

Senator METCALF. May I interrupt again, Mr. Kelley?

Mr. KELLEY. Surely.

Senator METCALF. It has been alleged that the tribal religion prohibits electricity and sewer and water systems, and so forth. Now is it your contention that the Public Health Service should not come in and provide for those services, and give those people the benefit of and opportunity to enjoy part of the modern civilization?

Mr. KELLEY. I don't think it is necessary to contend that, because I don't think the tribe would refuse the service of the Public Health Service if they were suffering from a genuine public health problem. They haven't refused the services of other public agencies, when they faced a genuine problem or crisis they couldn't handle themselves.

I am speaking, perhaps, more about gratuitous public service, to which most of us are accustomed, and which we would probably be justified in requiring of other segments of the population.

The point I would try to make is that, at least in case of Indian tribes, we have a little different situation. A preexisting communal entity, which was managing its affairs fairly well before we came on the scene, and that—at least in the case of many tribes—because of their recognition as an autonomous community government, that they have some prerogatives which the rest of us don't enjoy, as minorities or as communities.

Senator METCALF. I don't understand "gratuitous public service." I wish you would enumerate some.

Mr. KELLEY. Yes, I would like to clarify that a little. It seems to me that most of us in this country, perhaps for the best, share a faith in the majoritarian welfare, that the majority knows what's good for everybody—that it is good for everybody to go to public schools, that it is good for everybody to share certain public health standards, to have a certain amount and kind of education, and so forth.

There are small minority groups in our society that don't share these majoritarian values, and I don't think those should be thrust upon them, gratuitously. That is, without their requesting it, and without their thanks.

Senator METCALF. Well, I understand. I think that we have a social problem, that certain public health services should be thrust upon people, and forced upon people, and insisted upon, especially when they are adjacent to other people, so that infectious diseases, may be controlled, and will not be spread.

Now it is one thing if an Indian tribe lives out in the middle of a mesa and there are no other people around, and another thing when they are adjacent to civilization, and so we make people abide by certain sanitary rules, and whether it is gratuitous or not, these things are necessary.

Mr. KELLEY. Well, they are more necessary when there is a danger of an epidemic than they are when there is not.

Senator METCALF. That is right.

Mr. KELLEY. And the point of gratuitousness occurs somewhere along that continuum.

Senator METCALF. I think we understand, yes.

Mr. KELLEY. Good. The last thing I would like to try to deal with is what seems to me a point of misunderstanding that the hearing has not clarified too well for me. The assumption seems to have been