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 IN THE SENATE OF THE UNITED STATES

Mr. _____

 introduced the following bill; which was read twice and referred to the Committee on

 A BILL

Providing for the improvement of law enforcement and the determination of civil and criminal jurisdiction in Indian country, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That this Act may be cited as the "Indian Juris-
 4 diction Act of 1976."

5 TITLE I - DETERMINATION OF CIVIL

6 AND CRIMINAL JURISDICTION

7 SEC.1. In any case in which pursuant to the
 8 provisions (including amendments thereto) of the
 9 Act of August 15, 1953 (67 Stat. 588), the Act
 10 of May 31, 1946 (60 Stat. 229), the Act of June 25,
 11 1948 (62 Stat. 827), the Act of June 8, 1940 (54
 12 Stat. 249), the Act of June 30, 1948 (62 Stat.
 13 1161), the Act of July 2, 1948 (62 Stat. 1224),
 14 the Act of September 13, 1950 (64 Stat. 845),
 15 or the Act of April 11, 1968 (82 Stat. 73), ~~any~~
 16 person or property within Indian country has
 17 become subject to State criminal or civil juris-
 18 diction, the Indian tribe affected is authorized



1 to adopt a resolution indicating its desire to have the
2 tribe and the United States reacquire all or any measure
3 of their respective criminal or civil jurisdiction, or
4 both, acquired by such State pursuant to such statutes.

5 SEC.2. Any such resolution shall be adopted by the
6 tribal council or other governing body of such tribe, or
7 shall be adopted by any initiative or referendum procedure
8 contained in the tribal constitution and bylaws.

9 SEC.3. The tribe shall forward the resolution together
10 with a plan for the tribe's proposed implementation of its
11 assumption of jurisdiction to the Secretary of the Interior.
12 Within ninety (90) days after receipt of such resolution
13 and plan, the Secretary shall consult with the governor of
14 the affected State and with the Attorney General of the
15 United States concerning the orderly transfer of responsi-
16 bilities and shall approve the resolution unless he finds:

17 (a) The tribe's plan contains no adequate criminal
18 law and order code; or

19 (b) The tribe's plan contains no adequate means
20 for the resolution of civil disputes; or

21 (c) The tribe lacks the capacity to implement
22 the plan; or

23 (d) The resident tribal membership is so small
24 or scattered as to make the proposed return of juris-
25 diction clearly impracticable; or

26 (e) In cases where the tribe has not proposed a
27 full reacquisition of jurisdiction, the proposed alloca-
28 tion of jurisdiction among the tribe, the United States,
29 and the State is clearly impracticable.

30 SEC.4. If the Secretary approves the tribal resolution
31 he shall set a date for the reacquisition of jurisdiction
32 which shall be not later than one year from the date of
33 his approval, provided that the tribe and Secretary may
34 agree to a postponement thereof to a mutually acceptable
35 date.



1 SEC.5. If the Secretary disapproves the tribal reso-
2 lution --

3 (a) He shall state in detail in writing his reasons
4 for so doing, and his decision may be appealed by the
5 tribe to the United States District Court pursuant to
6 5 U.S.C. Sec. 551 et seq., and

7 (b) He shall, if requested by the tribe, promptly
8 assist the tribe in preparing an acceptable plan for a
9 transfer of jurisdiction (if such a plan is practicable)
10 and shall assist the tribe in achieving the capability
11 to implement the plan.

12 SEC.6. (a) No civil action or proceeding pending before
13 any court or agency of any State prior to the transfer of
14 jurisdiction pursuant to this Act shall abate by reason
15 thereof. For purposes of any such action or proceeding,
16 such transfer of jurisdiction shall take effect on the
17 date established pursuant to section 4 of this Act.

18 (b) No transfer of criminal jurisdiction pursuant
19 to this Act shall deprive any Court of a State of juris-
20 diction to hear, determine, render judgement, or impose
21 sentence in any criminal action instituted against any
22 person for any offense committed before the effective
23 date of such transfer, if the offense charged in such
24 action was cognizable under any law of such State at
25 the time of commission of such offense. For the pur-
26 pose of any such criminal action, such transfer shall
27 take effect on the date established pursuant to Section
28 4 of this Act.

29 SEC.7. Nothing herein is intended to address the ques-
30 tion of whether tribal courts may exercise jurisdiction
31 over non-Indians accused of committing offenses within
32 Indian country.

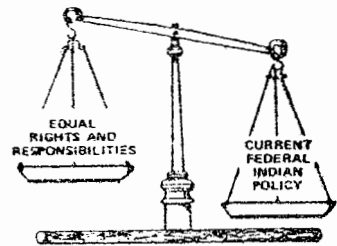
33 TITLE II - AUTHORIZATION OF FUNDS

34 SEC.1. There is hereby authorized to be appropriated
35 for the Department of Justice and the Department of the

- 1 Interior such funds as necessary for the proper implemen-
- 2 tation of the provisions of this Act.

**INTERSTATE CONGRESS
for
EQUAL RIGHTS AND RESPONSIBILITIES, INC.**

Executive Secretary
422 Main Street
Winner, South Dakota 57580
(605) 842-2500



The Presidents Council
The White House.

My Name is Howard Gray and I reside at 9001-22nd Ave.N.W.

Seattle, Washington. My background is that of writer, and producer of Outdoor documentary films. I am past President of the National Outdoor Writers Association of America, a professional organization covering the entire outdoor media.

In addition to producing documentary films on the Life cycle of the Pacific Salmon I served, for 18 years, as an advisory member of the International Pacific Salmon Fisheries Commission. I am a member of the board of directors of C.U.R.E. (Citizens United for Resource Emergencies). CURE is a group of 20 organizations, representing over 10,000 concerned citizens, and was formed shortly after the Judge Boldt decision as a political action group with the specific and sole purpose of correcting the mistake of the decision.

In a period of less than four months approx. 160,000 citizens of the State of Washington signed a petition showing their distain with anyone who would so flaunt the 14th Amendment of the Constitution that provides equal rights to all its citizens.

I am one of the founders of the "Interstate Congress for Equal Rights and Responsibilities" an organization dedicated to the principal that all people, regardless of race, color or creed shall have equal rights granted by the constitution of the United States and that NO LAW SHALL SUPERCEDE CONSTITUTIONAL LAW.

Certainly not secondary in importance I am speaking for and representing the property owners Associations' of two critical areas in the State of Washington. The Lummi Property Owners Association and the Quinault Property Owners Association.

A real problem exists on Indian Reservations such as the Lummi and Quinault wich stems from the fact that although the Indians have sold hugh quanties of the reservation to Non-Indians nevertheless, they ~~they~~ still insist on exclusive Jurisdiction over everything and every one on the reservation.

The historical precedents they cite to support the claim of exclusive jurisdiction ignores completely the fact that large portions of the reservations have been sold to Non-Indians and also ignores the fact that Non-Indians have no voice whatsoever in Tribal Councils. This means that when Indians attempt to enforce Tribal Law against a Non-Indian that the constitutional rights of the Non-Indian are being violated because he has no voice whatsoever in the formation or operation of the Tribal Government.

The conflict created by the sale of Tribal land to Non-Indians should be delt with forthrightly and now. The solution should recognize the rights of the Indians and the rights of the Non-Indian living on the reservation.

