some wealth."⁵

Fey reacted most vehemently against the addition of the education provision to the Klamath bill. While the editor acknowledged the desirability of such education, he thought the inclusion of the provision contradicted the essence of the law. He noted that the Indians needed training in dealing with the problems of freedom, the new contacts with state governmental officials, and the novel economic experiences. As the editor wrote, however, "Either Section 26 [the education provision] is unnecessary or else the remainder of the law is premature." If the Indians required education before freedom, then Congress should never have considered terminal legislation until the Indians had completed this training.⁶

Finally, Fey recited the possible social, ecological, and economic dangers of the Klamath law. The editor foresaw social and economic maladjustment of the Klamath paralleling the ruination of the

reservation resources and the decline of the timber market. Such conditions resulted in dissipation of individual Klamath assets and a growth in the Klamath County welfare rolls. To prevent such circumstances, Fey called for a Congressional extension of time for the Klamath in order to prevent injustice to the Indians and possible future litigation.⁷

Also in 1955, the editors of the Portland Oregonian assigned reporter Wallace Turner to study and report on the Klamath issue. Turner investigated the circumstances surrounding termination and discovered the probable ill-effects of the law. Turner noted the possible increase in the welfare rolls in Klamath County, mentioned other possible consequences of the law, and questioned the validity of the termination act. Using the Turner series as a basis, the editors of the Oregonian predicted the glutting of the timber market, depressed lumber prices, destruction of the sustained-yield management of the Klamath forest, and failure for those members remaining in the tribal entity. The editors doubted if one in ten of the Klamath possessed the ability to go out into society unaided by federal supervision, and prophesied a large increase in welfare problems. While the editors supported President Eisenhower's promise to free the Indians, they felt the Klamath law failed to achieve the desired ends. The editors concluded that the termination act "would serve to destroy the good things inherent in the Klamath Reservation system and to perpetuate the bad things."⁸

Although the Oregonian led the movement for amendment, other groups and individuals soon enlisted in the cause. As the number of critics multiplied, the proposals for amendments also increased. The commentators proposed not only an extension of time, but also suggested loans to the tribe to pay off withdrawees and prevent alienation of the tribal lands, and a prohibition of withdrawal for minors until they had achieved majority. All amendments sought to end the necessity of massive alienation of tribal lands and the correspondent depression of timber prices in the Northwest.⁹

By the middle of 1955, even the management specialists criticized the termination act and advocated amendments. In a hearing before the Senate subcommittee on Indian Affairs in late May, Thomas Watters, the chairman of the specialists, spoke of possible ill-effects of the act. According to Watters, if the managers carried out the act as written, "one of the finest stands of timber in the United States will be destroyed." More importantly, such a destruction of the forest carried grave consequences for the Indians and the inhabitants of the whole Klamath Basin as the timber industry experienced a depression and the environment suffered destructive consequences.¹⁰

According to Watters, if the managers assured the Indians the highest possible price for the tribal timber, they needed to sell the timber in many small tracts. Such small parcels of timber enabled small lumber companies to bid on the tracts and stimulated competitive

bidding. Purchase by the small companies carried certain detrimental effects, however, since these companies required a quick return of their investments and could not have afforded to continue sustained-yield forestry. Consequently, the managers expected a clear cutting of the Klamath forest if they sold the timber in small tracts.¹¹

In a Senate subcommittee hearing later in 1956, the management specialists and their Chief Forest Supervisor, Earle Wilcox, elaborated on the effects of clear cutting on the Klamath reservation. The managers observed that the removal of the trees led to an exaggeration of erosion. The forest slowed runoff water and allowed the porous pumice soil time to absorb much of the moisture. Without the trees to slow the runoff, the soil eroded quickly, filled the streams with sediment, and increased the danger of floods. The streams no longer maintained a steady and regulated flow. "The rhythmical flow of the drainage from the uplands would be replaced by flash floods--and then choking drought."¹²

Loss of regulated stream flow endangered the 300,000-plus acres of irrigated farmland dependent on water originating on the Klamath reservation. Likewise, the uncontrolled streams threatened the water supply of much of the Klamath Basin, since many of the residents depended on streams that originated on the Klamath reservation for their water supply. Finally, the floods and massive sedimentation ruined any possibility of further development of electric power generation since

the Williamson River gathered much of its water from the Klamath lands.¹³

The Klamath law also inherently carried other ecological dangers. According to the report of the management specialists, with clear cutting large amounts of slash accumulated on the land. This slash exponentially increased the danger of fire and the massive destruction that accompanied such an inferno. At the same time, the denuding of the soil and the lack of moisture absorption in the area made forest regeneration extremely difficult. Such adverse environmental conditions prevented the immediate regeneration of the climax pine forest and led to the growth of undesirable and less useful vegetation.¹⁴

Wilcox also suspected that clear cutting resulted in certain undesirable economic conditions. The rapid sales of the Klamath timber threatened to glut the timber market when some three billion board feet of lumber flooded a market that ordinarily handled only 350 million feet annually. A depression of timber prices necessarily accompanied such a glutted market, and the tribal withdrawees received less than the true value of the tribal assets. Such a depressed market also carried hardships for the Klamath who remained in the tribe since the tribal organization needed to sell timber in order to support the tribal members. Furthermore, such a bust hurt the adjusting Klamath withdrawees more than the established whites since the Klamath lacked the jobs and the skills to find jobs. Unemployment and lack of skills forced the Klamath to live off their pro rata shares of the tribal

assets and resulted in rapid dissipation of individual funds.¹⁵

The managers remarked that selling the timber to larger lumber companies in bigger tracts prevented the clear cutting dangers, if such sales contained a sustained-yield requirement. They quickly added, however, that the risk of lumbering on a long-term basis necessitated a lowering of the value of the timber. Watters noted that companies paid only about 50 per cent of the appraised value for timberlands that carried sustained-yield restrictions. Since selling to the large companies resulted in lower prices to the withdrawees and reduced the lumbering possibilities for the smaller local lumber companies, the managers rejected the principle of large unit sales. Instead, Watters proposed federal purchase of the whole reservation. Such a solution, Watters suggested, insured the Indians a fair price for their assets and also protected the ecology of the Klamath Basin.¹⁶

In the course of investigations of the Klamath situation, the management specialists had hired the Stanford Research Institute to make several surveys relevant to termination. The Research Institute conducted a study of the tribal mineral resources, and also studied the possible forms of management for the remaining Klamath. In addition, the Institute surveyed the effect of Klamath timber sales on the lumber market. The surveyors concluded that obtaining a desirable price for the tribe while still protecting the natural resources and economy of the Klamath Basin presented a different problem for the specialists.

The Institute intended the survey to serve only informational purposes, so the survey did not advocate federal purchase. Nevertheless, the management specialists and other critics of the termination law used the problems the survey enumerated to support an extension of time, and eventually federal purchase of the reservation.¹⁷

In conducting a survey of the "Attitudes and Opinions of the Klamath People," the Stanford Research Institute discovered some startling information. Only fourteen of one-hundred adults the Institute surveyed expressed the belief that the Klamath had requested terminal legislation. Of these one hundred adults, only six believed the federal government had selected the Klamath for termination because of the tribe's advancement. Finally, forty-two of those surveyed knew no reason for the selection of the Klamath for termination. Likewise, the survey revealed that the Klamath misunderstood the implications of termination. The survey showed that many of the tribal members believed "they will be able to stay in the tribe and at the same time obtain in cash their pro rata share of tribal assets." In short, the survey displayed a general lack of understanding among the Klamath concerning termination.¹⁸

Further study also revealed a lower level of educational achievement among the Klamath than earlier testimony had indicated. Of one hundred adults, thirty-nine had finished grammar school or less, eleven had had only brief high school experience, and eleven more had attended

high school for only two or three years. Contrary to earlier testimony, less than half of the Klamath had completed high school. In addition, the Klamath then attending public school displayed poor achievement. During the 1953-54 school year, 324 Klamath children had attended school, and only 225 had achieved promotion to the next grade.¹⁹

Finally, the Stanford Research Institute surveys disclosed that approximately 70 per cent of the Klamath tribal members expected to withdraw. Such a large withdrawal necessitated selling about 70 per cent of the tribal assets and accentuated the possibility of a glutted timber market and depressed prices. Although the survey indicated that many Klamath had not unequivocally decided to withdraw, the report emphasized that unless the proposed plan of management assured per capita payments equal to or larger than the 1956 rates, about 70 per cent of the tribe intended to withdraw. Such a large withdrawal almost assuredly rendered the continuance of sustained-yield forestry impossible.²⁰

The reports of the Stanford Research Institute on the surveys and the management specialists' call for amendment carried great weight with the Oregon people. As 1956 progressed, the advocates of amendment grew enormously. On September 27, 1956, the Oregon Council of Churches held a day-long seminar "to consider the consequences of the present law."²¹ Representatives of many civic organizations, state offices, educational institutions, conservation groups, and interested individuals

attended this meeting in Salem, Oregon. The participants included representatives of the management specialists, the Klamath executive committee, the Department of the Interior, the Bureau of Indian Affairs, the Oregon State Employment Bureau, State Public Welfare Board, the Oregon State Labor Bureau, the University of Oregon, city officials of Klamath Falls, the Forest Service, and the State Department of Education.²²

The council of churches seminar participants reached several conclusions regarding the Klamath law. They first noted that Public Law 587 needed amendment badly, and recommended that Congress grant the Klamath additional time. At the same time, the seminar suggested that the Bureau of Indian Affairs review the whole termination issue in an attempt to prevent further undesirable legislation. The conference also asked Congress to provide safeguards to protect the Klamath resources and to protect withdrawees from "exploitation and profiteering." More significantly, however, the seminar participants reminded Congress to keep the "sociological and moral problems" foremost in its mind and not to get totally involved with the economic issues.²³

As the clamor for amendment increased, the Oregon Congressional delegates reacted by proposing legislation and holding hearings. In early June of 1956, Edith Green, a Democratic Representative from Oregon, introduced two amendments to the Klamath Act. She first proposed to transfer the costs of termination from the Klamath tribe to the federal government. In addition, she recommended amending the bill

by granting the Klamath additional time. The latter amendment required a nine-month waiting period between the appraisal report and any further action toward the withdrawal election and completion of termination. Green hoped that this delay gave Congress the necessary time to study the circumstances and to propose and pass desirable amendments.²⁴

The House never acted on either of Green's bills, although the bills attracted wide support throughout Oregon.²⁵ Much like the earlier attempts at voluntary withdrawal, Green's bills failed largely because of Interior Department delay. According to Senator Morse, the Department delayed reports on the two bills until too late for enactment in 1956. While the Department belatedly supported the amendment to defray the costs of termination, they set a limit to the amount Congress defrayed. On the amendment granting additional time to the Klamath, however, the Department waited until the last possible day to report unfavorably and kill the bill.²⁶

After Congress adjourned, the Senate Committee on Interior and Insular Affairs held hearings in Klamath Falls concerning possible amendments to the termination law. Two Democratic Senators attended the meeting, Senator Murray of Montana and freshman Senator Richard L. Neuberger who had defeated Guy Cordon in the 1954 Oregon Senatorial election.²⁷ The hearings revealed the effectiveness of the amendment movement in Oregon. Nearly all the non-Indian witnesses advocated amendments to the act, with many of them supporting federal purchase of

the forest. The majority of the witnesses showed concern for the Klamath resources and asked the Senators to initiate legislation to delay termination until further study indicated the most desirable amendments to the law.²⁸

The tribal witnesses, as usual, split over amendment to the termination act. Boyd Jackson and members of the executive committee led one group which advocated federal purchase to prevent liquidation and price depression. Wade Crawford and Lawrence Witte led the other group which opposed any amendments to the law and called for the uninterrupted compliance with the original act. The two groups split fairly evenly in the hearing with each side claiming majority support.²⁹

While the Indians appeared gravely divided over the amendment issue, Senators Murray and Neuberger supported amendment to the law. To the Senators, the possible dangers of the act necessitated amendment to avoid economic, ecologic, and social disaster. When the new Congress convened, the two Senators led the drive that culminated in a stopgap amendment to the Klamath Termination Act.

