

INSTITUTE OF CURRENT WORLD AFFAIRS

WW-1

The Menominees of Wisconsin

Route 9, Box 513
Tucson, Arizona 85703
28 April, 1971Mr. Richard H. Nolte
Institute of Current World Affairs
535 Fifth Avenue
New York, New York 10017

Dear Mr. Nolte:

On my way here, I spent a week among the Menominees of Wisconsin. It was punctuated by a heated public debate that dramatized for me the divisive effects of the Federal government's policy of termination.

The Debate Begins

The moderator, fair-skinned and blond (he could have passed for Dutch), was a soft-spoken young Menominee. He respectfully introduced the invocation. It came from the tiny, silver-haired elder who had sat stone-faced beside me through the long wait before the meeting, and dozed off as soon as he was back in his seat. Just a few of the very oldest seemed to understand the long rolling words of his prayer, but the rest, who did not know Menominee, still strained to get his message.

The embarrassed interpreter ("I'm afraid I didn't catch a lot of it.") said he thought the gist was: In ages past the forest and streams were rich and the Menominees lived alone and well. Then the white men came and the Menominees suffered. The day is coming when the forest and streams will be rich again, and the Menominees will be alone and well.

The audience applauded the old man enthusiastically, moved by his gravity and confidence. Later on, they showed the same kind of enthusiasm to some irreverent shouts from a certain heckler. "Where's old Watkins now, hey?" He injected his taunts off and on for several minutes. "Where's he now? Dead! He's dead, that's where. Now you don't hear him, do you?" The moderator ruled him out of order gently while the audience laughed and applauded.

They responded that way one more time during the afternoon, when a boy of eleven stood on his chair during the question period and called out, "Mr. Kenote, me and my sisters and brothers want to know where we are supposed to live after you've sold all our land to the white people." The clapping lasted well into Kenote's awkward answer.

If the participants seemed a little bloodthirsty, it was fitting for the event, a rare public gathering of more than 200 Menominees from Menominee County itself, adjacent counties, Madison, Milwaukee, and Chicago. They drove through deep Wisconsin snows to hear a four-hour debate on the reasons and remedies for the Tribe's gruesome problems. The militant voices and hostile finger-pointing were only the most recent expression of a frustration that began 20 years ago and shows no signs of subsiding.

On both sides of the dispute now dividing the Tribe, Menominees tend to agree at least that the prime cause of the Tribe's precipitous economic and social decline was the 1961 termination of the trust relationship between the Federal government and what was then the Menominee reservation. At that time, the Tribe was deprived of the protection and subsidies provided by treaty and legislation to virtually all native American groups. In view of the Tribe's eminent prosperity just before termination was legislated by Congress in 1951, many believe that the Menominees would today be economically secure, even rich, if termination had not reversed their fortunes. What the two sides in Menominee County do disagree on is who is to blame and what should be done.

Menominee Enterprises, Incorporated

The wrangling among Menominees can be construed as merely a difference of opinion on tactics between two groups whose ultimate goal is the same: to improve the life and preserve the integrity of the Menominee Tribe. That, anyway, is the interpretation advanced by the public relations officer of one of the parties in the dispute, Menominee Enterprises, Inc. Enterprises is the corporation that since 1961 has been steward of the Menominee assets surrendered by the Secretary of Interior under the terms of termination. These assets included about \$5,000,000 and the land of Menominee County, which the reservation then became, in north-central Wisconsin. The principal wealth of the County and Tribe lies in a carefully preserved stand of timber that to this day yields three times the volume per acre of the average Wisconsin forest. It is one of the few pine and hardwood forests in the United States to have escaped the quick-profit rape of virgin woodlands by infamous timber barons at the turn of the century.

To understand why those Menominees rallied on March 20 and roasted George Kenote in a lopsided debate, why rank-and-file Menominees spent the summer last year demonstrating against Enterprises' land developments (and drawing national celebrities like Buffy Ste. Marie to their aid), why bumper stickers in this sylvan paradise read "Legend Lake Does Not Hold Water," to understand all this, one must know the story of Menominee Enterprises.