MORE

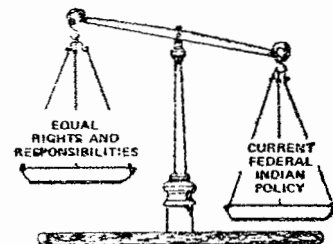
A NONPROFIT CORPORATION CREATED TO INSURE THAT ALL CITIZENS OF THESE
UNITED STATES SHALL ACHIEVE EQUAL RIGHTS AND BEAR EQUAL RESPONSIBILITIES
UNDER THE LAW



INTERSTATE CONGRESS
for
EQUAL RIGHTS AND RESPONSIBILITIES, INC.

Executive Secretary
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Howard Gray
Statement
Page 2



Illegal acts of harassment are going on continually and out of fear several property owners are being forced to sell at a sacrifice. It is not inconceivable that equal rights and freedom will precede order if Congress and the courts don't soon decide on a society of equality with no super-Citizens.

I am in receipt of information that, in my opinion, calls for moral valuation. First--I have a copy of the "Interior and Justice" draft Bill.

The "Indian Jurisdiction Act of 1976.

The legal aspects of this act I will leave to our Attorneys to discuss however as a layman I do understand Sec.7 which states

"Nothing herein is intended to address the question of whether Tribal Courts may exercise jurisdiction over Non-Indians accused of committing offenses within Indian Country.

(Or) alternate language for Sec.7.

"Nothing herein is intended to address or alter the status of Civil or Criminal Jurisdiction over Non-Indians residing within reservation boundaries.

To further explain the Above Sec.7 I refer to a letter written by Ralph R. Reeser, director, Congressional and Legislative affairs staff, Dept. of the Interior, Bureau of Indian Affairs. Mr Reeser states, and I quote...

"Special note should be made of the fact that the draft Administration Bill would not alter the legal status of Non-Indian rights. BUT LEAVES THE MATTER TO THE COURTS

This is Pass-the Buck Legislation

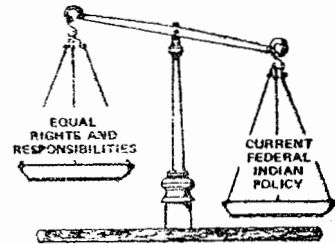
There is a principle of law. I am told, in Federal Courts, which holds that any Ambiguity contained in a law or treaty is to be decided in favor of the poor Indian. Few could, or would dispute this.

MORE

**INTERSTATE CONGRESS
for
EQUAL RIGHTS AND RESPONSIBILITIES, INC.**

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Howard Gray Statement
Page 3



There is no way in which the Non-Indian land owner can compete with Indian Tribes in available funds for court cases. One has to but see the Indian Lobby at work to understand that there would be NO CONTEST.

A simple amendment to the Indian Jurisdiction Act would, by Congressional action, solve one of the most critical problems now facing the Non-Indian Land owner.

"The powers of the Indian Tribal Governments shall be restricted to compare with those of Federal and State Governments. No act shall preclude the Bill of Rights and the 14th Amendment of the Constitution of the United States.

If the Indian Jurisdiction Act is passed without giving the Non-Indian complete jurisdiction over his legally bought Fee Patent land how will the President and Congress explain to the----Thousands upon thousands of Non-Indian citizens who probably out number the Indian by ten to one on over 5 Million acres of so-called reservationland when he is told that-



He will be under the complete jurisdiction, both civil and criminal, of a foreign nation.

This bill does not foster intergretion of the Indian people. It is simply a Segregationist Bill that would further divide the populous. It keeps the Indian people from becoming a part of our Democratic society.

We cannot disaffirm the past, nor can we change it. We must recognize that the past no longer exists and that we must face the realities of the present. A district court recognized this to be true when it further asked "How much of the sins of our forefathers must we rightly bear? Shall we pretend that history never was? Feeling what was wrong does not describe what is right. Anguish about yesterday does not alone make wise answers for tomorrow. Somehow, all the achings of the soul must coalesce and with the wisdom of the mind develop a single National Policy for Governmental action"

Frustrations are felt all over the nation when courts and Congress deal unfairly with the people. Congress must be made to face up to the incompatible acts passed a century ago.

Many of our Federal Judges are using the courts for social legislature. If it is their desire to do something for the Indian they can find some law to support it. Only Congress can abolish these special rights. No society based on our form of Gocernment can exist without MAJOR CONFLICTS if superior rights are given to one portion of its people

Howard Gray

A NONPROFIT CORPORATION CREATED TO INSURE THAT ALL CITIZENS OF THESE
UNITED STATES SHALL ACHIEVE EQUAL RIGHTS AND BEAR EQUAL RESPONSIBILITIES
UNDER THE LAW

STATEMENT BY ALAN R. PARKER
ON BEHALF OF THE
FRIENDS COMMITTEE ON NATIONAL LEGISLATION
FILED WITH THE
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES OF THE
SENATE JUDICIARY COMMITTEE



on S. 1

April 18, 1975

My name is Alan R. Parker. I am Vice President of the American Indian Lawyers Association, an unincorporated association of licensed attorneys of Native American descent who are working in areas directly related to the legal rights of Indian tribes. However, I file this statement as a private person speaking on behalf of the Friends Committee on National Legislation.

The Friends Committee on National Legislation is widely representative of Friends throughout the United States, having members drawn from 22 of the 28 Friends' Yearly Meetings in the country, but it does not purport to speak for all Friends, who cherish their rights to individual opinions. Friends have had a long-standing concern in the area of criminal justice and social equality, and have also had a history of involvement in the rights of Native Americans. That concern is currently expressed in a special program which relates directly and exclusively with Native American legislative issues.

Under existing federal law, the jurisdictional relationships between federal, state and tribal governments regarding prosecution of criminal offenses taking place within the boundaries of Indian reservations are carefully defined. The overall effect of the law has been to protect the right of self-government on the part of Indian tribes while safeguarding the respective interests of state and federal judicial and law enforcement authorities within Indian country. (See 18 U.S.C. Sections 13, 1151, 1152, 1153 and 1162.)

The bill, S. 1, amended, will, if enacted, disrupt this jurisdictional scheme and result in a virtually total preemption of the tribal government's jurisdiction within the boundaries of a reservation. That is, where existing jurisdictional law preserves the exclusive authority of tribal governments over certain criminal offenses and classes of offenders within the reservation, S. 1 would vastly expand the nature and scope of federal and state law at the expense of tribal law. (See proposed U.S.C. Sections 203, 205, 685, 1861 and 1863.) Briefly, Section 203(a) would abolish the distinction between Indian country and other types of federal enclaves for purposes of delineating the reach of federal law, Section 685(b) expands the

scope of state jurisdiction over offenses in Indian country while Sections 1861 and 1863 would expand the number of enclave laws and retain provision for assimilation of state law within federal enclaves where there may be a vacuum in federal law. This is in contrast to existing federal law which recognizes the special jurisdictional status of Indian reservations and provides for the application of federal and state law only where the interest of the tribe in asserting tribal authority cannot be supported.

This total disregard for the rights of tribal self-government evident in the proposed S. 1, amended, has apparently been motivated by an understandable desire to achieve uniformity in federal criminal law as it applies to federal enclaves or "areas of special federal jurisdiction." Analysis of the commentary accompanying various drafts of this legislation reveals that the authors have failed to appreciate the special status that Indian reservations have enjoyed by virtue of their unique right of self-government. Simply put, an Indian reservation, in addition to being an area of special jurisdiction, encompasses at the same time a distinct political community. Recognition of this special status has long been an integral part of federal Indian policy. (See Worcester v. Georgia, 6 Pet. 515, 1832; Williams v. Lee, 358 U.S. 217, 1959; and McClanahan v. Arizona, 441 U.S. 164, 1973.) By comparison, other federal enclaves such as national parks or military reservations do not encompass self-governing jurisdictional entities distinct from federal and state governments.