CHAPTER VI FOOTNOTES

¹Fey and McNickle, Indians and Other Americans, p. 139.

²This discussion came from a resolution of the 11th annual National Conference of American Indians, 1954, at Omaha, Nebraska. The discussion is a reaction against H. Rept. No. 2680 of the 83d Congress by the House subcommittee on Indian Affairs. This resolution can be found in: Vince Deloria, Jr., Of Utmost Good Faith, (San Francisco, 1971), pp. 208-213. The quotes are from pp. 211 and 213.

³Harold Fey, "The Indian and the Law," Christian Century, March 9, 1955, p. 298. Actually, the Congressional members only used tribal division to further the cause of termination. Some Congressional members had decided termination long before Wade Crawford appeared in Washington in 1954.

⁴Ibid.

⁵Ibid.

⁶Ibid., pp. 298-99.

⁷Ibid., p. 299.

⁸Turner wrote a series of articles in the Oregonian, concluding the series on February 16, 1955. The discussion of the Oregonian editorial comment can be found in the Oregonian of February 20, 1955. The latter is cited from Congressional Record, Appendix, 84th Congress, 1st session, March 22, 1955, pp. A 1985-86.

⁹"Recommend Extension of Time for Klamath Tribe," Amerindian, July-August, 1955, pp. 1-2.

¹⁰U. S. Congress, Senate, subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Klamath Indian Tribe--Termination of Federal Supervision, Hearings, 84th Congress, 2d session, (Washington, D. C., 1956), p. 12.

¹¹Ibid., pp. 12-13.

¹²Ibid., p. 67. Also, see: "How Oregon Rescued A Forest," Harpers Magazine, April, 1959, p. 50.

¹³Klamath Indian Tribe--Termination of Federal Supervision, Hearings, p. 67.

¹⁴Ibid.

¹⁵Ibid., p. 68.

¹⁶Ibid., pp. 14, 15, and 55.

¹⁷Ibid., pp. 21, 178, and 180. Also: U. S. Congress, House, subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Amending the Klamath Termination Act, Hearings, on H. R. 650, H. R. 663, H. R. 2741, and H. R. 2518, 85th Congress, 1st session, (Washington, D. C. 1957), p. 63.

¹⁸Ibid., p. 177. Also, see: Fey and McNickle, Indians and Other Americans, p. 144 and Mark Talney, "Question the Validity of Klamath Plan," Christian Century, July 25, 1956, p. 882.

¹⁹Talney, "Question Validity," p. 883. Also, Anthony Netboy, "Uproar on Klamath Reservation," American Forest, January, 1957, p. 61.

²⁰Klamath Indian Tribe--Termination of Federal Supervision, Hearings, p. 177. Also, Talney, "Question Validity," p. 884.

²¹Mark Talney, "Churches Review Klamath Issues," Christian Century, November 14, 1956, p. 1332.

²²Klamath Indian Tribe--Termination of Federal Supervision, Hearings, pp. 125 and 129.

²³Ibid., p. 129, and Talney, "Churches Review Klamath Issues," p. 1332.

²⁴Congressional Record, 84th Congress, 2d session, June 7, 1956, p. 9853. H. R. 11659 and H. R. 11660, 84th Congress, 2d session, 1956. For Green's remarks upon introduction, see Congressional Record, 84th Congress, 2d session, June 8, 1956, pp. 9919-20.

²⁵Congressional Record, Appendix, 84th Congress, 2d session, July 12, 1956, pp. 85496-97.

²⁶Klamath Indian Tribe--Termination of Federal Supervision, Hearings, p. 148.

²⁷For election results, see report in Portland Oregonian, (Portland, Oregon), November 9, 1954, p. 1.

²⁸Klamath Indian Tribe--Termination of Federal Supervision, Hearings, pp. 80-85, 98-100, 100-101, 124-133, and 143-145.

²⁹Ibid., pp. 86-94, 101-106, 117-121, 139-143, 154-158, and 160-163.

CHAPTER VII

STOPGAP AMENDMENT

Soon after the 85th Congress convened in January of 1957, Congressional members introduced amending legislation for the Klamath. While the legislators agreed that the Klamath bill required amendment, they disagreed on the most desirable procedure. Congresswoman Edith Green introduced two bills. The first bill delayed terminal procedures after completion of the appraisal. The other bill transferred all termination costs from the Klamath to the federal government.¹ The Department of the Interior instructed Senator Watkins and Congressman Miller to introduce legislation that combined both of Mrs. Green's bills. The Department bill prohibited timber sales that unreasonably depressed the lumber market, delayed all timber sales until the end of the first session of the 85th Congress, and extended the dates for completion of termination until August 13, 1961. The bill also defrayed termination costs to a maximum of \$1,100,000 and contained several amendments that improved and clarified the wording of the original act.² Finally, Senator Neuberger and Congressman Ullman presented amendatory legislation. The Neuberger-Ullman proposal delayed all termination procedures for eighteen months after completion of the appraisal and extended the completion date of termination until August 13, 1960. In addition, the bill defrayed termination costs to a maximum of \$800,000.

and delayed the granting of patents in fee on individual Klamath lands.³

Throughout the 85th Congress, the two subcommittees on Indian Affairs studied the various approaches to amendment. After numerous hearings and much debate, the subcommittees decided upon a compromise bill that contained provisions of both the Interior Department's and Senator Neuberger's bills. Congress passed this compromise measure, and on August 14, 1957, President Eisenhower signed the amendment act. While the amendment solved few of the problems of the original law, it did delay termination long enough to permit Congress to determine the ultimate revisions to the Klamath Act.

Since Senators Murray and Neuberger had conducted hearings in Klamath Falls in October of 1956, the Senate Committee on Interior and Insular Affairs immediately considered the amending legislation. The Interior Department preferred Senator Watkins' bill to that of Senator Neuberger, but later agreed to the majority of Senator Neuberger's provisions when the Oregon Senator consented to include certain Departmental amendments. By mid-February, the Senate committee had completed consideration of the Neuberger bill and reported the bill to the Senate floor. The bill the committee sent to the floor contained provisions from both the Neuberger proposal and the Watkins draft, and represented a compromise between the Department of the Interior and Senator Neuberger.⁴

The compromise bill, S. 469, delayed the timber sales until the

end of the second session of the 85th Congress, but stopped none of the other procedures such as the withdrawal election. At the same time, the bill extended the date of final termination for three years, until August 13, 1961, yet, allowed for the removal of land restrictions and the issuance of fee patents before August of 1958. In addition, the compromise included the higher \$1,100,000 figure as the amount the federal government paid toward Klamath termination expenses. The act also authorized the Secretary to continue normal timber sales for per capita payments in the period before final termination. Finally, S. 469 made technical corrections such as allowing remaining members to purchase land, and redefined an adult as "a person who is an adult according to the law of the place of his residence." While these technical modifications did not change the essence of the original law, they did serve to clarify and correct the language of the original act.⁵

On March 8, the Neuberger bill went before the Senate. Senator Neuberger discussed the bill at some length, gave background information that illustrated the need for amendment, and recommended immediate passage of the bill. The Senate considered the proposal, agreed to the committee's amendments, and passed the bill by a voice vote. Three days later, the bill arrived in the House, and the Speaker referred it to the House Committee on Interior and Insular Affairs.⁶

While the Senate studied, amended, and passed the Neuberger bill, the House subcommittee on Indian Affairs conducted hearings on

the four amendment drafts before the House. The subcommittee conducted several hearings during February and March. At these hearings, the legislators questioned many of the principal individuals associated with the Klamath bill. In addition, the committee studied the large number of letters and telegrams they received from many interested and concerned individuals and groups.

In his brief testimony in support of amendment, Congressman Ullman presented the committee a copy of the Oregon State Legislature's "Senate Memorial No. 1."⁷ The memorial called for congressional enactment of stopgap legislation to prevent the disastrous sales of the Klamath timber resources. The resolution also asked Congress to enact a substitute bill as quickly as possible. According to the Oregon Legislature, this substitute legislation required inclusion of a long-term liquidation of the tribal assets, a guarantee for continued sustained-yield forestry, an education and rehabilitation program, and constant consultation with the tribe before and after enactment of the substitute bill.⁸

In letters to the committee and in testimony during the hearings, Department of the Interior officials also supported amendments to the Klamath Act. Associate Commissioner H. Rex Lee explained that the Department and the Indian Bureau had not changed their mind concerning Klamath readiness for termination, but, rather, advocated amendments due to the conservation problems involved. Lee reminded the committee that

the Department, in its report to the Congressional committees in 1954, had cited the possible conservation problems. The Associate Commissioner added, however, that the Department had not foreseen the immensity of the problem since, in 1954, the experts had expected only 22 or 24 per cent of the tribe to withdraw. The situation appeared far worse in 1957 due to the Stanford Research Institution's prediction of 70 per cent withdrawal.⁹

The Department representatives also spoke briefly on the subject of federal purchase. While the officials did not endorse federal purchase, they noted that if Congress decided on such an acquisition that the Department considered it mandatory that the Indians received the highest possible price. The officials concluded, therefore, that if the government bought the tribal resources, the Department of the Interior felt it necessary for the government to pay the full appraised price for the assets.¹⁰

The Committee members questioned the Interior Department representatives extensively regarding guardianships for the minors and non compos mentis members of the tribe. Congressman Ullman joined North Carolina Democrat George A. Shuford in disputing the Department's view on Indian competency. The two Congressmen saw a conflict in the Department's policy that considered the Indians competent enough to vote for or against withdrawal when the Department later determined certain individuals incompetent to handle their own affairs. While the

Congressmen detected an inconsistency in the Department's attitude, the officials countered by contending that the two decisions required different levels of competency. They considered all the Klamath capable of deciding on withdrawal although some did not possess the competency to handle their own affairs.¹¹

The management specialists also testified at some length before the subcommittee.¹² The specialists reiterated much of the testimony they had given before the Senate committee in 1956, and still regarded federal purchase as the best solution to the Klamath problem. They also talked of the tribal factionalism, the lack of information among many of the Klamath, and the general disinterest of individual tribal members toward the educational programs.¹³

The managers also discussed their reasons for deciding to recommend amendments to the Klamath Act. Watters and Favell noted that they had concluded, even before formally contracting with the Secretary of the Interior, that the act contained some potentially dangerous provisions. They had requested, therefore, a clause in their contract that gave them the power to recommend policy changes. This clause permitted the managers to suggest that Congress amend the bill, and to advocate federal purchase.¹⁴

The managers admitted that federal purchase contained certain drawbacks, yet added that they had searched for and found no better solution. They noted that a perfect solution insured a maximum cash

settlement for the Indians, economic stability for the Klamath Basin, and continued sustained-yield management for the Klamath forest. While the specialists recognized these requirements as less than "mutually compatible," they thought federal purchase most nearly satisfied all three goals. The specialists' Chief Forestry Consultant, Earle Wilcox, told the committee that the managers welcomed any solution more desirable than federal purchase, but at that time federal acquisition represented the best solution.¹⁵

Three representatives of the Klamath executive committee, Boyd Jackson, Jesse Kirk, and Dibbon Cook, also appeared before the House subcommittee. The three Klamath representatives and the tribal attorney, Glen Wilkinson, favored amendment of the law. These men opposed the original provision that called for a division of sales proceeds each time \$200,000 accumulated. The Klamath felt such a provision encouraged piecemeal spending of the proceeds and resulted in the dissipation of individual assets.¹⁶