As I got the story from Atlee Dodge, Director of Public Relations, and Theodore Boyd, Vice President, Enterprises has been the chief source of tax revenues for the County ever since 1961. In this economically depressed rural county, the tax base has always been small, and that base has, in turn, been mostly Menominee Enterprises. For example, in 1961 the tax base was about \$16,250,000, and Enterprises accounted for about 92% of tax revenues. In 1968, the tax base was about \$19,000,000 and Enterprises accounted for 82%, according to their figures.

At the same time, the corporation has been losing money. In 1967, Enterprises lost \$150,349. The only substantial sources of income were the magnificent continuous-yield forest and the sawmill. Income from the forest does not increase much from year to year, since only 26 million board feet are cut annually. That is how the yield is kept continuous. The sawmill, according to Dodge, is a relatively inefficient operation

that generates only modest profits. It could be modernized to produce more efficiently, more profitably, but that would reduce the number of jobs available through the sawmill to the Menominee work force. And jobs for Menominees is Enterprises' number-two objective. The number-one objective is to reduce its own share of the County's tax base.

I could imagine, as Dodge and Boyd talked, the excitement that must have swept through the management of Enterprises when, in 1967, a professional lake developer offered to join forces with the corporation to build Legend Lake, an artificially induced lake surrounded by 1300 half-acre lots prepared to be inhabited by non-Menominees fleeing the cities in summertime. The project was undertaken after a small percentage of stockholder expressed approval in an "advisory vote." There has resulted a reduction in the Enterprises share of the County's tax base and revenues. From 1968 to 1970, the tax base increased by 42% to \$27,000,000, reflecting private ownership in the Legend Lake area. In 1968, Enterprises paid 82% of all County taxes. In 1970, it paid only 62%.

Still, Dodge and Boyd were defensive as they talked about the project. They offered details to counter some charges I had not yet heard. There are, they explained, 18 restrictive covenants a purchaser must agree to before he can summer among the Menominees. Included are prohibitions against commercial developments, house trailers, and pets. The typical purchasers they described sounded like respectable white middle-class Americans, just the sort you would welcome living along your wooded lakes, if you were a respectable white middle-class American. And the Legend Lake project creates jobs, according to its proponents, construction and maintenance jobs for some of the 500 or so family heads still trying to make a living in the County.

Historic Menominee Tenacity

Trying not to show my skepticism, I asked one of the hotter questions: how did the Menominees feel about their land being sold? I was remembering that the Tribe had fought hard to keep the land, a precious remnant of the Great Lakes woodlands where they had roamed for 4,000 years before the white man arrived.

Like the other tribes in the Algonquian linguistic group, which included the Ottawa, Ojibwa (Europeans distorted them into "Chippewa"), Sauk and Fox, and Potawatomi, the Menominees ranged through the area around Lakes Michigan and Superior freely until the middle of the eighteenth century. Then came the first traders and trappers. By the end of the War of 1812, when European settlers pressed into the Great Lakes territory, the clash of cultures was affecting all the tribes of the area. Soon the native Americans of the woodlands submitted to coercion carried out by the United States government. They allowed themselves to be resettled on land west of the Mississippi, land the government promised would be "forever Indian territory." All but the Ojibwa and Menominee left the Great Lakes for Oklahoma.

The Menominees successfully resisted being driven from their homeland at least partly because of the strength of their leadership, the intransigence of their chiefs. After years of conflict, the Federal government finally allowed the Tribe to remain in 12 townships along the Wolf River, site

of the reservation and, later, the County. That concession was part of the Treaty of 1854, which Menominees still refer to as proof of their guaranteed rights as Indians. Chief Osh-kosh signed, along with twelve clan-chiefs, for the Menominees. For the United States, Franklin Pierce.