In short, even the objective of achieving a desirable uniformity in the federal enclave laws ought not to override the right of self-government enjoyed by the Indian tribes which predates the founding of this Republic. It would be a relatively simple matter to retain this special jurisdictional status without disturbing the overall objectives of the bill as it applies to all other federal enclaves. The appropriate provisions of the law could simply be retained in Title 18 or transferred to Title 25 of the Code. Whichever approach is chosen surely ought to be taken only after soliciting the input of Indian tribes and organizations. This effort at reform of the federal criminal law could also address itself to the thorny problems associated with Public Law 83-280 as those problems are now being addressed by the Senate Subcommittee on Indian Affairs. Recently the two major national Indian organizations have articulated a position regarding what they feel are serious shortcomings in Public Law 83-280 and certainly legislative activity on this point ought to be coordinated with the efforts of the Senate Judiciary Committee.

94TH CONGRESS
1ST SESSION

S. 2010

IN THE SENATE OF THE UNITED STATES

JUNE 25 (legislative day, JUNE 6), 1975

Mr. JACKSON (by request) introduced the following bill; which was read twice
and referred to the Committee on Interior and Insular Affairs



A BILL

Providing for the improvement of law enforcement and the
determination of civil and criminal jurisdiction and law in
Indian country, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Indian Law Enforcement
4 Improvement Act of 1975".

5 TITLE I—DETERMINATION OF CIVIL AND
6 CRIMINAL JURISDICTION AND LAW

7 SEC. 101. The Congress, after careful review of the Fed-
8 eral Government's historical and special legal relationship
9 with the American Indian people, finds that—

1 (a) the Federal Government has heretofore recog-
2 nized the sovereignty of Indian tribes through treaties,
3 agreements, executive orders, and statutes;

4 (b) Congress has heretofore declared it to be the
5 policy of the United States to guarantee self-determina-
6 tion to American Indians and to preserve the Federal
7 Government's relationship with and responsibility to
8 Indian tribes;

9 (c) the lack of a consistent congressional Indian
10 policy in the past has resulted in the unclear jurisdic-
11 tional status of Indian country with varying patterns of
12 jurisdictional checkerboarding, overlapping and incon-
13 sistencies which show little or no promise of clear and
14 workable judicial determination;

15 (d) it has not been finally judicially determined
16 whether the application of tribal, State, and Federal
17 civil and criminal jurisdiction and law in Indian country
18 is exclusive or concurrent;

19 (e) jurisdictional problems of increasing severity
20 and magnitude in Indian country have demonstrated
21 that subjecting Indians and Indian country to State
22 or Federal civil and criminal jurisdiction and law with-
23 out regard to the unique cultural, political, geographic
24 and social factors of each Indian tribe and reservation
25 is unjust and unworkable;

1 (f) the Indian tribes will never surrender their
2 right to determine civil and criminal jurisdiction and
3 law within the Indian country;

4 (g) true self-determination of Indian tribes and
5 the solution of jurisdictional problems in Indian country
6 require that Indian tribes design their own legal and
7 judicial systems and determine how the exercise of civil
8 and criminal jurisdiction and law in Indian country be
9 shared by tribal, State and Federal Governments and
10 whether such jurisdiction and law be exclusive or con-
11 current; Indian tribal government and sovereignty must
12 therefore be nurtured and strengthened by comprehen-
13 sive Federal assistance in the improvement of law en-
14 forcement in Indian country.

15 SEC. 102. (a) As used in this Act, the term "Indian
16 country" includes—

17 (1) all land within the exterior boundaries of any
18 federally recognized Indian reservation, notwithstand-
19 ing the issuance of any trust or fee patent, and including
20 any right-of-way running through the reservation;

21 (2) all dependent Indian communities within the
22 borders of the United States, whether within the orig-
23 inal or subsequently acquired territory thereof, and
24 whether within or without the limits of a State;



(3) all trust or restricted Indian allotments or lands including any rights-of-way running through them; and

(4) all trust or restricted land outside the limits of any Indian reservation held by the United States for any Indian tribe, band, community, group, or pueblo.

(b) As used in this Act, the term "tribe" shall, where appropriate, mean federally recognized Indian tribe, band, community, group, or pueblo.

SEC. 103. (a) In any case in which, pursuant to the provisions of section 2, 4, 6, or 7 of the Act of August 15, 1953 (67 Stat. 588), the Act of February 8, 1887 (24 Stat. 390), the Act of May 27, 1902 (32 Stat. 245), the Act of May 31, 1902 (32 Stat. 284), the Act of May 8, 1906 (34 Stat. 182), the Act of May 6, 1910 (36 Stat. 348), the Act of December 30, 1916 (39 Stat. 865), the Act of June 14, 1918 (40 Stat. 606), the Act of April 28, 1924 (43 Stat. 111), the Act of June 26, 1936 (49 Stat. 1967), the Act of August 25, 1937 (50 Stat. 806), the Act of June 25, 1948 (62 Stat. 827), the Act of July 2, 1948 (62 Stat. 1224), the Act of September 13, 1950 (64 Stat. 845), the Act of August 27, 1954 (68 Stat. 868), the Act of June 18, 1956 (70 Stat. 290), the Act of August 8, 1958 (72 Stat. 545), the Act of April 11, 1968 (82 Stat. 73), or the Act of November 25, 1970 (84 Stat. 1358), or court decisions, any area of Indian country or person therein is

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1 subject to State civil or criminal jurisdiction or law, the In-
2 dian tribe affected is authorized to adopt resolutions indicat-
3 ing its desire (1) to have the United States reacquire all or
4 any measure of such civil or criminal jurisdiction and to have
5 all or any measure of the corresponding civil or criminal law
6 of the State no longer applicable, and (2) to determine
7 whether tribal civil or criminal jurisdiction or law shall be
8 concurrent with all or any measure of Federal or State civil
9 or criminal jurisdiction or law.

10 (b) Any such resolution shall be adopted by the tribal
11 council or other governing body of such tribe, or shall be
12 adopted by the initiative or referendum procedure contained
13 in the tribal constitution and bylaws: *Provided, however,*
14 That if the tribal constitution and bylaws contain no initia-
15 tive or referendum procedure, the resolution may be adopted
16 by majority vote of the eligible voters who are enrolled
17 members of the tribe residing on its reservation in a refer-
18 endum election upon a petition signed by at least 25 per
19 centum of the eligible voters of the tribe who are enrolled
20 members residing on its reservation.

21 (c) Ninety days following receipt by the Secretary of
22 the Interior of any such resolution adopted in accordance
23 with the provisions of this Act, the resolution shall be effec-
24 tive unless the Secretary of the Interior has within that
25 period formally disapproved the resolution for the reason that

1 (1) the tribe has no applicable existing or proposed law and
2 order code, or (2) the tribe has no plan for fulfilling its
3 responsibilities under the jurisdiction sought to be reacquired
4 or determined.

5 (d) Whenever the resolution shall become effective,
6 (1) the United States shall reacquire, in accordance with the
7 provisions of the resolution, all or any measure of such civil
8 or criminal jurisdiction in such area of Indian country or
9 parts thereof occupied by the tribe, and all or any measure of
10 the corresponding civil or criminal law of the State shall no
11 longer be applicable therein, and (2) tribal civil or criminal
12 jurisdiction or law shall, in accordance with the provisions of
13 the resolution, be concurrent with all or any measure of Fed-
14 eral or State civil or criminal jurisdiction or law.