Of the four amendment bills before the House, the Klamath delegates favored the Ullman draft, with certain modifications. The executive committee also liked some of the provisions of Miller's proposal, and requested a bill that combined parts of both Ullman's and Miller's bills. Although the Senate had not then amended and passed S. 469, the tribal delegates advocated a compromise bill very much like the amended Neuberger bill the Senate later passed. Jackson, Kirk, and

Cook, however, wanted to add a delay of the publication of the final roll and to delete the \$200,000 distribution provision, neither of which the Neuberger bill provided.¹⁷

The Crawfords also testified during the House hearings. Wade and Ida Crawford opposed any amendments to Public Law 587. The Crawford faction made up a minority on the executive committee, so the couple went to Washington to testify for 215 Klamath petitioners who opposed amendments to the termination law. The Crawfords maintained that they represented the majority feeling of the tribe and contended that non-Indian groups instigated the movement for revision without the concurrence of the Klamath. According to the Crawfords, Congressional delay of termination forced the Klamath who opposed any amendments to sue for losses they suffered because of the delay.¹⁸

The Crawfords blamed the management specialists for the inability to finish termination on schedule. According to Ida Crawford, the Secretary took nine months to appoint the specialists, and the specialists used nine more months to select the appraisers. She described this eighteen-month period as a "wanton intentional waste" that the specialists had used to build a political machine in favor of amendment. Wade Crawford added that a delay cost the Klamath \$3 million in forest losses and administrative costs. Wade Crawford felt that Congress had the obligation to carry out the provisions of the original law.¹⁹

Wade and Ida Crawford also rejected the idea that Congress had

acted hastily when it enacted the termination bill. They maintained that the Klamath possessed the competency to manage their own affairs, and implored Congress to carry out the termination act. The Crawfords also opposed the assumption of termination costs by the federal government, and alleged that the majority of the Klamath gladly paid the costs of a "sensible termination." Finally, the Crawfords rejected all the economic and sociological arguments against immediate termination and described the bill as "one of the greatest pieces of legislation" in the last one hundred years that had "established individual rights for the American Indian."²⁰

By the time the House subcommittee finished the hearings on the four amendment bills, the Senate had passed the Neuberger bill and sent it to the House. After the Department of the Interior reported favorably to the House subcommittee on the Senate bill, the members of the subcommittee decided to consider S. 469 in lieu of the House bills. In late March, the subcommittee presented the bill to the full Committee on Interior and Insular Affairs for consideration. On April 3, 1957, the committee reported on the bill and sent it to the House floor; on June 21, the House finally acted on the bill.²¹

The House committee requested several amendments to S. 469 when they submitted the bill to the whole House. The committee cut the government reimbursement to the Klamath from the original \$1,000,000 to \$550,000. The committee also reduced the extension of final termination

from three to two years. Finally, the House committee allowed for an appeal process for individuals to challenge decisions of the Secretary regarding individual competency and the assignment of guardians. Under the House version of S. 469, the Klamath had the right to challenge the Secretary's decision within 120 days in a naturalization court. The House agreed to these committee amendments and passed the bill on June 21, 1957.²²

The debate in the House revealed several interesting points. While the chairman of the Indian affairs subcommittee referred to the bill as "one of the very simple little Indian bills" upon which everyone agreed, a split had developed in the Congress over termination. While the bulk of Congress regarded a delay of termination necessary, two more extreme points of view made themselves evident. Congressman Berry and Pennsylvania Republican John P. Saylor supported the amendments, but expressed the feelings that the management specialists caused much of the need for delay through their inaction. To Saylor and Berry, the management specialists had "not directed their efforts to carrying out the act as intended by Congress but have on the contrary, failed in keeping to the time schedule, have been more concerned with benefits that may or may not accrue to the chambers of commerce, and have substituted their own interpretation of the law for the intent of the act." The two Congressmen felt that Congress needed to take "immediate steps to correct this situation."²³

On the other extreme, certain members of Congress, principally Congresswoman Green and Illinois Democrat, Burnett O'Hara, felt the amendments failed to go far enough. Congressman O'Hara spoke of the growing sentiment for repeal of the Klamath Act. He supported the amendments of the Neuberger bill, and expressed satisfaction that the delay granted Congress time to restudy the original law. He included in the Congressional Record a letter he had received from Professor Sol Tax, chairman of the anthropology department at the University of Chicago. Professor Tax charged that certain unnamed individuals had gained Klamath consent to termination "pretty much by threats and bribery." Also, Tax contended that, "Fairly prosperous and well-integrated communities that were costing the Government virtually nothing are almost certainly going to be dispossessed of their lands and ancestral heritage and broken up." The professor concluded that only repeal of Public Law 587 corrected the tragic mistake.²⁴

Congresswoman Green objected to the failure of the act to adequately protect the minors and the non compos mentis tribal members from exorbitant guardianship rates. In an earlier address to the House, Green had pointed out the high rates of guardianships and the dissipation of an individual's assets under such an arrangement. She had illustrated that according to the guardianship rates in Klamath County, that an individual Klamath had approximately \$31,000 left from a \$50,000 estate after fifteen years of a guardianship, even if the individual

received the normal interest rate for his money and spent none of the principal. Green had introduced legislation that assured the protection of the Klamath from the expensive guardianship fees, but Congress had not acted on the bill. She expressed disappointment that S. 469 contained no protection for those Klamath under guardianships, but failed to convince her colleagues to add such a guarantee.²⁵

Green noted that the bill before the House gave the guardian or trustee full control over an individual's assets. To Green, such an arrangement belied the purposes of termination. The trustee or guardian made all the decisions that the Bureau had made in the past. Green asked rhetorically, "Is this what we mean by termination of federal supervision over the Klamath Indian Tribe? Is it not rather the transfer of supervision to the banks?"²⁶ While certain members of Congress thought such local control superior to direction from Washington, Green strongly disagreed and continued to work for protection for the Klamath.

Since the House passed S. 469 in a different form from the Senate, Senator Neuberger requested a conference to work out the differences. Senator Neuberger disliked several of the House amendments and sought to regain many of the Senate provisions. The House accepted the Senate's call for a conference, and the two groups of conferees met in late July to consider the two versions of the bill.²⁷

By the beginning of August, the conference committee had reached

an agreement on the bill. A frustrated Senator Neuberger reluctantly informed the Senate that the final version of the bill resembled the House version in most respects. Neuberger lamented that he had "used every power of persuasion" he possessed to try to convince the House to accept the Senate version, but he had failed. The more conservative faction of the House subcommittee controlled the House conference group, and they refused "to yield or to compromise." Senator Watkins had agreed with the House conferees, and the Senate conference committee finally approved the House version in almost every respect. While Neuberger expressed disappointment with the bill, he considered it far superior to no bill at all, and recommended Senate acceptance. The House accepted the conference version on August 2, the Senate concurred on August 6, and on August 14, 1957, President Eisenhower signed the stopgap measure. The amendment gave Congress the opportunity to restudy the termination law during the next session of Congress and to seek a satisfactory solution to the Klamath problem.²⁸

CHAPTER VII FOOTNOTES

¹Congressional Record, 85th Congress, 1st session, January 3, 1957, p. 76. H. R. 650, 85th Congress, 1st session, 1957. For a copy of the bill see: U. S. Congress, House, subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Amending the Klamath Termination Act, Hearings, on H. R. 650, H. R. 663, H. R. 2471, and H. R. 2518, (Washington, D. C., 1957), p. 3. See also: Congressional Record, 85th Congress, 1st session, January 3, 1957, p. 76. H. R. 663, 85th Congress, 1st session, 1957. For a copy of the bill, see: Amending the Klamath Termination Act, Hearings, p. 3.

²Congressional Record, 85th Congress, 1st session, January 7, 1957, p. 254; January 10, 1957, p. 435. S. 341, 85th Congress, 1st session, 1957. H. R. 2471, 85th Congress, 1st session, 1957. For a copy of S. 341, see: U. S. Congress, Senate, Committee on Interior and Insular Affairs, Assist Klamath Indians Terminate Federal Supervision, S. Rept. No. 92, 85th Congress, 1st session, Senate Miscellaneous Reports on Public Bills, I, pp. 8-9. For a copy of H. R. 2471, see: Amending the Klamath Termination Act, Hearings, pp. 4-5.

³Congressional Record, 85th Congress, 1st session, January 9, 1957, pp. 354-55; January 10, 1957, p. 436. S. 469, 85th Congress, 1st session, 1957. H. R. 2518, 85th Congress, 1st session, 1957. For a copy of H. R. 2518 which is identical to S. 469, see: Amending the Klamath Termination Act, Hearings, pp. 3-4.

⁴Congressional Record, 85th Congress, 1st session, February 19, 1957, p. 220; March 8, 1957, p. 3369. Also, S. Rept. No. 92, 85th Congress, 1st session, pp. 4-8 and 10-12.

⁵S. Rept. No. 92, 85th Congress, 1st session, pp. 1-2 and 3-4.

⁶Congressional Record, 85th Congress, 1st session, March 8, 1957, pp. 3366 and 3369-71; March 11, 1957, p. 3409.

⁷Amending the Klamath Termination Act, Hearings, pp. 14-15. The Oregon Senate adopted this resolution on February 7, 1957, while the State House of Representatives adopted it on January 25. A copy of the resolution can also be found in Congressional Record, 85th Congress, 1st session, February 1, 1957, p. 1382.

⁸Ibid.

⁹Amending the Klamath Termination Act, Hearings, pp. 18-20.

¹⁰Ibid., p. 31.

¹¹Ibid., pp. 51, 135, and 139.

¹²By this time, there were only two management specialists, since William Phillips had resigned in May of 1956 to become the campaign manager for former-Secretary of the Interior McKay's bid for Senator Morse's Senate seat.

¹³Amending the Klamath Termination Act, Hearings, pp. 70-71 and 240-44.

¹⁴Ibid., pp. 73-74.

¹⁵Ibid., pp. 88, 102, and 117.

¹⁶Ibid., pp. 123.

¹⁷Ibid., pp. 123, 124, 126, and 137-38.

¹⁸Ibid., pp. 149-50, 163, 170, and 184-85.

¹⁹Ibid., pp. 158-59 and 183.

²⁰Ibid., pp. 153, 155, 174, 182, 190, and 195.

²¹Ibid., pp. 214-15. Also, see: U. S. Congress, House, Committee on Interior and Insular Affairs, Amending the Klamath Termination Act, H. Rept. No. 379, 85th Congress, 1st session, contained in Amending the Klamath Termination Act, Hearings, pp. 216-44. See also: Congressional Record, 85th Congress, 1st session, May 20, 1957, p. 7259; June 3, 1957, p. 8221; June 17, 1957, p. 9362; June 21, 1957, pp. 10033-10040.

²²H. Rept. No. 379, 85th Congress, 1st session, pp. 216-17. Congressional Record, 85th Congress, 1st session, June 21, 1957, pp. 10034-40.

²³H. Rept. No. 379, 85th Congress, 1st session, p. 240. Congressional Record, 85th Congress, 1st session, June 21, 1957, p. 10035.

²⁴Congressional Record, 85th Congress, 1st session, June 21, 1957, p. 10037. While Tax is not explicit, the bribery may refer to the inclusion of the \$250 per capita and the charge of threats may correspond

to those in the National Congress of American Indians in their 1954 resolution cited in Chapter VI, supra.

²⁵Congressional Record, 85th Congress, 1st session, May 14, 1957, p. 6905; June 21, 1957, pp. 10035-36. H. R. 7524, 85th Congress, 1st session, 1957.

²⁶Congressional Record, 85th Congress, 1st session, June 21, 1957, pp. 10036-38.

²⁷Congressional Record, 85th Congress, 1st session, June 24, 1957, p. 10110; July 16, 1957, p. 11848.

²⁸Congressional Record, 85th Congress, 1st session, August 2, 1957, p. 13488; August 6, 1957, pp. 13714-15; August 15, 1957, p. 14818.