After such a history, I was thinking, Menominees cannot be pleased to see Enterprises selling their land to even the most respectable middle-class Americans, with or without pets. Of the roughly 234,000 acres of Menominee County, the corporation had sold 8,760 acres. Until the lake development was begun, Enterprises faced what Dodge excitedly called "the nightmare of bankruptcy." He painted a dark picture of the events that would follow bankruptcy, including the sale of Menominee assets to pay the corporation's debts. By selling $\frac{3}{4}$ (a nasty bit of rounding off) of their land, Enterprises was preventing sure disaster.

In This Corner, DRUMS

Joseph F. Preloznik is an attorney well-versed in Menominee affairs, and in the debate he said that selling tribal land to pay the corporation's debts— even $\frac{3}{4}$ of the land— was like selling the family furniture to pay the household bills. The people applauded that line, and most of what Preloznik said during the afternoon in opposition to Menominee Enterprises (represented by poor George Kenote). Preloznik is Director of Judicare, the OEO-sponsored legal services program in Madison, Wisconsin. His attack on the corporation was part of his job as advocate for his client, the group that has Enterprises running scared, Menominees rallying and demonstrating, and national Indian leaders eyeing County events expectantly. His client is DRUMS.

DRUMS (the acronym abbreviates Determination of Rights and Unity for Menominee Shareholders) is a newly-formed group of Menominees dedicated to reforming the structure of Menominee Enterprises and preventing the sale of tribal land. DRUMS has directed its salvos against a variety of targets: George Kenote, architect of the Enterprises structure and past Chairman of its Board of Directors; N. E. Isaacson and Associates, Inc., the company that teamed up with Enterprises to create Legend Lake (DRUMS has published a broadsheet defining "progressive thinking" as "creating artificial lakes in an area that already had 82 natural lakes."); the Federal government, for its perpetration of termination in the first place; and, indirectly, the white cottagers, who were confronted by angry Menominee demonstrators last summer as they made their way to their property at Legend Lake. But the focus of DRUMS activity, indeed the raison d'etre for the Sunday rally, is a piece of corporate machinery that DRUMS says deprives the Menominees of their right to control the corporation managing their assets— the Voting Trust built into the Enterprises corporate design.

Every person enrolled as a Menominee as of 1954 became a shareholder in Menominee Enterprises, Inc., in 1961. He received 100 shares of Enterprises stock as part of his stake in the corporation that replaced the Secretary of Interior as guardian of tribal assets. The rest of his share

was given to him in the form of an Enterprises 4% income bond guaranteed to be worth \$3,000 at maturity, December 1, 2000.

Preloznik began the debate by noting that in most corporations, shareholders receive, with their stock certificates, the authority to participate directly in major decisions made by the corporation. Not so, he contended, for Enterprises shareholders. Instead, all shares are held and voted by the Voting Trust, a seven-man committee of four Menominees and three non-Menominees. These seven, in turn, elect the Board of Directors, who appoint officers and direct the company in the usual way.

The average Menominee thus has only two ways of affecting the stewardship of his tribal assets: he may vote once annually on the membership of the Voting Trust, and once every ten years as to whether the Voting Trust itself should be continued. The first decennial vote on continuation of the Voting Trust was scheduled for April 3, 1971, and DRUMS was waging a proxy fight to see that the Trust would be dissolved.

The DRUMS critique of the corporate design of Enterprises goes beyond the Voting Trust, although that is the group's chief gripe. DRUMS also complains that a large percentage of the shareholders are prevented from voting even on the two matters specified above. They point out that the voting certificates of minors and those considered "incompetent" are held and voted by the Assistance Trust, in reality an officer of the First Wisconsin Trust Company. Since 1961, this single white man has cast the votes of from 42% of the shareholders, in the 1961 election, to 18% in 1969.