15 (e) Upon disapproval by the Secretary of any such res-
16 olution, the Secretary shall immediately assist the tribe under
17 title II hereof in preparation of a law and order code or plan,
18 and when such inadequacies are alleviated, the Secretary
19 shall approve the resolution. In the event of disapproval by
20 the Secretary of any such resolution, the tribe affected may
21 appeal the disapproval to the Federal Court for the District
22 of Columbia in which original jurisdiction for any such appeal
23 is hereby vested, and the Secretary shall have the burden
24 of sustaining his findings upon which the resolution was
25 disapproved.

1 SEC. 104. No action or proceeding pending before any
2 court or agency of any State immediately prior to the re-
3 acquisition or determination of jurisdiction pursuant to this
4 Act shall abate by reason thereof. For purposes of any such
5 action or proceeding, such reacquisition or determination of
6 jurisdiction shall take effect on the day following the date
7 of final determination of such action or proceeding.

8 SEC. 105. Section 6 of the Act of August 15, 1953
9 (67 Stat. 588) is hereby repealed, but such repeal shall
10 not affect any cession of jurisdiction validly made pursuant
11 to such section prior to its repeal.

12 **TITLE II—IMPROVEMENT OF LAW ENFORCE-**
13 **MENT ON INDIAN RESERVATIONS**

14 SEC. 201. (a) The Secretary of the Interior is author-
15 ized and directed to establish and implement programs to
16 improve law enforcement and the administration of justice
17 within Indian reservations and Indian country.

18 (b) In implementing such programs the Secretary is
19 authorized to make grants to, and contracts with, Indian
20 tribes, to implement programs and projects to—

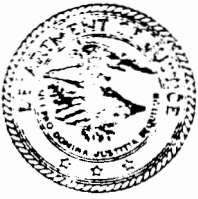
21 (1) determine the feasibility of Federal reacquisi-
22 tions of jurisdiction and determination of jurisdiction
23 over such Indian country or parts thereof occupied by
24 such tribes, including preparation of law and order
25 codes, substantive laws, codes of civil and criminal pro-

1 procedure, and establishment of plans for fulfilling tribal
2 responsibilities under the jurisdiction sought to be re-
3 acquired or determined;

4 (2) establishing and strengthening police forces of
5 the tribes, including recruitment, training, compensation,
6 fringe benefits, and the acquisition and maintenance of
7 police equipment;

8 (3) establishing and improving tribal courts in order
9 to assure speedy and just trials for offenders, the appoint-
10 ment, training and compensation of qualified judges,
11 and the appointment, training and compensation of
12 qualified Indian prosecution officers, and the establish-
13 ment of competent legal defender programs;

14 (4) the establishment and maintenance of correc-
15 tional facilities and the establishment and strengthening
16 of correctional personnel departments, including recruit-
17 ment, training, compensation, and fringe benefits.



Department of Justice

S. 2010

STATEMENT

OF .

JOHN C. KEENEY
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

BEFORE

THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

INTERIOR AND INSULAR AFFAIRS COMMITTEE
UNITED STATES SENATE

CONCERNING

S. 2010 - INDIAN LAW ENFORCEMENT IMPROVEMENT ACT

ON

MARCH 5, 1976



Good morning Mr. Chairman. I welcome the opportunity to appear before your subcommittee today to discuss S. 2010. As you know, we have filed a report on the bill which details our views on S. 2010, as well as the basic principles which underlie those views. Today, I would like to very briefly outline our position.

I would like to stress, at the outset, that while we have problems with some parts of S. 2010, we strongly support the concept of Indian tribes having the right to decide for themselves whether they are to be under state or federal jurisdiction, and that any requests for a return to federal jurisdiction should come from the tribes alone. We believe that the tribes, rather than the states, should be given the option, in an orderly fashion and with reasonable control by the Department of Interior, to return to that criminal and civil jurisdiction which prevailed in Indian country prior to 1954 and the enactment of P.L. 280.

Permit me now to turn to the specifics of S. 2010.

Title I lists numerous statutes which have given states varying degrees of criminal and civil jurisdiction over reservations within their boundaries. It provides that tribes affected by these statutes (and by court decisions) may adopt resolutions expressing a desire to have the United States reacquire all or any measure of the civil or criminal jurisdiction

presently exercised by the states. The tribe's resolutions may also express a desire that the tribal government share jurisdiction with either the federal or state governments.

S. 2010 permits the Secretary of Interior 90 days to disapprove tribal resolutions for either of two reasons:

(1) the tribe has no applicable existing or proposed law and order code, or (2) the tribe has no plan for fulfilling its responsibilities under the jurisdiction sought to be reacquired or determined. If the Secretary fails to disapprove a resolution within 90 days, it becomes effective. If he disapproves the resolution, the bill provides that the Secretary will assist the tribe in alleviating the inadequacies he found to exist. The tribe may appeal the Secretary's disapproval to the United States Circuit Court for the District of Columbia. In any court proceeding the Secretary would have "the burden of sustaining his findings upon which the resolution was disapproved."

P.L. 280 was passed at a time when federal policy was to terminate the then existing special relationships between the tribes and the federal government. P.L. 280 gave five states jurisdiction over virtually all of the Indian country within their borders. Sections six and seven of the statute, in effect,

allowed additional states to assume jurisdiction over Indian territory within their borders. In neither instance were the tribes themselves given a voice in this process. A portion of the 1968 Civil Rights Act attempted to address this inequity by providing that Indian tribes, in the future, must consent to state jurisdiction before becoming subject to it. The 1968 Act also gave the states maintaining jurisdiction over Indian country the power to retrocede it to the federal government. But like the 1954 legislation, there was no requirement that the tribes be consulted.

We believe the time has come for this situation to be remedied. It is unfair that tribes who without being consulted were placed under state jurisdiction between 1954 (when P.L. 280 was enacted) and 1968 should not be given the opportunity to elect between federal and state jurisdiction.

However, we have reservations as to the approach taken by S. 2010.

First, we believe the bill is far too broad in scope. The list of statutes contained in Section 103(a) includes several that concern the allotment of land on Indian reservations. A request from some tribes resulting in the federal government reacquiring civil jurisdiction might, for example, give rise to land claims by Indian tribes, invalidate past land transfers and redefine the boundaries of some reservations. Other

statutes included in Section 103(a) pertain to relatively narrow areas such as granting to Oklahoma a right to tax oil and gas production on trust lands. It is the Department's position that these matters pertaining to tribal property and resources ought to be considered separately and apart from any proposed change in criminal jurisdiction. It would be preferable to limit the scope of legislation in this area to giving the tribe much greater power to bring about changes in criminal and civil jurisdiction than now exists because of P.L. 280..

Second, the limitations the bill places on the power of the Secretary of Interior to refuse approval of a tribal resolution are too severe. While it may be desirable to set forth guidelines for the Secretary to follow in deciding to approve or disapprove a tribal resolution, such guidelines should permit the Secretary to take the interests of all parties into consideration. The concerned state should have a voice but certainly not a veto. Guidelines should not serve as a means of narrowly restricting the Secretary's discretion which is the apparent purpose of the criteria in S. 2010. There are numerous potential problems which might arise when a transfer of jurisdiction is proposed and the Secretary should be able to intelligently respond to them. For example, it should be possible for the Secretary to limit the frequency

with which a tribe changes its mind as to the jurisdictional arrangement between the tribe and other governments. He should be able to consider whether the allocation of jurisdiction the tribe proposes is a rational one and permits other governments to function effectively. He also must be able to assess the availability of tribal and federal resources for establishing an efficient system of government and set a date for the effective reassumption of jurisdiction with this assessment in mind.