CHAPTER VIII

AMENDING FOR FEDERAL PURCHASE

Even before the House considered and passed the stopgap amendment to the Klamath Termination Act, Senator Neuberger initiated legislative efforts for final amendments to the law. In early May, Neuberger introduced a bill providing for federal purchase of the Klamath tribal assets. House approval of the stopgap amendment removed the immediate urgency of Neuberger's federal purchase bill since Congress had until adjournment of the next session to amend the law. Nevertheless, Senator Neuberger quickly held hearings on his bill in order to assure Congress plenty of time to amend the act before adjournment in 1958.

Senator Neuberger, chairman of the Senate subcommittee on Indian Affairs, conducted hearings on the federal purchase bill in early October of 1957. In early 1958, however, the administration proposed an alternative to Neuberger's bill, and the Oregon Senator introduced the administration's proposal for Congressional consideration. In the end, Congress enacted a bill that combined both the administration's and Senator Neuberger's bills, and the federal government soon purchased much of the Klamath forest.

Within another ten years, the remaining Klamath voted to terminate their tribal trusteeship and offered the rest of the tribal

trusteeship and offered the rest of the tribal forest to the Secretary of Agriculture. While Congress failed to act immediately on the offer, in 1973 Congress passed a bill that authorized the Secretary to purchase the forest. With the sale of the forest, the Klamath tribe ceased to exist, and the hopes of the proponents of termination reached their final fruition.

On May 9, 1957, Senator Neuberger introduced a federal purchase bill for himself and Morse. After long research into the Klamath situation and after many lengthy discussions with the management specialists and other interested individuals, Senator Neuberger concluded that federal acquisition of Klamath assets provided the best answer to the difficult problem. The Oregon Senator felt that such action assured the Klamath a fair price for their assets and protected the vast natural resources of the reservation.¹

Neuberger's proposal called for the establishment of a three-man appraisal board. Three men with "wide experience in the valuation of timberlands, agricultural lands, and grazing lands," determined the "fair market value" of the reservation and then reported their findings to the Congressional committees on Interior and Insular Affairs. Sixty days after the appraisal board submitted the reports to the two committees the appraisal went into effect. Once the appraisal became effective, the Secretary of the Interior bought all the tribal timberlands at the "fair market value." The Secretary then transferred these lands to the

Forest Service of the Department of Agriculture for future administration as national forest lands.²

The amending legislation also provided for the selling of all Klamath lands other than the timberlands on the competitive market. At the same time, however, any Klamath had priority rights on the sales and could agree to pay the highest price anyone had bid for any tract of land. The federal government also bought a 70,000 acre tract of land in the Klamath Marsh. The Secretary of the Interior then assigned the marsh to the Fish and Wildlife Service for administration as a wildlife refuge. These marshlands served as a resting, feeding, and nesting area for many of the migratory birds along the Pacific flyway. Conservationists thought that drainage of the swamp for grazing purposes endangered the survival of the waterfowl and sought federal protection to keep the area intact.³

Finally, the Neuberger bill provided for funds to pay the Klamath for their tribal assets. Within one year after the federal government acquired the Klamath estate, the proposal authorized the Secretary of the Interior to pay each enrolled tribal member. The Secretary paid each individual his pro rata share, minus any deductions for lands the individual bought in the competitive bidding for tribal grazing and farm lands.⁴

Almost as soon as Neuberger introduced his amendment bill, editorial opinion in Oregon swung behind the proposal. The Bend

Bulletin, Bend, Oregon, and the Oregonian of Portland both supported Senator Neuberger's proposal. The papers urged Congress to pass the federal purchase bill to prevent the eminent calamity if the management specialists carried out Public Law 587. The Oregonian editorial spoke of the "irreparable harm to the Indians, to Oregon's economy, to the long-range timber supply of the Klamath Basin mills, to the basin's water supply, and to waterfowl and wildlife," if Congress allowed the original act to continue unamended. The Bend Bulletin article termed the Neuberger bill as "the most sensible to see the light of day," and called for immediate Congressional enactment.⁵

At the hearings held in Klamath Falls and Portland, Oregon in the first week of October, Neuberger actively sought the opinions of both Indians and non-Indians on amendments to the Klamath Termination Act. The majority of the witnesses voiced support for federal purchase of the Klamath reservation. Approximately two-thirds of the witnesses endorsed the federal purchase bill in full or with varying amounts of modification. Several witnesses took no discernable stand on the Neuberger bill; but of those that expressed a definite opinion, more than four of every five favored federal purchase.⁶

A handful of witnesses favored private purchase of the Klamath timber. These individuals gave a variety of reasons for favoring private over federal purchase. The reasons ranged from protection of private enterprise against socialistic encroachment to probable receipt of

higher prices for the timber. These arguments failed to convince Senator Neuberger that private purchase held any larger benefits. The Senator expressed agreement with the management specialists that federal purchase assured the Klamath the highest possible price and prevented the destruction of free enterprise in a "boom and bust" economy.⁷

George Weyerhaeuser represented the Weyerhaeuser Timber Company before the subcommittee. He developed a plan of termination that lay between liquidation and federal purchase. Weyerhaeuser favored private purchase over federal ownership; however, he expressed the belief that no business could have afforded to pay the full appraised value for the timber and still have managed the timber on a sustained-yield basis. Due to the high costs and liabilities of long-term management, Weyerhaeuser felt private purchasers could have paid only a "sustained-yield price" for the timber. Since the "sustained-yield price" meant a lower payment for the Indians, Weyerhaeuser proposed that the federal government pay the Klamath the difference between the sustained-yield and full appraised values. Under the Weyerhaeuser plan, the federal government appropriated less money and the lumber economy benefited from management by private enterprise.⁸

While Senator Neuberger termed the Weyerhaeuser presentation "thoughtful and challenging," the Senator expressed dissatisfaction with the proposal. Neuberger saw no advantage if the government appropriated a small sum and then had "nothing in property or subsistence to

show for the smaller subsidy." The Senator favored federal payment of a larger amount of money with the resultant acquisition of another national forest.⁹

Leonard Netzorg, who represented the Western Forest Industries Association, "a trade association of timber operators in the West, mainly in the State of Oregon," presented another alternative to total federal acquisition. Netzorg had first offered his solution to the Klamath problem before the Oregon Council of Churches' seminar in September of 1956.¹⁰ His solution impressed several of those in attendance at Salem, and the Western Forest Industries Association asked him to present the proposal before Senator Neuberger's subcommittee.

Netzorg's proposal allowed the Klamath to withdraw from or remain in the tribe according to the provisions of the Klamath Termination Act. To pay off the withdrawees, Netzorg proposed that the federal government purchase the portion of the land that the managers had to sell. Netzorg expected the government to pay for the forest by allocating approximately 10 per cent of the annual national forest receipts to pay off the withdrawing Klamath over a period of five or six years. This proposal lessened the problem of giving the Indians very large sums of money and prevented the appropriation of over \$100 million at one time.¹¹

Under the Netzorg plan, the Forest Service managed the portion of the forest that the federal government bought to pay the withdrawees.

In addition, the Forest Service contracted to operate the forest belonging to the remaining Klamath. This arrangement provided for a unity of management and operation of the whole Klamath forest, and aided in less expensive administration of both sets of resources. The Forest Service operated in one large congruous forest, while the remaining Klamath benefited from the efficient and experienced management of the government foresters.¹²

Only a few of the more prominent Indians spoke before the subcommittee. Boyd Jackson, Jesse Kirk, Dibbon Cook, and Elnathan Davis represented the majority opinion of the executive committee. These men all supported S. 2047 since they felt this Neuberger bill gave the Indians the most money and still protected the tribal resources. Boyd Jackson emphasized the federal governments' responsibility to purchase the tribal assets and to assure the Klamath the highest possible price. Furthermore, if Congress failed to pass the Neuberger bill, then the executive committee representatives favored repeal of the Klamath Termination Act. If repeal proved impossible, the representatives supported an extension of at least five and probably twenty years for the liquidation sales. Such an extension eliminated many of the drastic economic effects of a short-term liquidation but still provided for eventual termination.¹³

As in the past, the Crawfords opposed amendments to the original termination act. Before Neuberger's subcommittee, however, Wade and Ida

Crawford qualified their opposition somewhat. The Crawfords still condemned Neuberger and Congress for passage of the stopgap legislation, but spoke in less absolute terms about federal purchase. Wade Crawford felt that sales of the timber on the open market offered better monetary returns to the Klamath than did federal purchase. He also expressed doubt in Senator Neuberger's ability to convince the government to buy the assets at the full appraised value. When Senator Neuberger asked Crawford if he supported federal purchase if Congress agreed to pay the full appraised value, however, Crawford replied that he "would give it some thought." Ida Crawford also expressed a qualified opposition to federal purchase. She concluded that if Neuberger showed that federal acquisition gave the Klamath "freedom from bureaucracy and the best price obtainable," and granted tribal members full freedom "in the shortest possible time without further delay," then she supported the bill.¹⁴

While the Indians presented a divided opinion on federal purchase, the non-Indian witnesses expressed nearly unanimous support for Neuberger's proposal. Business and civic groups from Klamath Falls wholeheartedly favored federal purchase to preserve the waterfowl, wildlife, and timber of the Klamath Basin.¹⁵ The management specialists concurred with the local citizens since the managers had not discovered a solution better than federal purchase. The newly-formed Oregon State Legislative Interim Committee on Indian Affairs also spoke in favor of

federal purchase.¹⁶ Finally, even Secretary of the Interior Fred A. Seaton leaned toward governmental acquisition unless some other alternative presented itself in the near future. In a letter to Senator Neuberger, Secretary Seaton concluded:

The two problems confronting both the Federal Government and the State of Oregon are protecting the property rights of the Klamath Indians on the one hand, and providing for the sustained yield management of an important natural-resource area on the other. Public ownership would accomplish both of these objectives.¹⁷

While the individuals that testified before Senator Neuberger's hearings largely supported federal purchase, certain people in Washington, D. C. held contrary views. As one commentator observed, public ownership of the Klamath timber ran "counter to the whole philosophical trend in Washington" during the Eisenhower administration. The governmental officials in Washington sought ways to avoid federal control in many areas and resisted any attempts to assume additional responsibilities.¹⁸ The administration abhorred the prospect of federal acquisition of more private land, and soon presented an alternative to Neuberger's bill.