The DRUMS strategies for setting right these inequities include the April 3 proxy fight and a suit to have the Assistance Trust declared unconstitutional. To explain the proxy fight to shareholders and solicit proxies from their fellow Menominees, DRUMS has held rallies in both the County and the major nearby cities. But the March 20 debate and rally was something special. It was only nine days before the vote, and it was advertised as a live confrontation between the DRUMS attorney and the alleged archvillain of the long bitter melodrama— George Washington Kenote.

And in This Corner, in the Black Hat

After Preloznik's succinct opening statement, Kenote approached the microphone, his hands playing unconsciously with notes he had been making. He tried to counter the hostility of his audience by reminding them, Menominee to Menominee,* that the room in which they were meeting had long been the meeting room of the Menominee General Council. Then he made a modest plea for sympathy, saying that before the debate he had been given no notice of the ground rules and no indication that he was expected to have prepared an opening statement. It impressed me that the embattled Kenote never again in the course of the afternoon tried to elicit the

* I was told later that Kenote is not even a Menominee, but claims to be on the basis of the fact that his stepfather was. Kenote, my informant said, is a Stockbridge Indian.

sympathy of his audience. He might easily have played the much-abused public servant caught unfairly by circumstance. He did not. He just defended Enterprises and himself in relatively impersonal terms, sometimes misunderstanding his questioners, sometimes evading them, and often being misunderstood.

He mentioned a few familiar corporations that use the Voting Trust structure like the one being contested, and called the Voting Trust "a safety device to preserve the tribal assets for the longest possible time." He said the Menominees in general do not have the sophistication to direct the affairs of Enterprises profitably. He was saying, it seemed, just what DRUMS accused him and the other corporate officers of believing, that Menominees could not handle their own affairs.

The questions were angry and wide-ranging.

What about the numerous parcels of land conveyed out of the County without notice to stockholders? Not while he was Chairman, Kenote insisted. Nothing was covered up when he was running things.

Is Legend Lake really a good investment, considering the services these summer residents will demand from the ailing County? Since they are summer-only, older people, they will not require much in the way of services.

How much money has George Kenote personally made out of all of this, they demanded. Only his salary for many years, he said, and now just 3% or 7% of the value of land sold by him.

Kenote seemed weary facing Preloznik's careful denunciation and the loud interrogators from the floor. It was no surprise when his anger finally surfaced. "I had nothing to do with the Termination Act," he shouted, interrupting the speaker and rushing to grab the microphone. All through the debate he had reminded the audience that the ultimate cause of all this unhappiness was the Federal government's termination legislation and their threat to appoint a trustee of their own if the Tribe did not develop a satisfactory post-termination plan. "I only helped draft the plan. I didn't have anything to do with the Termination Act!"

He was right to be so frantically sensitive to that false charge. Disgruntled Menominees single him out for their expression of frustration not just because he has been Chairman of the Enterprises Board, served as Chairman of the Voting Trust, and works as salesman for Lakes of the Menominees (the formal name of the Legend Lake project). They also beleaguer him irrationally as the personification of the Termination Act and, perhaps, as the symbol of the Tribe's acquiescence to the demands of the Act. He has come to symbolize these things at least partly because, years before, George Kenote stepped forward in the eleventh hour to forge the post-termination plan before the government imposed its own trustee. That plan, of course, spawned the present shambles.

Termination: Ill-Conceived and Breech-Born

In the century of Menominee relations with the Federal government following the 1854 Treaty, the Tribe continued its tradition of intransigence. The Indian Bureau met righteous opposition to its policies aimed at the Menominees. In 1881, Congress passed the Allotment Act, requiring that Indian lands be divided among its native inhabitants and thus owned individually, in keeping with the pattern among non-Indian Americans. The Menominees refused to parcel out their forests, fearing that they might pass into the hands of non-Menominees. Later, at the turn of the century, despite Congressional action specifically allowing Menominee land to be sold to outsiders (timber speculators included), the Tribe ignored the BIA's entreaties to sell.