Third, it is not clear whether the bill intends to grant jurisdiction to tribal courts over non-Indians. If Congress intends to speak to this question one way or the other it should do so clearly. If it does not, this should also be made clear - as the matter is presently in litigation.

In closing, I would like to note that the Department has established a special interdepartmental subcommittee whose mission is to develop a legislative proposal in the area of Indian territory jurisdiction which would accomplish the objectives we all support. The chairman of that subcommittee, Harry Sachse of the Solicitor General's Office, is with me today, as is William J. Mulligan, United States Attorney for the Eastern District of Wisconsin. Both are familiar with the problems of tribes in P.L. 280 states and join with me in inviting your questions.



UNITED STATES
DEPARTMENT OF THE INTERIOR
WASHINGTON

April 1, 1976

Memorandum

To: Legislative Counsel

From: Special Assistant to the U.S. Secretary
Alennis Jones

Subject: Proposed Bill in re Retrocession



This is in comment on a proposed bill which provides for a means whereby Indian Tribes may seek retrocession of state jurisdiction under P.L. 83-280 and similar laws. Generally, the bill addresses relevant considerations. My specific comments are as follows:

Section 3

This section should include language which makes it clear that the 90-day period for the Secretary's review does not begin to toll until the Tribe's submission of a plan has sufficient data upon which the Secretary can base an informed evaluation and judgment.

Secondly, neither the bill nor the proposed letter to Senator Jackson explains what the bill considers to be an "adequate" law and order code. Also, we should consider whether code provisions which are on their face in violation of the Indian Bill of Rights are considered "inadequate." In the same light, there is no definition for what an "adequate means for the resolution of civil disputes "is, or how many is" so small... as to make the proposed return of jurisdiction clearly impractical", or how clear "clearly impracticable" must be. I suggest that a definition section be included for these words.

Thirdly, the first paragraph of section 3 is somewhat disjointed in its syntax so as to make unclear as to what the 90-day period applies. As written, it could be interpreted to mean that the Secretary must consult with the affected governor and the U.S. Attorney General within 90 days, but it leaves somewhat unclear the period of time within which the Secretary must register his judgment of the submitted plan.

INTERIOR DEPT.

APR 1 - 1976

LEGISLATIVE COUNSEL

Section 4

You may want to consider allowing the governor and the tribes an opportunity to mutually agree to a postponement beyond the one year as well as the tribe and the Secretary. This would provide another means for the tribe to delay retrocession in the event that the tribe and the Secretary disagreed on a retrocession date.

Section 7

I recommend that the word "non-Indians" be changed to read "non-members," if it determined by the DOI that this legislative proposal should not address the issue of political rights of non-members.

Omissions

Would be prudent to include some provision that the Secretary must issue regulations and guidelines for the implementation of the Act. This may cure the vagueness problem.

Political rights of non-members issue

Avoidance of this issue merely continues the state of confusion within Indian country as to the respective political rights of members and non-members and the extent of the governmental authority of tribal, state, and federal governments. It is unfair and unreasonable for the Federal Government to delay addressing this issue directly. The only real question should be whether to address this issue in this piece of legislation or whether to meet this issue in a soon-to-follow separate proposed bill. A separate bill probably is the more prudent course. Thus, it would be advisable for the letter to Senator Jackson to make reference to a prospective proposal from the Administration.





UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

S. 2010 file

April 2, 1976

MEMORANDUM TO THE LEGISLATIVE COUNSEL

FROM : Deputy Solicitor

SUBJECT: Revision of S.2010

I have gone over the draft bill that was jointly prepared by Interior and Justice and have the following comments.

Section 6 is unclear as to whether a state court or agency continues to have jurisdiction over pending proceedings or whether such proceedings are transferred to the tribal authority and thereafter continue to be adjudicated by the tribal authority. The proposed letter states that the state court or agency would retain such jurisdiction. I recommend that Section 6(a) be changed to specifically state this result.



David E. Lindgren
David E. Lindgren

copy: Reid Chambers

INTERIOR DEPT.

APR 5 - 1976

LEGISLATIVE COUNSEL



THE WHITE HOUSE

WASHINGTON

April 19, 1976

MEMORANDUM FOR:

HOWARD BORGSTROM

FROM:

BOBBIE GREENE KILBERG

B.K.

Attached is a copy of the Justice Department's letter on S. 2870 which I have marked up. I feel very strongly that the material which I have excised should be eliminated in the cleared letter. I do not think the excised language is necessary and believe it puts Justice in the position of making moral and policy judgments which are troublesome and which are not the responsibility of the litigator.

I did talk to Peter Taft about my concerns and he disagrees. I would urge you to talk directly with him. On your specific question about references to two of the seven historical Sioux Tribes (page 4), Peter Taft will wait to hear directly from you. I pointed out to him that the Interior letter refers to eight Sioux Tribes, but it is not clear to me whether the reference is or is not in the same context. As to your interest in having a further description of the other litigation before the Indian Claims Commission, I think Peter believes the description on page 4 is sufficient, but again you should speak directly with him.



additions

100

Department of Justice
Washington, D.C. 20530



Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn :

Enclosed are copies of a proposed communication to be transmitted to the Congress relative to: S. 2720, 94th Cong., 1st Sess., a bill "To amend the Indian Claims Commission Act of August 13, 1946."

Please advise this office as to the relationship of the proposed communication to the Program of the President.

Sincerely,
(Signature of Michael M. Uhlmann)

Michael M. Uhlmann
Assistant Attorney General

Honorable Henry M. Jackson
Chairman, Committee on Interior and
Insular Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

You have requested the views of the Department of Justice on S. 2780, 94th Cong., 1st sess., a bill "To amend the Indian Claims Commission Act of August 13, 1946." The bill would eliminate the application of the defense of res judicata to permit certain Sioux Tribes to again litigate a claim respecting the transfer of the Black Hills of South Dakota to the United States in 1877.

The bill implies that the Sioux claim for a Fifth Amendment taking of the Black Hills has not been decided "on the merits." This is in error. The bar of res judicata is inapplicable to claims which have not been decided on the merits. United States v. Creek Nation, 192 Ct. Cl. 425 (1970); Assiniboine Tribe v. United States, 128 Ct. Cl. 617 (1954), cert. den., 348 U.S. 863; and Blackfeet and Gros Ventre Tribes v. United States, 127 Ct. Cl. 807 (1954), cert. den., 348 U.S. 835. With respect to the transfer of the Black Hills to the United States, the Court of Claims decided on the merits in 1942 that no Fifth Amendment taking action against the United States would lie. Sioux Tribe v. United States, 97 Ct. Cl. 613 (1942), cert. den., 318 U.S. 789. The court's examination into the

applicable facts and law was very thorough and its conclusion arrived at only after a number of years of litigation and the writing of extensive findings and a well-considered opinion. Id. at 616-689. In the recent litigation arising under the Indian Claims Commission Act, the courts determined that the Sioux had had their day in court on the Fifth Amendment taking claim in the 1942 case and thereby refused to relitigate that issue. United States v. Sioux Nation (Ct. Cl., Appeal No. 16-74, June 25, 1975), not yet reported, cert. den., December 8, 1975.