Due to their philosophical leanings, members of the Eisenhower administration desired to give private industry a chance to buy the Klamath timberlands. At the same time, however, the Interior Department wanted to assure the continuance of sustained-yield forestry, and to obtain the highest possible price for the Klamath. After Senator Neuberger's hearings ended, Secretary Seaton and his staff studied the

Klamath situation more carefully, and designed an alternative plan that satisfied the administration's criteria. By mid-January, 1958, Secretary Seaton completed the alternative proposal and asked Senator Neuberger to introduce the bill in the Senate. On January 16, Senator Neuberger complied with the Secretary's request and introduced the administration's bill.¹⁹

In several aspects, the Seaton bill resembled the Neuberger bill.²⁰ The administration's proposal, however, differed in important ways from the Neuberger plan. The bill deleted Senator Neuberger's provision for a reappraisal and based all reservation values on the original appraisal directed by the management specialists. In addition, the Seaton bill reinstituted the original provision that allowed the Klamath members an option to remain in a tribal management plan after termination. Senator Neuberger had eliminated this choice and had suggested federal purchase of the entire reservation.²¹

Under Secretary Seaton's proposal, the Secretary of the Interior and the Secretary of Agriculture jointly defined the boundaries of the Klamath Marsh and the timberlands, once the management specialists had selected a portion of the reservation for the remaining tribal members. After the Secretaries had determined the boundaries of the lands, the Secretary of the Interior offered the timberlands for sale to private purchasers. The Secretary offered these lands "in appropriate units," and sold the units on a competitive bid basis to the highest bidder.²²

The Klamath timberlands carried two restrictions for the purchaser. The purchasing party had to pay at least the "realization value" for the tract.²³ Secretary Seaton defined "realization value" as "the amount for which the lands could be sold on the open market prior to the termination date, without limitation on use, if as much as 70 per cent of the forest were offered for sale."²⁴ In addition, before a purchaser received the title to the lands, he agreed to manage the timber on a sustained-yield basis for a period of seventy-five years and submitted a detailed plan of management to the Secretary of Agriculture for approval. Once the Secretary granted a purchaser full title to the land, the Department of Agriculture inspected the lands periodically to assure the continuance of proper forestry techniques. Noncompliance with the sustained-yield covenant resulted in the reversion of the title to the land into federal ownership and subsequent administration of the timber as national forest lands.²⁵

Once sufficient time had elapsed for all interested parties to bid on the Klamath property, the Secretary of Agriculture purchased all lands that private interests had not bought. The Secretary paid the full realization value for the remaining lands, handled all outstanding timber sales contracts, and transferred administration of the lands to the Forest Service. The Forest Service operated the tracts on a sustained-yield basis as national forest lands.²⁶

The Seaton bill also contained several smaller yet important

provisions. The proposal repealed the \$200,000 division provision of the original act and instead called for payment to withdrawing individuals in one lump sum. The bill also gave the Secretary of the Interior power to adopt a plan of management for the remaining members if the Secretary and the tribe failed to reach an agreement acceptable to both parties. The earlier bill had not contained any machinery to resolve any such impasse. Finally, if the remaining tribal members ever decided to disband and sell any or all tribal lands, the Seaton bill required that the tribe grant the Secretary of Agriculture first refusal on the land. The Secretary had twelve months to decide upon such a purchase. If he declined to purchase the lands, the Klamath offered the lands to private purchasers at the same price. However, if private interests refused to pay the price, then the tribe had to offer the Secretary first chance to purchase the land at any new and lower price.²⁷

Senator Neuberger expressed dissatisfaction with certain provisions of the Seaton bill and revealed disappointment that the administration had rejected the federal purchase bill. Senator Neuberger doubted if private industry accepted the administration's sustained-yield covenant. Neuberger noted that the lumber industry had long opposed any such legislation, and he predicted a negative reaction from the timber interest toward the bill.²⁸

The Oregon Senator added that the Indian Affairs subcommittee

had not received any information from the Department on the proposed value of the reservation assets. He noted that the Klamath and any prospective buyers needed this basic information before taking any definite stand. Senator Neuberger stated that without the appraisal information the Senate subcommittee did not possess the knowledge necessary to act upon the administration's alternative.²⁹

Neuberger also enunciated discontent with the lack of information on size and nature of the timber sales units. The Senator observed that sustained-yield operation required a large area of timber and also that purchasers needed an extensive holding in order to get the necessary financing for a purchase. Finally, the Senator disapproved of the seventy-five year covenant. He felt the period too short to assure perpetual growth of timber in the pumice soil.³⁰

Although Senator Neuberger expressed reservations about several parts of the Seaton proposal, he explained his reasons for introducing the bill. He noted that the deadline for action approached quickly, and that if Congress failed to act before the end of that session, the original termination act once again became effective. To Senator Neuberger, inaction spelled disaster for the Indians and the Klamath Basin. To avoid the eminent calamity, he promised to give a full hearing to any and all possible alternatives.³¹

After introducing the administration's bill, Senator Neuberger scheduled a series of hearings for the first week in February.³² Under

Secretary of the Interior Hatfield Chilson testified before the Senate Indian Affairs subcommittee on the opening day of the hearings. Chilson pointed out that the Neuberger plan removed the right of enrolled Klamath to remain in the tribe if they so desired. The administration bill restored the Klamath privilege to remain in a post-termination business entity. The administration also disapproved of Neuberger's denial of a chance for private industry to bid on the Klamath timber. The Department's bill granted private industry the opportunity to purchase the Indian timber and still guaranteed the Klamath the "full realization value" for the lands. Finally, the Under Secretary illustrated the relative thrift of the Seaton proposal. While Senator Neuberger's bill necessitated an expenditure of nearly \$122 million, the administration's plan probably cost \$83 to \$117 million. In addition, the estimated cost diminished with every purchase of a parcel of timber by private companies.³³

Neuberger inquired as to why the Department had decided against outright federal acquisition of the Klamath lands. He noted that in early 1957, the Department had indicated that federal purchase provided the only assurance of continued sustained-yield management. Under Secretary Chilson answered by noting that the Department had received indications that certain private companies held an interest in purchasing parts of the Klamath forest. While Chilson described these indications as "quite nebulous," the Department had decided to give these companies

a chance to buy the Klamath assets in a manner that assured sustained-yield management and an equitable payment to the enrolled tribal members.³⁴

Assistant Secretary of Agriculture, E. L. Peterson, testified before the Senate subcommittee that the Department of Agriculture favored granting the Klamath an option to remain in a tribal management entity and allowing timber companies a chance to purchase parts of the reservation resources. In addition, Peterson expressed the fear that complete federal purchase set several dangerous precedents. The Department of Agriculture feared that federal purchase provided a pattern for extension of federal regulation over private timberlands, for public ownership of other private lands, and for establishment of a similar system in all national forests. Peterson felt that the Seaton bill avoided these dangerous precedents and provided a more viable solution to the complex Klamath issue than did Senator Neuberger's bill.³⁵

Earle Wilcox, chief forester for the management specialists, attended the hearings and read a statement that Thomas Watters had prepared. Watters commended Senator Neuberger for his work in trying to enact federal purchase legislation. The manager still supported Senator Neuberger's proposal and urged congressional enactment of the bill. Nevertheless, Watters felt the Seaton bill accomplished the two major goals, fair price for the Klamath and protection of the Klamath

Basin economy. Watters added, however, that the administration's bill suffered two major shortcomings. He noted that the enforcement provision for the sustained-yield covenants carried some inherent difficulties. Governmental establishment of sustained-yield guidelines and effective enforcement of these standards presented unpredictable and novel administrative problems. In light of Weyerhaeuser's earlier testimony, Watters also doubted if private industry desired to pay the full realization value for timber with such a sustained-yield restriction.³⁶

Although Watters spotted weaknesses in the Seaton bill, he concluded that the proposal contained some meritorious qualities. Since private industry probably rejected the notion of paying the full realization value, the government, in effect, bought the largest portion of the Klamath timber. The Seaton bill provided a compromise between "undisguised" federal purchase and private purchase. Such a compromise possessed the potential for more widespread congressional support and probably had a better chance for enactment. The management specialist still supported direct federal acquisition of the whole reservation, but informed Senator Neuberger that if the federal purchase bill ran into difficulties, the Seaton plan excelled the original act in every respect and urged the Senator to support the bill.³⁷

State Senator Leader Quiring and David C. Epps represented the Oregon Legislative Interim Committee on Indian Affairs before the Senate subcommittee. The Interim Committee had earlier endorsed Senator

Neuberger's bill, but had not then completed a thorough investigation of the Seaton plan. The committee's cursory study of the latter bill had revealed certain problems, however. The Interim Committee felt that the sales restriction on the remaining tribal members unfairly limited future sales of Klamath timberlands. Quiring also objected to the seventy-five year limit to the sustained-yield covenants and desired a longer period to insure proper forest regeneration. In addition, the interim committee wondered about the Klamath hunting and fishing rights if a private company purchased the land. Finally, the committee doubted if the necessary machinery existed to accurately determine the real value of the Klamath timber. The committee feared that this lack of knowledge prevented adequate compensation for the withdrawees.³⁸

Quiring and Epps also regarded State purchase of the forest as impossible. Such an acquisition involved a large expenditure, and since the recent recession had hit Oregon quite severely, the people of the State desired to keep taxes low and refused to finance such an expensive purchase. Finally, although the Klamath problem immediately affected only Oregon, the federal government bore the duty and responsibility to gain adequate compensation for the Klamath and to prevent undue social, economic, and ecological consequences for the other local Oregonians. Quiring and Epps felt the government had the "duty and the right to purchase the Klamath Reservation forest and the 15,689 acre tribal marshland."³⁹

In conclusion, the Interim Committee representatives reiterated their support for federal purchase. They favored the Neuberger plan, but did not oppose the Seaton bill. They expressed less concern for the procedures than for the results of the two bills. The Indians deserved just compensation for their costly preservation of a sustained-yield forest, and the government held the responsibility to secure the Klamath such an economic reward. At the same time, however, the government had to use methods that did not undermine the overall economy of Oregon.⁴⁰

Senator Wayne Morse concurred with the views of the Oregon Interim Committee on Indian Affairs. While he regarded the Neuberger bill, which Morse had co-sponsored, as the better solution, he preferred the administration's proposal over the original termination act. He believed the Interim Committee representatives had perceived the weaknesses of the Seaton bill and, like the committee, desired amendment of the administration's proposal before congressional enactment. Morse emphasized the urgency of amendment to the Klamath Termination Act, and advocated support of the bill that held the better chance for enactment.⁴¹

Klamath executive committee members also testified before the Indian Affairs subcommittee. The majority faction, including Jesse Kirk, Boyd Jackson, Dibbon Cook, and Seldon Kirk, expressed great dissatisfaction with the recently completed appraisal report. The

executive committee members felt the appraisers had ignored the values of many of the natural resources of the reservation and had thus arrived at an inadequate price. The committee members estimated that the fair price lay between \$150 and \$209 million as opposed to the appraisal price of \$121 million. While the committee members favored federal purchase, they considered further negotiations between the government and the Klamath mandatory to determine a satisfactory value. If the government and the Indians failed to reach an agreement, the executive committee wanted the government to transfer the tribal property into a legal tribal business entity.⁴²

Wade and Ida Crawford represented the minority opinion of the executive committee. They expressed no definite feelings toward the appraisal since they wanted more time to study the specific features of the report. In addition, the Crawfords refused to take a definite stand on the two bills before the committee. The Crawfords felt they needed more specific appraisal information before they made a final declaration on the bills.⁴³

While he took no definite stand on the two Senate bills, Wade Crawford noted that each bill contained certain weaknesses. He assured Senator Neuberger that private interests hoped to purchase all or part of the Klamath timber, and he urged completion of Public Law 587 as already written. Since the prospective purchasers existed, Crawford advocated government negotiations with the interested parties rather

than numerous hearings on federal purchase and further delays of termination. The Crawfords totally rejected the other tribal faction's plea for additional time and asked for a speedy conclusion to termination.⁴⁴

The attorney for one prospective purchaser later testified before the subcommittee. The attorney, C. Robert Mathis of Washington, D. C., refused to reveal the name of his client, but assured the subcommittee that the client held a real interest in buying the Klamath timber. Mathis told the subcommittee that his principal preferred to buy the whole reservation, but gave no details on possible purchase terms. Mathis did, however, express the assurance that his client planned to operate the forest on a sustained-yield basis, and doubted if the client wanted to pay the full value of unrestricted property. In addition, Mathis felt that the reversion of title penalty for non-compliance limited the possibility of sales and had advised his client not to accept such a provision. Mathis' testimony suffered from a great lack of detail and did not substantiate the hopes Crawford had earlier expressed.⁴⁵

While Mathis' client opposed the provisions of the two Senate bills, the forest industry displayed a definite lack of unanimity on the issue. The Western Forest Industries Association, which Leonard Netzorg again represented, endorsed Senator Neuberger's federal purchase bill. Netzorg and the Western Forest Industries Association felt the