Lobbying through the 1920's for the right to control their own forests, the Tribe finally won the right to review the Indian Agency's annual budget and to sue for damages to the forest, damages they claimed the Federal foresters had inflicted. This latter concession prompted the Tribe to file claims in 1935 against the Bureau of Indian Affairs. They were finally settled in 1951 with the award of \$8,500,000 to the Menominee Tribe, mostly for mismanagement of the forest.

When the Tribe proposed to divide part of that award among its members, a special act of Congress was required to allow the Secretary of the Interior to distribute the funds directly to the people of the Tribe as requested. The men who sponsored the special legislation were (then) Representative Melvin R. Laird and the late Senator Joseph McCarthy, both of Wisconsin. The bill passed the House without amendment, but when it came before the Senate Subcommittee on Interior and Insular Affairs, it became the vehicle for an amendment to require termination, an amendment designed to make an example of the wealthy, ornery Menominees. The Chairman of the Subcommittee, and the chief spokesman for termination legislation generally in those years, was Senator Arthur V. Watkins of Utah. As the heckler pointed out happily during the rally, Senator Watkins has died since termination was adopted as government policy toward Indians.

Watkins and the Subcommittee refused to report the bill favorably, denied the Secretary the authority to distribute the Menominees' money according to their wishes, until a satisfactory plan for termination had been submitted by the Tribe. The outcome of negotiations between tribal representatives and the government was Public Law 399, the Termination Act of June 17, 1954. It reads, in part, "It is the policy of Congress, as rapidly as possible, to end their (Indians') status as wards of the United States." The bargain-- per capita payments of money that was rightfully theirs, in exchange for submission to termination-- was ratified by a vote of the Tribe in which only 10% participated. While it is common among non-Indians to assume that those who do not vote on an issue do not care, anthropologists are fond of pointing out that when Indians fail to vote they are probably in the negative on the issue. Researchers have reported since that vote that many tribal members who did vote in favor of the bargain thought they were voting only for the payments,

not for deprivation of rightful Federal support.

Between passage of the Termination Act in 1954 and the final proclamation of termination by Secretary of the Interior Udall in 1961, the Tribe balked and complained loudly, and their Congressman-- still Laird-- won a series of delays of the execution of the Act. By May, 1960, the Menominee leadership was frazzled and feuding. The General Council broke into bitter quarreling about the performance of their delegation to Washington. The delegates were caught between the Tribe's desperate opposition to the cancellation of Federal protections and subsidies, on the one hand, and the Congressional impatience with the delaying tactics of the incorrigible Menominees. In the middle of final negotiations, the delegation was censured and replaced by the General Council.

During these same years, the Tribe's post-termination plan was being developed by a three-man team headed by George W. Kenote. When the Secretary of the Interior repeatedly threatened to appoint a trustee if the Tribe could not submit a plan to handle the assets he would surrender at termination, the General Council turned to Kenote. Within a year, he and his two colleagues had a plan ready, a feat the Council had failed to accomplish for the seven preceding years.

How far George Kenote was, before termination, from the enmity he now suffers among so many Menominees, and how deeply the menace of termination rent the Tribe may be glimpsed in this account of a General Council meeting in July of 1960. (It is quoted from a chronology of "Events Relating to Termination" by former agency superintendent Melvin L. Robertson.)

With nearly 200 tribal members in attendance, the General Council heard a report of the new delegation (to Washington).... Assistant Secretary (of the Interior) Ernst's letter of July 1, 1960, urging the Tribe to expedite termination work, was read and a discussion followed. While the usual remonstrations against termination were expressed, a resolution was adopted by a vote of 139 to 2 urging the Commissioner of Indian Affairs to assign Mr. George Kenote to the reservation at government expense to assist the Tribe in working out the remaining termination problems. Efforts to remove...the tribal chairman failed by a vote of 28 to 47. It was alleged that (he) had opposed extension of the termination date...."

Clearly, it was against the will of a great many, probably most Menominees that termination finally was imposed. Their leaders had been exhausted and divided by a decade of fruitless resistance, and the dubious stewardship of the Federal government had been replaced by something called Menominee Enterprises, Inc.