Congress enacted the Indian Claims Commission Act to provide all the tribes an opportunity to have their day in court on any past wrongs that they might elect to file against the United States and which had not been previously disposed of on the merits. Act of August 13, 1946, 60 Stat. 1049, 25 U.S.C. sec. 70. The resulting monetary awards have been beneficial to the tribes and with the act being a general statute embracing all tribal claims it has relieved Congress from the piece-meal, case-by-case method of considering such claims as had been the procedure before enactment of the general act.

But there was a much more important benefit, particularly to the Indian people, underlying the statute's enactment. This was the express provision in the act prohibiting the submission of any more claims based on ancient wrongs. See section 70k:

The Commission shall receive claims for a period of five years after August 13, 1946, and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress.



~~This provision was for the purpose of motivating the Indian people to looking, not to the past, but to the present and to the future for the answers to their problems. We believe that this is a most important goal and that if the Indian Claims Commission ~~is not~~ intact that goal will soon be reached. Otherwise, it will not.~~

We see no more merit in this amendment specially benefiting the Sioux than similar amendments specially benefiting the other tribes. In any complex litigation, party plaintiffs, unsatisfied with a judgment, can always select excerpts from the record and develop arguments explaining why they should have been awarded more. This is particularly true in the case of Indian claims involving alleged wrongs covering multitudinous incidents over periods as long as 200 years. The actual facts are frequently obscured and their construction often difficult from the limited records available. However, once a court has engaged in this task, its difficulty is not an excuse for abandoning the accepted doctrine of res judicata, especially after review and affirmance of the doctrine by the Court of Claims whose attitude is properly solicitous of the Indian interest.

S-7 It may be claimed that without this proposed additional redress the Sioux will be peculiarly uncompensated. We disagree. The Sioux have not been left without compensation. They have pending in the Indian Claims Commission at the present time a judgment in their favor of \$17.55 million. ~~This is one of the larger awards that an Indian tribe has received. If the bill were passed, the ultimate total judgment (if the Sioux were successful) would exceed by about three fold the largest of all other Indian judgments.~~ In addition, this same group of Sioux



has another large suit that is pending against the United States. Sioux Tribe v. United States, Docket No. 74, before the Indian Claims Commission. It appears that this latter case will result in an even much larger award in favor of the Sioux than the \$17.55 million award already received. Moreover, these same Sioux have general accounting cases pending before the Indian Claims Commission which no doubt will end in additional judgments in their favor. See Sioux Tribe v. United States, Docket No. 115; Sioux Tribe v. United States, Docket No. 116; Sioux Tribe v. United States, Docket No. 117; Sioux Tribe v. United States, Docket No. 118; and Sioux Tribe v. United States, Docket No. 119, before the Indian Claims Commission.

? It should also be pointed out that while these Sioux are entitled the "Sioux Nation of Indians" they constitute the descendants of essentially only (two) of the seven historical Sioux Tribes which made up the Sioux Nation as a whole. The descendants of the other somewhat smaller five tribes have also received, or are receiving, various sizable awards for the claims they have filed. ~~Compared to the judgments of other Indian tribes, it is our opinion that the Sioux have fared and are faring relatively well without the special benefit contemplated by the instant bill.~~

X Since, as noted above, there is no unique or compelling reason for Congress to grant these Sioux special benefits, if it does so, Congress will be faced with all the other Indian claims which have been subject to the res judicata bar. Here again proponents of this bill will minimize the number of the latter and their relative merit. We do not. Many such claims have been expressly barred by Indian Claims Commission decisions and many others would have been barred had they been filed before the Commission. To invite all of these claims to be again laid at the door of Congress would, in our opinion, be most unwise.

Of course, Congress could relieve itself of consideration of each of these additional claims individually by merely amending the bill and making it applicable to res judicata cases generally. We think such a solution would be equally bad. Given the very liberal judicial climate assigned to Indian claims cases, we would estimate that the additional Indian claims (those now barred by res judicata) might well require as much more litigation as those completed under the Indian Claims Commission Act amounting already to almost 30 years of concentrated effort.

~~Congress and the Executive Branch have been very generous towards the Indians in recent years. We strongly favor the continuance of this policy and the exertion of every feasible means of helping them reach their ultimate destiny. But it is much better that the assistance granted be by direct appropriation and by looking towards the Indians' present and future needs rather than by keeping divisive discontent ever simmering by still further relitigation of ancient wrongs.~~ Litigation of the ancient wrongs was appropriate in its time and was altogether proper in giving the Indians their day in court. But that work is now being as fully completed under the Indian Claims Commission Act as it is feasible to do so and it would be counterproductive to reopen these claims to yet another round of lawsuits.


~~The additional cost to the Government, if the bill is enacted and the suit successful, would be about \$85 million. This is a very large amount for one case but, insofar as the Department of Justice is concerned, the cost is secondary to the disservice that would ultimately result to the United States and particularly to the Indian people if this type of bill were enacted.~~

The Department of Justice recommends against enactment of this legislation.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the Administration's program.

Sincerely,

Michael M. Uhlmann
Assistant Attorney General



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Dear Mr. Chairman:

This responds to your request for our views on S. 2780, a bill "To amend the Indian Claims Commission Act of August 13, 1946, and for other purposes."

We recommend that the bill not be enacted.

S. 2780 would amend section 2 (25 U.S.C. 70a) of the Indian Claims Commission Act of 1946 (60 Stat. 1049, 25 U.S.C. 70). One of the provisions of section 2 presently provides that in all claims under the Act against the United States heard and determined by the Commission, all defenses shall be available to the United States except those of the statute of limitations and laches. S. 2780 would amend that provision of section 2 by authorizing the Court of Claims, notwithstanding the defense of res judicata, to decide on the merits whether the Act of February 8, 1977 (19 Stat. 254) effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the Fifth Amendment of the U.S. Constitution, and to enter judgment accordingly, in the case of United States v. Sioux Nation of Indians, Appeal No. 16-74.

The Black Hills case has been under consideration in the courts since 1923. The Indian plaintiffs are eight Sioux groups in the States of North and South Dakota, Montana, and Nebraska, and include approximately 60,000 persons.

In a February 15, 1974 opinion (Sioux Nation of Indians v. United States, Docket No. 74-B, 33 Ind. Cl. Comm. 151) the Indian Claims Commission determined that under the Act of February 28, 1977, the United States had taken over 7 million acres of Sioux land in violation of the Fifth Amendment of the U.S. Constitution. The Commission awarded the Sioux plaintiffs damages for both the value of the land at the time of the taking and the value of the minerals thereunder removed prior to the time of the taking, including interest on both.





The United States appealed the decision to the U.S. Court of Claims (United States v. Sioux Nation, Appeal No. 16-74) on, inter alia, the issue that there had been no Fifth Amendment taking. If the 1877 taking did not violate the Fifth Amendment, then the award would carry no interest.

The June 25, 1975 Court of Claims decision on that appeal did not deal with whether the 1877 Act involved a taking of property by the United States. Rather, the Court dealt with the question of whether a 1942 Court of Claims decision had decided the taking issue thereby precluding (under the res judicata doctrine) consideration of the issue again. The 1975 Court of Claims majority held that the 1942 Court of Claims decision had previously determined that the 1877 Act did not involve a Fifth Amendment taking by the United States. Therefore, the Court reversed the February 15, 1974 majority decision of the Indian Claims Commission.