Seaton bill contained certain very detrimental flaws. According to Netzorg, the administration's plan throttled the private enterprise system. Since the government intended to sell the land in several large blocks, small companies lack the financial resources to buy any of the timber. Such a procedure necessarily eliminated the small mills in the Klamath Falls area and led to economic dislocation. Netzorg also objected to the dangerous precedent of federal supervision and regulation of private property. While the Western Forest Industries Association did not oppose public ownership of the Klamath forest, the members of the association disliked federal supervision over the property if private companies bought the forest. Yet, the association favored the Seaton bill over the continuance of Public Law 587.⁴⁶

The American Forestry Association also opposed completion of the original Klamath Act. The Association had supported continued sustained-yield management and protection of the Klamath Basin economy as early as September of 1957. When the Department of the Interior revealed its plan for disposal of the Klamath assets in 1958, the American Forestry Association endorsed the bill. According to the association's resolution, "a very difficult, many-sided problem has been answered by the Department of the Interior's proposal."⁴⁷

The National Lumber Manufacturers Association held a far different opinion on the Seaton bill. A. Z. Nelson, Director of the Forestry, Economics and Statistics Division of the National Lumber

Manufacturers Association, wrote Senator Neuberger and opposed the administration's proposal. Nelson objected to the inclusion of a sustained-yield covenant and termed such a provision as "alien to our traditional concept of individual responsibilities for proper land stewardship and a dangerous precedent for the further control of private property by the Government." He noted a lack of definition of "sustained-yield" and objected to federal failure to comply with such standards on some national forest lands. In addition, Nelson contended that the "realization value" exceeded the realistic "fair market value" which arose from marketing the timber on a competitive open market. Finally, Nelson pointed to the large expenditure that federal purchase required, and suggested such an appropriation unnecessary "at a time when the demands for defense are so critical and maximum economy in non-defense expenditures is so imperative."⁴⁸

E. L. Kolbe of the Western Pine Association responded negatively to Senator Neuberger's invitation for a representative of the association to appear before the subcommittee. In his telegram to Senator Neuberger, Kolbe neglected to commit his association either for or against the Seaton bill. He said only that "our industry favors private land ownership to the maximum practical extent," and that his association had not yet completed consideration of the issue.⁴⁹

In his reply to Senator Neuberger, George A. Weyerhaeuser generally reiterated his earlier testimony. While Weyerhaeuser

expressed satisfaction with the administration's requirement for sustained-yield, he objected to reversion of title as the penalty for noncompliance with the covenant. Weyerhaeuser considered such a penalty too severe and urged the subcommittee to consider less drastic penalties. Weyerhaeuser also reiterated his feeling that no private purchaser could afford to pay the full realization value for the Klamath timberlands. In conclusion, Weyerhaeuser again expressed his satisfaction with the sustained-yield provisions and the opportunity for private purchase, but requested lower prices and a tempering of the reversion provision.⁵⁰

Unlike the forest industry, outdoor and conservation groups displayed a great deal of unanimity. All of the groups that testified before the subcommittee or sent letters to Senator Neuberger favored the Senator's bill over the administration's proposal. The groups felt the Neuberger bill provided "the most direct and practical means of assuring the future productivity of these lands." The groups pointed to various procedural and administrative problems that accompanied the administration's bill and urged congressional enactment of the undisguised federal purchase bill. Like other proponents of federal acquisition, however, the conservation and outdoor groups preferred the Seaton bill over no new legislation at all.⁵¹

Nearly all witnesses emphasized the need for amendments to the Klamath Termination Act. Those who testified repeatedly spoke of the

dire economic and ecological consequences if Congress failed to pass one of the two amendment bills. At the same time, the witnesses almost unanimously stressed two mandatory goals for any amendatory legislation. Such an act had to insure adequate compensation for the Klamath, and to protect the economy of the Klamath Basin. While most individuals favored Senator Neuberger's bill over the Seaton proposal, they generally preferred the latter plan over no action at all.

After the hearings closed, the Senate subcommittee began an in-depth consideration of the two Klamath amendment bills. While public sentiment rested squarely behind the Neuberger bill, the proposed cost of total federal purchase proved prohibitive. As one reporter put it, he favored federal purchase, but a good chance existed "of Congress gagging on the cost."⁵² In early March, Senator Neuberger had determined that his bill possessed little chance of success and decided to back the administration's bill rather than risk no amendment at all.⁵³ When Senator Neuberger abandoned his bill and took up the administration's plan, editorial and public opinion in Oregon swung behind his efforts. The editors of the Oregonian commended the Senator for his unselfish and "non-partisan approach" toward the Klamath issue.⁵⁴ On March 13, 1958, the members of the Oregon Interim Committee on Indian Affairs met in Portland and passed a resolution that supported the Seaton bill, S. 3051, "as a last hope of averting economic chaos in Oregon's Klamath Basin and terrible injustice to the Klamath Indians."⁵⁵

Since the administration, Senator Neuberger, and the public all supported S. 3051, the bill seemed headed for easy passage. In mid-March, however, the bill unexpectedly hit a snag that delayed further action for over a month. On March 18, the day before the Senate Interior Committee had scheduled final consideration of the Seaton bill, certain western lumber interests bombarded members of the committee with telegrams. These telegrams protested any further action on the bill and warned the legislators not to vote for the "dangerous bill." The National Lumber Manufacturers Association and E. L. Kolbe of the Western Pine Association led the telegraphic barrage that delayed action on the amendment bill and angered Senator Neuberger. The Oregon Senator termed the lumbermen's performance as "reprehensible" and a "cowardly act," and urged all interested and conscientious Oregonians to inform Congress of the true opinions of the public.⁵⁶

Prominent Oregon editors answered Senator Neuberger's plea for support with amazing swiftness. Within a week of the lumbermen's attacks, the editors of many of the largest and most influential newspapers condemned the actions. Some editors termed the last-minute efforts by the lumber interests as "a selfish action, designed to get a big block of timber at low cost for a favored few."⁵⁷ Others stated that the lumbermen, "by their long neglect or indifference pretty well forfeited their right to be heard."⁵⁸ Nearly all editors commented that the lumber interests' actions raised questions of motives and made the

lumbermen look suspect to the general public.⁵⁹

While Kolbe of the Western Pine Association defended his association's delayed comments, the Oregon editors rejected the defense. Kolbe said that the association directors had not wanted to take a "premature stand," and had therefore waited for all the details before making a final comment. He also stated that his association favored amendment of the original act to allow more time for sales. He objected to the "adverse requirements for bidding" that the Seaton bill contained and asserted that the proposal "set a pattern for governmental control" of any lands that Congress terminated in the future.⁶⁰ The editors of the Oregonian refused to accept Kolbe's defense and pointed to the association's earlier declinations to appear before the congressional subcommittees as evidence of ill-intent, or at least disinterest on the part of the Western Pine Association.⁶¹

Evidently, the editorial support from Oregon convinced the members of the Senate Committee on Interior and Insular Affairs that the lumber interests did not speak for the majority of Oregonians. The Western Pine Association and the National Lumber Manufacturers Association failed to kill the Seaton proposal in the Senate. The committee considered and amended the bill on April 29, and reported it favorably to the Senate floor on May 5, 1958.⁶²

The Senate Interior committee kept most of the provisions of the original Seaton bill and suggested only a few amendments. The committee

retained the procedures for definition of timberlands and marshlands, the provision for the selection and initiation of a tribal management plan, and the preference rights for Indians to buy the lands the Secretary of the Interior sold in a competitive market. In addition, the committee preserved the right of private interests to purchase portions of the forest at full realization value with a sustained-yield covenant, provided for federal purchase of any lands the private concerns did not buy, and granted the Secretary of Agriculture first refusal on any lands sold by the future tribal management entity. Finally, the committee included the repeal of the division of tribal assets with every accumulation of \$200,000.⁶³

The Interior committee did provide a few amendments to the Seaton bill. Under the urging of Senator Neuberger, the committee extended the length of the sustained-yield covenant from seventy-five to one hundred years. The members also lengthened the time for private purchase from January 1, 1960 to January 1, 1961. On the latter date, the Secretary of Agriculture took title to any lands that private companies had not purchased. In addition, the legislators extended the completion date of the termination act another year, to August 13, 1961. The committee members also saw fit to limit the amount of federal appropriation to buy the unbought parcels of land. They limited the total expenditure for timber and marshlands to \$90 million. Finally, the committee defined the procedures in the case of future litigation.

If the Klamath won a suit against the United States for additional payment, the private purchaser of a tract of land held the option of paying the supplementary costs, or declining such payment. If the purchaser declined payment, the title of the land reverted to the United States, and the federal government paid the former owner the full purchase price, minus any decline in the appraised value of the land. The land then became part of the national forest system, and the Forest Service administered the tract. The amended bill also contained a few other amendments to the original bill, but these changes made little difference to the overall purposes of the bill.⁶⁴

Several Senators, principally Senators Neuberger, Morse, Watkins, and Murray spoke on the proposed Klamath bill. The gentlemen talked on the bi-partisan efforts behind the final draft and stressed the importance of the bill. All mentioned the urgency of amendatory legislation and pointed to the calamitous consequences of nonenactment. The Senators felt that the bill best answered the dual problems of a fair price for the Indians and protection of the Klamath Basin economy and ecology. Finally, the legislators urged their Senate colleagues to approve the bill without further delay. On May 7, 1958, the Senate passed the bill with the committee amendments by a voice vote with no recorded objections. The Senate sent the bill to the House on the following day, and the Speaker referred it to the House Committee on Interior and Insular Affairs.⁶⁵

Once the Klamath amendment bill passed the Senate, interested people felt the proposal had achieved virtual enactment. When the Senate bill reached the House, however, obstacles to the bill again arose. The House Indian Affairs subcommittee chairman, James A. Haley, expressed strong opposition to the bill. Republican Representative E. Y. Berry, one of the strong supporters of the original Klamath Termination Act, also objected to the amending legislation. According to one commentator, Congressman Berry "has worked up such a high sweat over the issue that he vows the bill won't get out of committee." By the end of May, the attitudes of the two prominent members of the House subcommittee had dimmed the hopes of easy passage.⁶⁶

Haley reportedly regarded the Klamath termination program as a pilot operation for the termination of other tribes, and felt that federal purchase did not provide the most desirable solution and precedent. Berry pointed to the five million acres of Indian-owned timberlands on the West Coast, and concluded that he did not "want the do-gooders to get it for federal ownership." Wade Crawford aided the two Congressmen in their struggle against enactment of the amendment bill. According to the reporter for the Oregonian, Crawford fed "his arguments against a sustained-yield timber to any who will swallow them."⁶⁷

Congressman Al Ullman tried to answer the critics of the Senate amendment bill in hopes of stemming the growing ranks of the opposition. Two Oklahoma Democrats, Bernard Sisk and Ed Edmundson, joined Ullman in

his efforts, but they showed little initial progress. By late May, the trio of supporters for the Klamath amendment legislation had not even convinced all of their Democratic colleagues of the bill's desirability.⁶⁸

The National Lumber Manufacturers Association further complicated the issue by joining the new attacks on the amendment bill. While the Association had retreated when the Senate passed the Seaton proposal, once criticism arose in the House, the association renewed its assaults on the bill. In late June, Nils Hunt of the National Lumber Manufacturers Association wrote to Chairman Haley and urged the subcommittee to remove sustained-yield provisions of the act. Hunt spoke of the "dangerous precedent" of the bill and urged the deletion of federal purchase. Hunt expressed the belief that private purchase better served the Klamath Basin economy, and suggested alternatives to the Seaton bill.⁶⁹

The entry of the National Lumber Manufacturers Association into the controversy activated the former critics of the association's tactics. Senator Neuberger again spoke vehemently against Hunt's actions and admonished the Association for not orally participating in any of the early hearings on amendatory legislation. Oregon newspaper editors joined Neuberger in his assaults on the National Lumber Manufacturers Association and again wrote caustic editorials that questioned the motives of Hunt and his associates.⁷⁰