The Impact of Termination

When I asked the Enterprises spokesmen to summarize how things had been in the County since 1961, one of them used the words "fantastic improvement." There were only ten Menominees in college in 1961, he said, and now there are 200. And he alleged that housing is much better throughout the County now than it was.

Most of what I heard and saw in my admittedly short visit contradicted that assessment. I learned that Enterprises itself had recently suffered as a result of the County's scruffy condition. The sawmill was incapacitated for six weeks last summer when the local fire equipment first failed to start in answer to a call from the sawmill, and then, when it did arrive at the blaze, disgorged hoses too rotten to be useful.

At termination, Menominees lost a wealth of support to education, health, and employment programs much needed by the Tribe and long supplied by the BIA. They lost their tax exemptions. They lost, in short, what benefits there are that come from being viewed by the government as Indian. Since then, in emergency measures championed by Laird and a handful of other concerned citizens, the Federal government has poured well over \$5,000,000 into the County. The State of Wisconsin has grudgingly spent more than \$1,000,000. Yet in 1968 it was reported that 46% of families in the County were on public assistance, and 77% of families earned less than \$3,000 per year.

For the views of the Menominee-in-the-street, I talked one afternoon with several housewives. The most vocal was a rich source of gloomy reports, which my other informants corroborated. Now, she explained, Menominees have to pay for electricity, fuel, and water. She hauls her water three miles every day. Before, they were all free. Now she has to pay taxes (the County's rate is the highest allowable); before she paid none. Jobs are harder to find than ever. To get one, you have to leave the County. Since the hospital was closed at termination, the County has never replaced it.

She had told her story before, apparently. She said she and a lot of others told the tragedy of the Menominees to a National Educational Television crew some time back, and they made a film called "Thunder in the Forest," but no one in Menominee County has ever seen it. She says the powers in Milwaukee, the men who mismanage Enterprises, squelched it. But then, she seems to be a particularly envenomed woman, deeply hurt by the events of the past decade. At one point she looked at me fiercely and said: "The Enterprise people put them signs up, the ones by the highway that say 'Menominee County, We'll Make It.' They better take them down."

A Skirmish Lost

The DRUMS proxy fight failed in its attempt to reform Enterprises through the April 3 vote. Their forces outtallied the votes in favor of the Trust, but DRUMS did not quite achieve a majority of stockholder votes. When I talked to Joe Proloznik, he said that the voting would be protested, some irregularities investigated. If the DRUMS people are discouraged by

the setback, I doubt they will quit fighting. There is still the suit to prevent further lake-development on ecological grounds. There is still the effort to have the Assistance Trust disbanded as an unconstitutional mechanism. And, most significantly, DRUMS is seeking new Federal legislation to reverse Public Law 399, the Termination Act itself. This recent vote notwithstanding, DRUMS has momentum and a spirit of righteousness.

It also has leaders like Ada Deer. A direct, outspoken young Menominee, as a girl Ada lived both on the reservation and in Milwaukee. She now directs an Indian program at the University of Wisconsin, full time, while simultaneously providing impetus and leadership— though she holds no office— to DRUMS. The energy for all this seems to come from a reservoir of pique ("I'm angry, not bitter ") accumulated as a social worker in Indian-populated Minneapolis, and as assistant to the BIA Area Director there.

If Ada Deer and the others working through DRUMS can reverse P.L. 399, the Menominees might well be the first tribe to enter into some new alternative to both the dependency of the regular trust relationship to the government and the ruinous disarray of termination from Federal support. Some such alternative relationship seems to be what President Nixon was looking for in his important Indian Message of July, 1970: "that Indians can become independent of Federal control without being cut off from Federal concern and Federal support." Perhaps, with termination reversed, the Menominees can find and test that new path.

Or have they tired of trying out new Federal Indian policies?

Sincerely,



Woodward A. Wickham

Received in New York on May 6, 1971.