On December 8, 1975, the United States Supreme Court denied the Petition for Certiorari (No. 75-456) appealing the 1975 Court of Claims decision.

In its 1975 decision, the Court of Claims described the actions of the United States in the events leading to the 1877 Act as "[A] more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history...." (at 6) These actions and events have been described at length, both before the courts and before the Congress, and we agree that they were a tragic chapter in our history, causing great suffering to the Sioux. However, despite what the merits of this case may be, we cannot support enactment of S. 2780.

The Court of Claims noted in its 1975 decision that when Congress waived certain defenses of the United States in enacting the Indian Claims Commission Act, it did not include res judicata among the waived defenses. We would point out that because of this, many tribes or groups whose claims had been adjudicated prior to 1946 may not have filed their claims with the Indian Claims Commission. Further, it would follow that if there are tribes or groups which had filed previously adjudicated claims with the Commission those suits would probably have been dismissed on the ground of res judicata. In our judgment, enactment of S. 2780

would create an inequitable result with regard to all these tribes or groups. We see no reason to change the law to so uniquely benefit one group when other groups, who may have also suffered wrongs, are or have been precluded from such form of relief.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

Commissioner of Indian Affairs

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

94TH CONGRESS
1ST SESSION

S. 2730

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 1975

Mr. ABOUREZK introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Indian Claims Commission Act of August 13, 1946, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the Indian Claims Commission Act of
4 August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70a), as
5 amended, is hereby further amended by changing the period
6 at the end of the second paragraph to a colon, and by adding
7 the following language: "*Provided, That, notwithstanding*
8 the defense of res judicata, the Court of Claims is authorized
9 in United States against Sioux Nation of Indians, Appeal

1 Numbered 16-74, to decide on the merits whether the Act
2 of February 28, 1877 (19 Stat. 254), effected a taking of
3 the Black Hills portion of the Great Sioux Reservation in
4 violation of the fifth amendment, and to enter judgment
5 accordingly.”.

97TH CONGRESS
1ST Session

S. 2730

A BILL

To amend the Indian Claims Commission Act of
August 13, 1946, and for other purposes.

By Mr. BROTHMAN

DECEMBER 12, 1973

Read twice and referred to the Committee on Interior
and Insular Affairs

5

(1960-62); and visiting professor at Stanford University (1964). She taught in the Oakland, Calif., public schools from 1938 to 1942.

Dr. Ray was born on September 3, 1914, in Tacoma, Wash. She received her B.A. (1937) and M.A. (1938) degrees from Mills College and her Ph.D. from Stanford University in 1945.

She has served on many scientific boards and commissions, including the Washington State Oceanography Commission and Oceanographic Institute, the Planetary Sciences Corporation, Inc., the Committee on Public Understanding of the Sciences, the Committee of Corresponding Consultants for the World Report on the Environment, the Puget Sound Oceanographic Study Committee, and the President's Task Force on Oceanography.

Dr. Ray has published numerous articles and scientific papers on marine biology and holds many honors in this field. She received the William Clapp Award in Marine Biology (1959), was a foreign member of the Danish Royal Society for Natural History (1963), and was named Maritime Man of the Year in 1966.

Federal Fire Prevention and Control Act of 1974

Statement by the President Upon Signing the Bill Into Law. October 29, '74

I am today signing into law S. 1769, the Federal Fire Prevention and Control Act of 1974.

While fire prevention and control is and will remain a State and local responsibility, I believe the Federal Government can make useful contributions. I endorse the intention of this act to supplement rather than supplant existing State and local government activities.

The program established by this act, which will be implemented by an agency within the Department of Commerce, will contribute to our knowledge of fire and our ability to prevent it.

Federal assistance for research and development on fire problems will be consolidated and expanded to provide the scientific and technological base for the development of materials, equipment, and systems to reduce the number and severity of fires.

The Fire Academy system will supplement existing education and training for fire prevention personnel across the Nation.

The research and development program will be closely tied to the education and training program, thereby insuring that research and development results are disseminated quickly to communities.

The data base of the National Fire Data Center will assist States and communities in setting priorities and in identifying possible solutions to problems. I will monitor the progress of the Nation in reducing fire losses.

The bill contains a provision that requires the Secretary of Health, Education, and Welfare to establish 25 burn treatment centers, 90 burn programs, and 25 centers for expanded research on burns. Since these centers would duplicate the burn research carried on through the trauma program of the National Institute of General Medical Sciences and would add \$5 million to the FY 75 budget, I will not seek appropriations to implement this particular provision of the bill.

NOTE: As enacted, the bill (S. 1769) is Public Law 93-498, approved October 29, 1974.

Indian Claims Commission Appropriations Bill

Statement by the President on Signing a Bill Providing Appropriations for Fiscal Year 1975. October 29, 1974

I have signed S. 3007, an act to authorize appropriations for the Indian Claims Commission for 1975.

It is a particular pleasure for me to be able to sign this bill because there are not many opportunities in life to take clear and decisive action designed to right a past wrong.

The background is this:

In 1877, the United States Government took over lands from the Sioux Indians in the Black Hills of South Dakota. At the same time, to prevent widespread starvation of these Indians deprived of their hunting grounds, the Government supplied them with food and other provisions for a number of years.

Earlier this year, the Indian Claims Commission ruled that the United States took the Black Hills lands illegally in violation of the fifth amendment. The 1877 value of the land and gold was estimated at \$17.5 million which, together with interest from that point, boosts the value today to nearly \$103 million.

However, the Indian Claims Commission Act of 1946 contains a provision requiring that the Government-supplied food and other provisions, valued at approximately \$57 million, be used to offset the Indians' claims against the Government. If this offsetting provision stayed in effect, it would totally wipe out the \$17.5 million original evaluation and leave the Sioux Indians with nothing.

The basic legal question of whether or not the Sioux have a legitimate claim against the United States over the Black Hills land is still being litigated in the courts. However, in passing this act Congress has determined—and I agree—that if such a claim is held to be valid, it

would be unfair and unjust to try to avoid paying it by deducting the cost of previously supplied food and provisions.

Although we cannot undo the injustices from our history, we can insure that the actions we take today are just and fair and designed to heal such wounds from the past.

NOTE: As enacted, the bill (S. 3007) is Public Law 93-494, approved October 27, 1974.

Bill Concerning the Regulation of Interest Rates

Statement by the President Upon Signing S. 3838 Into Law, While Expressing Reservations About Certain of Its Provisions. October 29, 1974

I am signing into law today S. 3838, "To authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes".

Titles II and III of the bill would remove burdensome inequities by authorizing exemptions from state usury laws of large business and agricultural loans and of large borrowings of bank holding companies and bank deposits. Such usury laws as this bill addresses are well-meaning but futile attempts to keep interest rates at "reasonable" levels. In fact, their net effect is that the same borrowers who are supposedly protected from "unreasonable" interest rates are, instead, unable to obtain funds at the levels set by law.

S. 3838 seems to me a clearly second-best remedy to this problem, and the States which have these usury laws may wish to reconsider their applicability under today's conditions.

On the other hand, I am deeply concerned about Title I of the bill which enables the Federal financial regulatory agencies to place interest rate ceilings on securities issued by holding companies which at present are not subject to such regulations. I believe this provision goes in the same direction as the state usury laws from which the other titles of this bill authorize exemptions. I hope that the regulatory agencies will not see fit to exercise the discretionary authority granted by this provision.