Congressmen Berry and Haley, and the National Lumber Manufacturers

Association failed to keep the amendment bill in the committee, and the House Interior committee reported the bill to the House floor on July 25, 1958.⁷¹ The two Congressmen did, however, greatly amend the Senate bill. The House version hardly resembled its Senate counterpart and contained one particular amendment to which Senator Neuberger and his colleagues objected. The House subcommittee removed the term "sustained-yield" from the Senate version and substituted the words, "as far as practicable so as to furnish a continuous supply of timber." In addition, the House subcommittee eliminated the 100-year limit to proper forest management since their language provided for "a continuous supply of timber." While the Senators on the Indian Affairs subcommittee did not mind the elimination of the 100-year limit, they objected to the deletion of the words "sustained-yield" and the substitution of the words "continuous supply."⁷²

The House version of S. 3051 also provided for a review appraisal of the Klamath assets. The bill directed the Secretary of the Interior to contract with three qualified appraisers or appraisal firms within sixty days of the enactment of the law. The new appraisers reviewed the original appraisal, applied new market data to the old appraisal, and determined if the original appraisal had neglected to evaluate any significant tribal assets. The three appraisers then averaged their individual revisions of the old appraisal and established a new realization value for the tribal assets. The Secretaries of the Interior and

Agriculture used these new figures as the basis for all sales and purchases under the provisions of the amendment law.⁷³

The House subcommittee also established new dates for the beginning and ending of private sales and the assumption of title to unsold lands by the Secretary of Agriculture. The subcommittee designated April 1, 1959, as the date when the Secretary of the Interior placed the timber units on the market for private purchase. The bill allowed private buyers until July 1, 1961 to purchase the timberlands they desired. If any lands remained unsold on July 1, 1961, the Secretary of Agriculture took title to the lands and transferred administration of the timber to the Forest Service. On the same date, the United States took title to the Klamath Marsh and designated the area a wildlife refuge. Finally, the House, like the Senate, set August 13, 1961, as the completion date for termination.⁷⁴

The House version of S. 3051 also contained several other amendments. The bill terminated the services of the management specialists sixty days after enactment of the law. Upon termination of the managers' services, the Secretary of the Interior assumed all the duties that the specialists had formerly performed. Also, at the request of the Secretary of the Interior, the House subcommittee deleted a section of the original act that transferred Klamath mineral rights to a trustee for a period of ten years. Legalities made such a provision unrealistic, and the Secretary directed the subcommittee to eliminate the provision.

Finally, the House bill more clearly defined the status of inheritance rights for the individual Klamath pro rata shares.⁷⁵

On July 29, 1958, the House of Representatives considered the Klamath amendment bill. Members of the House Committee on Interior and Insular Affairs explained the provisions of the bill and recommended its passage. Chairman Haley expressed a fear that the bill essentially provided for federal ownership, but added that the House subcommittee went the only possible direction toward amendment, "given the administration's and the other body's positions and the conscientious views" of his House colleagues. Congressman Berry, however, presented a more critical view of the bill. Berry refused to term S. 3051 "an Indian bill," and instead referred to it as "a conservation bill." The South Dakota Congressman felt that the bill deprived the Klamath of the fair price for their reservation and merely satisfied the wishes of conservationists. While Berry protested to some of the bill's provisions, the Congressional transcripts contained no record of a negative vote by him as the bill passed the House by a voice vote.⁷⁶

The day after the House passed its version of S. 3051, Senator Neuberger requested a conference committee to work out a compromise. The House agreed to the conference; and in early August, the two conference delegations began deliberations toward a compromise.⁷⁷ Neuberger and his Senate colleagues especially objected to the House provision that had eliminated the term "sustained-yield." In his

fight to gain the reinclusion of the term, Senator Neuberger received support from public officials and Oregon editors. Secretary of Agriculture, Ezra Taft Benson, wrote Senator Neuberger and expressed agreement with the Senate's inclusion of the term "sustained-yield." Benson felt the House terminology weakened the bill and provided a basis for long and costly litigation. Benson stated unequivocally that the Department of Agriculture preferred the Senate wording of the forestry provision.⁷⁸ Oregon editors again supported Neuberger's stand, and displayed a definite preference for the Senate terminology on the forestry issue.⁷⁹

In the conference committee, the representatives of each House fought earnestly for their particular version. The sustained-yield wording proved most decisive and disagreement over this terminology delayed a final compromise. Chairman Haley led the House conferees and refused for a full week to agree to an inclusion of the term "sustained-yield" in the conference report. The conferees finally agreed to a compromise draft on August 12, with the wording, "according to sustained yield procedures so as to furnish a continuous supply of timber." The conference version also changed the date of the end to possible private purchase and the assumption of federal title to the lands from July 1, 1959 to April 1, 1961. On nearly all other provisions, the Senate agreed to the House wording. The final bill, therefore, included the review appraisal and the termination of the management specialists' contract.⁸⁰

On August 14, 1958, both Houses of Congress accepted the conference version of the Klamath amendment bill.⁸¹ On August 23, after Congress had adjourned, President Eisenhower signed the bill into law.⁸² After August 23, 1958, the Klamath question ceased as an issue before Congress and termination ran its course. The competent adult Klamath members who withdrew received their pro rata share of \$43,000 apiece in April of 1961, and assumed their duties as full citizens of the United States. As other withdrawees reached their majority or achieved competency, they too received their full shares.⁸³

The review appraisal had established a lower realization value for the reservation of \$89,486,358, and the federal government eventually bought 525,680 acres of the tribal forestlands for a total price of \$68,716,691.⁸⁴ The remaining tribal members entered into a trust with the U. S. National Bank of Portland, which began management of the remaining Klamath assets. In mid-1971, however, the tribal members voted to terminate the trusteeship, and the trustee offered the tribal lands for sale to the Department of Agriculture for \$51,954,709.⁸⁵ While Congress did not enact the purchase bill during the 92d Congress, on August 16, 1973, President Nixon signed a federal purchase bill for the Klamath Reservation.⁸⁶ Once the government bought the remaining Klamath lands, the Klamath tribe ceased to exist, even as a tribal business entity, after nearly forty-five years of constant political maneuvering.

The long struggle for the termination of federal supervision had cost the Klamath dearly. The constant battle between the two factions had destroyed tribal unity and placed the Klamath at the mercy of Congressional whims concerning American Indian policy. Only for a period of about five years, between 1948 and 1953, had the Klamath displayed even a semblance of unanimity, and then Indian Bureau inaction had destroyed the only hopeful glimmer for an equitable and orderly termination. Only in this one five-year period had the Klamath fully realized the limits that factionalism placed on any final settlement. Unfortunately, Congress and the Bureau of Indian Affairs failed to understand the Klamath dilemma and their bureaucratic blindness hampered the promising movement for voluntary withdrawal.

Cultural egocentrism and obsession with a final settlement law had slanted the perspective of Congressional members. Legislators such as Ellis Berry, Arthur V. Watkins, and Zales Ecton spoke of majority rule and then promptly ignored the voice of the Klamath majority. They set Indian emancipation as the ideal of American Indian policy, and then passed an act that deemed nearly one-half the tribe incompetent and committed them to guardian and trust supervision. Congressional members talked repeatedly of ninety years of inept Bureau of Indian Affairs supervision, and spoke of the twenty-five years of investigations behind Klamath terminal legislation. Yet, in 1954, Congress passed the hasty and ill-conceived Klamath Termination Act that sentenced over

60 per cent of the tribe to continued supervision on the local level, and nearly ruined the economy and ecology of the Klamath Basin.

Between 1947 and 1953, the Interior Department and the Bureau of Indian Affairs inexcusably failed to pursue the Klamath-initiated voluntary withdrawal bills. Undoubtedly, ineffective Bureau leadership after the resignation of John Collier and the growing strength of termination proponents in Congress contributed to the failure of voluntary withdrawal. In addition, the Klamath bills suffered from certain blatant shortcomings. Nevertheless, Bureau and Department officials never even studied the Klamath proposals enough to present an alternative for over five years. By 1953, Bureau of Indian Affairs' inaction had killed the most promising solution for Klamath termination.

Belatedly, Congress and the Interior Department did realize the desirability of voluntary withdrawal. Late in the second session of the 83d Congress, members of the House subcommittee on Indian Affairs amended the Klamath termination bill to allow for withdrawal. Unfortunately, the withdrawal provision of the Klamath Termination Act suffered from hasty drafting and insufficient investigation, and lacked the practicality of the original Klamath proposals. Only drastic amendments in 1957 and 1958 prevented the withdrawal provision from ruining the economy and natural resources of the Klamath Basin.

Once Congress amended the Klamath Act in 1958, termination proceeded smoothly to completion in 1961. This termination proved far

less effective than Congressional proponents had originally predicted. Only about one-third of the tribal members immediately received full control over their affairs, while the other two-thirds remained under some kind of supervision. While a large percentage of those under supervision represented minors, the government established either trusteeships, guardianships, or conservatorships for nearly 36 per cent of the adult withdrawees. In short, while the Klamath Termination Act ended Klamath tribal existence, only a very few tribal members enjoyed the fruits of their newly-won freedom from federal control. Rather than the emancipation of the Klamath tribe that the proponents had predicted, the Klamath Termination Act developed into a transfer of responsibilities from the federal government to local agencies.

CHAPTER VIII FOOTNOTES

¹Congressional Record, 85th Congress, 1st session, May 9, 1957, pp. 6655-57. S. 2047, 85th Congress, 1st session, 1957.

²Ibid., p. 6656.

³Ibid., p. 6657.

⁴Ibid.

⁵"Klamath Termination Proposal," Bend Bulletin, (Bend, Oregon), May 10, 1957, and "Klamath Program Sound," Portland Oregonian, (Portland, Oregon), May 25, 1957. Both are cited from the Congressional Record, 85th Congress, 1st session, May 29, 1957, pp. 7992-93.

⁶These hearings were held on October 2, 1957 in Klamath Falls and October 4 in Portland. On October 3, the subcommittee members visited the reservation to see the tribal resources. The summary data on the stands taken by the various witnesses comes from: U. S. Congress, Senate, subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Amendments to the Klamath Termination Act of 1954, Part I, Hearings, 85th Congress, 1st session, on S. 2047, (Washington, D. C., 1957), pp. 129-32, 288, 290, and 305.

⁷Amendments to the Klamath Termination Act of 1954, Part I, Hearings, pp. 119-21, 267-70, 288, and 290. Also, Congressional Record, 85th Congress, 1st session, May 9, 1957, p. 6656.

⁸Amendments to the Klamath Termination Act of 1954, Part I, Hearings, pp. 159-61, 165, 169, and 171-80. Also, "Sentiment Grows for Repeal of P. L. 587," American Forests, December, 1957, p. 25, and William Dean, "Klamath Hearings in Oregon," American Forests, November, 1957, p. 65.

⁹Amendments to the Klamath Termination Act of 1954, Part I, Hearings, p. 180, 172-73, 175, 176, and 179.

¹⁰For a rough draft of the Netzorg proposal, see: Klamath Tribe--Termination of Federal Supervision, Hearings, pp. 137-38 and p. 144.

¹¹Ibid., pp. 137-38. Also, see: Amendments to the Klamath Termination Act of 1954, Part I, Hearings, pp. 100-01.

¹²Ibid.

¹³Amendments to the Klamath Termination Act of 1954, Part I, Hearings, pp. 41-42, 257-59, 48-49, and 51.

¹⁴Ibid., pp. 129-32 and 144.

¹⁵Ibid., pp. 64-65, 67-70, 73-76, 183-87, 188-193, 193-98, 198-202, 202-04, and 224-30. There are other references in letters and telegrams to the committee, but these testimonies give one a good sampling of public opinion in favor of federal purchase. Also, see: William Dean, "Klamath Hearings in Oregon," American Forests, November, 1957, p. 65.

¹⁶Amendments to the Klamath Termination Act of 1954, Part I, Hearings, pp. 10-16, 27-30, 271-73, 104-06, and 155-56.

¹⁷Ibid., pp. 5-8.

¹⁸Mark A. Talney, "Klamath Tribe Nears a Crisis," Christian Century, January 22, 1958, pp. 112-113.

¹⁹Congressional Record, 85th Congress, 2d session, January 16, 1958, pp. 576-580. S. 3051, 85th Congress, 2d session, 1958.

²⁰The provisions of S. 3051 are summarized in a letter of January 13, 1958, from Secretary Seaton to Richard M. Nixon, President of the Senate. This letter is contained in several sources, see: U. S. Congress, Senate, Committee on Interior and Insular Affairs, Amend Act Concerning Klamath Indian Tribe, S. Rept. No. 1518, 85th Congress, 2d session, 1958, Senate Miscellaneous Reports on Public Bills, II, pp. 10-14. Also: U. S. Congress, Senate, subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Amendments to the Klamath Termination Act of 1954, Part II, Hearings, on S. 2047 and S. 3051, 85th Congress, 2d session, (Washington, D. C., 1958), pp. 311-14. Also: "Seaton Outlines Klamath Indian Proposal to Congress," American Forests, February, 1958, pp. 13, 38-39.

²¹Ibid.

²²S. 3051, 85th Congress, 2d session, 1958, Sec. 28 (a) and (b).

²³Ibid., Sec. (b).

²⁴"Seaton Outlines Klamath Indian Proposal to Congress," American Forests, February, 1958, p. 38.

²⁵Ibid.

²⁶Ibid., pp. 38-39.

²⁷Ibid.

²⁸Congressional Record, 85th Congress, 2d session, January 16, 1958, p. 577.

²⁹Ibid.

³⁰Ibid.

³¹Ibid., p. 576.

³²The Senate subcommittee which Senator Neuberger chaired held the hearings on February 3, 4, 5, 6, 7, and 11, 1958, in Washington, D. C.

³³U. S. Congress, Senate, Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Amendments to the Klamath Termination Act of 1954, Part II, Hearings, on S. 2047 and S. 3051, 85th Congress, 2d session, (Washington, D. C., 1958), pp. 320-23. The Western Timber Services appraised the reservation realization value at \$119,758,029. This was the price that Senator Neuberger proposed to pay. Since the administration planned to buy only the portion to pay off the withdrawees and the Stanford Research Institute estimated a 70 per cent withdrawal, the administration's bill would have cost only 70 per cent of the total realization value.

³⁴Ibid., pp. 337-38. Also, see: Amendments to the Klamath Termination Act of 1954, Part I, Hearings, p. 8. The latter shows how Secretary Seaton leaned toward federal purchase in October of 1957.

³⁵Amendments to the Klamath Termination Act of 1954, Part II, Hearings, pp. 373 and 377.

³⁶By the February hearings, Favell had resigned from the management specialists team on the advice of his physician subsequent to two heart attacks. At this time, therefore, only Thomas Watters remained as a management specialist, ably assisted by Wilcox. For Watters' statement, see: Amendments to the Klamath Termination Act of 1954, Part II, Hearings, pp. 441-43.

³⁷Amendments to the Klamath Termination Act of 1954, Part II, Hearings, p. 443.

³⁸Ibid., pp. 391-92.

³⁹Ibid., p. 390.

⁴⁰Ibid., pp. 393-94.

⁴¹Ibid., pp. 409-11. Senator Morse also favored the extension of sustained-yield requirements to all lands operated by any purchaser of Klamath timber, but the suggestion was starkly unrealistic and had no chance of enactment.

⁴²Amendments to the Klamath Termination Act of 1954, Part II, Hearings, pp. 452-54. For more explicit details by individual committee members, see: pp. 455-63.

⁴³Ibid., pp. 511-12 and 522.

⁴⁴Ibid., pp. 500, 511, 514, 520, and 521-22.

⁴⁵Ibid., pp. 525-46.

⁴⁶Ibid., pp. 429-35.

⁴⁷Ibid., pp. 564-65. See also: "Added Support for Seaton Bill," (ed.) Oregon Daily Journal, (Portland, Oregon), March 20, 1958. cited from Congressional Record, Appendix, 85th Congress, 2d session, March 24, 1958, pp. A2710-11.

⁴⁸Amendments to the Klamath Termination Act of 1954, Part II, Hearings, pp. 584-87.

⁴⁹Ibid., p. 570.

⁵⁰Ibid., pp. 560-61.

⁵¹Ibid., pp. 415, 417-21, 561, 567-68, and 569.

⁵²"Tough Indian Problem," Portland Oregonian, (Portland, Oregon), February 11, 1958, p. 11.

⁵³"Klamath Bill on Way," (ed.), Portland Oregonian, (Portland, Oregon), March 11, 1958, p. 12. See also: Congressional Record, 85th Congress, 2d session, May 7, 1958, p. 8226.

⁵⁴Ibid.

⁵⁵Congressional Record, 85th Congress, 2d session, March 21, 1958, p. 4993.

⁵⁶"Deluged Committee Defers Action on Klamath Bill," Portland Oregonian, (Portland, Oregon), March 20, 1958, p. 6.

⁵⁷"Public Be Damned?," Bend Bulletin, (Bend, Oregon), March 21, 1958. Cited from Congressional Record, Appendix, 85th Congress, 2d session, March 24, 1958, p. A2715.

⁵⁸"Lumbermen Reprehensible," Salem Statesman, (Salem, Oregon), March 22, 1958. Cited from Congressional Record, Appendix, 85th Congress, 2d session, March 26, 1958, p. A2857.

⁵⁹For additional editorial comment, see: "Role of Senator Neuberger in Klamath Indian Reservation Problem," Klamath Falls Herald and News, (Klamath Falls, Oregon), March 23, 1958, cited from Congressional Record, 85th Congress, 2d session, March 25, 1958, pp. 5197-98. Also, see: "Low Blow at the Bell," (ed.), Portland Oregonian, (Portland, Oregon), March 21, 1958, p. 18.

⁶⁰"Deluged Committee Defers Action on Klamath Bill," Portland Oregonian, (Portland, Oregon), March 20, 1958, p. 6.

⁶¹"Low Blow at the Bell," (ed.) Portland Oregonian, (Portland, Oregon), March 21, 1958, p. 18.

⁶²Congressional Record, 85th Congress, 2d session, May 5, 1958, p. 7949 and 7968-69; and, U. S. Congress, Senate, Committee on Interior and Insular Affairs, Amend Act Concerning Klamath Tribe, S. Rept. No. 1518, 85th Congress, 2d session, 1958, Senate Miscellaneous Reports on Public Bills, II, p. 1. Also, see: "Klamath Solution Near," (ed.), Portland Oregonian, (Portland, Oregon), April 30, 1958, p. 16.

⁶³Senate Rept. No. 1518, 85th Congress, 2d session, 1958, pp. 5-6.

⁶⁴Ibid., pp. 1-3 and 5-6.

⁶⁵Congressional Record, 85th Congress, 2d session, May 7, 1958, pp. 8221-32; May 8, 1958, p. 8352.

⁶⁶A. Robert Smith, "New Woes Face Klamath Timber Bill," Portland Oregonian, (Portland, Oregon), May 29, 1958, p. 6. Smith was the Washington, D. C. correspondent for the Oregonian.

⁶⁷Ibid.

⁶⁸Ibid.

⁶⁹The letter from Hunt to Haley is contained in: Congressional Record, 85th Congress, 2d session, June 27, 1958, pp. 12437-39. Also contained in: "NLMA Defense of P. L. 587," American Forests, August, 1958, pp. 4 and 50-53. The association suggested two rather unrealistic alternatives, namely to either remove the withdrawal provision or to form a tribal corporation.

⁷⁰Senator Neuberger's attacks are contained in: Congressional Record, 85th Congress, 2d session, June 27, 1958, pp. 12434-40. For details of editorial attacks see: "Sharpshooting at Seaton Bill," Oregon Daily Journal, (Portland, Oregon), June 27, 1958, cited from Congressional Record, 85th Congress, 2d session, July 1, 1958, p. A. 5962. Also, see: "Klamath Bill a Must," Portland Oregonian, (Portland, Oregon), June 29, 1958, p. 42; and "Klamath Timber Peril," Portland Oregonian, (Portland, Oregon), July 8, 1958, p. 16.

⁷¹Congressional Record, 85th Congress, 2d session, July 25, 1958, p. 15197. Also: U. S. Congress, House, Committee on Interior and Insular Affairs, Klamath Indian Tribal Forest, H. Rept. No. 2278 To Accompany S. 3051, 85th Congress, 2d session, 1958, House Miscellaneous Reports on Bills, IV, p. 1.

⁷²H. Rept. No. 2278, 85th Congress, 2d session, pp. 1 and 9.

⁷³Ibid., pp. 2 and 9.

⁷⁴Ibid., pp. 2, 3, and 9.

⁷⁵Ibid., pp. 3, 4, 10, and 11.

⁷⁶Congressional Record, 85th Congress, 2d session, July 29, 1958, pp. 15461-66.

⁷⁷Congressional Record, 85th Congress, 2d session, July 30, 1958, pp. 15577-79; July 31, 1958, p. 15777.

⁷⁸Congressional Record, 85th Congress, 2d session, August 14, 1958, pp. 17566-67. Also: "Sustained Yield Issue," Portland Oregonian, (Portland, Oregon), August 1, 1958, p. 34. And "Watch That Phrase," Eugene Register-Guard, (Eugene, Oregon), July 29, 1958. Cited from Congressional Record, 85th Congress, 2d session, August 14, 1958, p. 17568.

⁷⁹"Sustained Yield Issue," Portland Oregonian, (Portland, Oregon), August 1, 1958, p. 34. Also: Charles A. Sprague, "It Seems to Me," Salem Statesmen, (Salem, Oregon), July 29, 1958. And "Watch That Phrase," Eugene Register-Guard, (Eugene, Oregon), July 29, 1958. And "House Klamath Bill Needs Strengthening," Oregon Journal, (Portland, Oregon), July 31, 1958. All cited from Congressional Record, 85th Congress, 2d session, August 14, 1958, pp. 17567-68.

⁸⁰"Klamath Bill Repaired," (ed.), Portland Oregonian, (Portland, Oregon), August 13, 1958, p. 14. "House, Senate Conferees Draft Compromise Klamath Indian Timber Measure," Portland Oregonian, (Portland, Oregon), August 13, 1958, p. 6. Congressional Record, 85th Congress, 2d session, August 14, 1958, pp. 17642-43 and 17565-69.

⁸¹Congressional Record, 85th Congress, 2d session, August 14, 1958, pp. 17642-43 and 17565-69.

⁸²Public Law 731 of the 85th Congress, 1958, Congressional Record, 85th Congress, 2d session, August 23, 1958, p. 19585.

⁸³"Business Picks Up in Klamath Falls," Seattle Times, (Seattle, Washington), April 21, 1961, p. A. Blaine Schultz, "Klamath Termination Money Affects Whole Area's Economy," Portland Oregonian, (Portland, Oregon), May 31, 1964, p. 20.

⁸⁴U. S. Congress, Senate, Subcommittee on Indian Affairs, of the Committee on Interior and Insular Affairs, Review Appraisal--Klamath Indian Assets, Hearing, on Review of Appraisal of reservation assets of the Klamath Indian Reservation, 86th Congress, 1st session, (Washington, D. C., 1959), pp. 2-3. And, U. S. Congress, Senate, Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, Klamath Indian Forest, Hearings, on S. 3594, 92d Congress, 2d session, (Washington, D. C., 1972), p. 2.

⁸⁵Klamath Indian Forest, Hearing, p. 2.

⁸⁶Congressional Record, 93d Congress, 1st session, September 5, 1973, p. H7513.

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