The Administration has introduced a bill, the Financial Institutions Act (S. 2591), containing a set of reforms that would gradually free the credit market from harmful regulations of the sort imposed by Title I of S. 3838. I strongly urge the Congress to pass S. 2591.

NOTE: As enacted, the bill (S.3838) is Public Law 93-501, approved October 29, 1974.

Bill Increasing Federal Deposit Insurance

Statement by the President on Signing H.R. 11221 Into Law, While Expressing Reservations About One of Its Provisions. October 29, 1974

I have signed H.R. 11221 which provides important new consumer protection in the area of credit finance.

This legislation would double the basic Federal insurance limits for deposits and savings accounts in insured banks, savings and loan associations and credit unions from \$20,000 to \$40,000. This increase will help these financial institutions to attract larger deposits. It will also encourage savers to build up funds for retirement or other purposes in institutions with which they are familiar and which are insured by Federal agencies that have earned their confidence over the years.

H.R. 11221 also contains fair credit billing provisions which will protect consumers against the repeated incorrect billings of computers that sometimes fail to respond to consumer's inquiries. Now creditors must acknowledge customer inquiries within 30 days. Moreover, the creditor must resolve any dispute within 15 days either by correcting the customer's bill or explaining why the original bill is correct. Until these requirements have been met, there can be no dunning letters sent or other action taken to collect amounts in dispute.

Another extremely important provision in this legislation prohibits discrimination on the basis of sex or marital status in the granting or denying of credit. While there has been a voluntary improvement in credit procedures in recent years, women are still too often treated as second-class citizens in the credit world. This legislation officially recognizes the basic principle that women should have access to credit on the same terms as men.

This bill should also have a beneficial impact on the availability of mortgage credit, since it returns to institutions insured by the Federal Savings and Loan Insurance Corporation well over a billion dollars in insurance premiums not now required by the corporation.

One provision of H.R. 11221 is particularly unfortunate, however, in that it will severely undermine the present method of gathering legitimate views of other executive branch agencies and identifying potential conflicts with other existing legislation in this field. Thus, it could seriously hamper efforts to achieve a coherent Administration legislative program. Therefore, I am asking the Congress to amend the law by deleting section III. This would preserve the executive branch's ability to develop a coordinated and coherent legislative program.

This bill includes a number of provisions which could more appropriately be considered in the framework of a

THE WHITE HOUSE

WASHINGTON

July 1, 1976

MEMORANDUM FOR: JIM MITCHELL
FROM: BOBBIE GREENE KILBERG *Bobbie*

Ted Marrs has informed me that the Scheduling Office has tentatively accepted a proposal for the President to meet with 150 tribal leaders, possible on a date as early as July 12. It would be very useful if we could announce our support for the bill dealing with Public Law 280 on that date.

cc: Paul O'Neill
Ted Marrs ✓
Howard Borgstrom





**NATIONAL
CONGRESS
OF
AMERICAN
-INDIANS-**

SUITE 700, 1430 K STREET, N.W., WASHINGTON, D.C. 20005 (202) 347-9520

June 21, 1976

EXECUTIVE COMMITTEE

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SOUTHEAST AREA

Jonathan Ed Taylor
Cherokee

Doris M. Meissner
Chairwoman
Task Force on Indian Matters
U. S. Department of Justice
Washington, D. C. 20530

RE: Legislation Regarding P. L. 280,
Tribal Jurisdiction and Law
Enforcement on Indian Reservations

Dear Ms. Meissner,

Thank you for providing our office with a copy of your Task Force Memorandum of May 24, 1976, concerning the "Indian Jurisdiction Act," the Justice Department's legislative proposal now being reviewed by the Office of Management and Budget. Your courtesy in extending an invitation to review and comment on this proposal is appreciated.

The National Congress of American Indians agrees with the statement of philosophy contained in the Task Force Memorandum, page 1, and with the general intent of the proposed legislation. We would welcome the opportunity to review this proposal in its final form, following examination by the Office of Management and Budget.

You will find the specific views of the National Congress of American Indians, as well as those of Tribes and other Indian organizations, in the language of S. 2010, and aptly set down in the record of testimony on the "Indian Law Enforcement Improvement Act" heard before the Senate Indian Affairs Subcommittee, December 3 & 4, 1975.

Sincerely,
Mel Tonasket
Mel Tonasket
President



cc: Senator James Abourezk, Chmn., Sen. Indian Affairs Subcommittee
Senator Henry M. Jackson, Chmn., Sen. Int. & Ins. Affairs Comm.
Commissioner Morris Thompson, Bureau of Indian Affairs
Wendell Chino, President, National Tribal Chairmen's Association
P. S. Deloria, Director, American Indian Law Center



**NATIONAL
CONGRESS
OF
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SUITE 700, 1430 K STREET, N.W., WASHINGTON, D.C. 20005 (202) 347-9520

July 21, 1976

EXECUTIVE COMMITTEE

PRESIDENT

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Colville

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Veronica Murdock
Mohave

TREASURER

Ray Goetting
Caddo

RECORDING SECRETARY

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Puyallup

EXECUTIVE DIRECTOR

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Ojigala Sioux

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Juanita Ahtone
Kiowa

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Ray Spang
Northern Cheyenne

GALLUP AREA

Victor Sarracino
Laguna

MINNEAPOLIS AREA

Stanley Webster
Oneida

MUSKOGEE AREA

Katharine Whitehorn
Osage

PHOENIX AREA

Irene Cuch
Ute

PORTLAND AREA

Roger Jim
Yakima

SACRAMENTO AREA

Rachel Nabahe
Shoshone/Paiute

SOUTHEAST AREA

Jonathan Ed Taylor
Cherokee

The Honorable Richard Kneip
Governor
State of South Dakota
State Capitol Building
Pierre, South Dakota 57501



RE: Organized Opposition in South Dakota
to the Political, Social and Human
Rights of Indian Nations and Peoples

Dear Governor Kneip,

The National Congress of American Indians, the oldest and largest national Indian organization, has a constituency of Indian nations, tribes and peoples whose objective is to consolidate individual tribal efforts into an organized voice which can speak to effectuation and implementation of legislative and administrative procedures in compliance with treaties and the basic tenets of the trust responsibility.

As you are undoubtedly aware, there exists a situation of great magnitude within South Dakota concerning certain citizens of your State who are engaged in deliberate and aggressive attempts to violate Indian political, social and human rights. These fundamental rights are guaranteed to Indian governments and Indian peoples by treaties, which are upheld by the United States Constitution, by statute and by the first element of the trust responsibility, which extends to the preservation, protection and enhancement of Indian tribal sovereignty.

The membership of the National Congress of American Indians has addressed their concerns regarding the radical element of South Dakota citizenry which is militating against Indian peoples whose borders touch those of your State. The attached resolutions are expressions of those concerns.

We respectfully request that you and your staff carefully review and respond to the attached resolutions so that the official position of the State of South Dakota might be stated clearly for the understanding of all concerned. Your immediate attention to this matter will do much to relieve our deep concern that such activities could be condoned or sanctioned, even in their most subtle form, by the majority of South Dakota citizens or by your Administration.

Sincerely,

Mel Tonasket
Mel Tonasket (SSH)
NCAI President

THE WHITE HOUSE

WASHINGTON

July 21, 1976

MEMORANDUM FOR: FOSTER CHANOCK
FROM: BOBBIE KILBERG

Attached at Tab A is a set of talking points on the issue of civil and criminal jurisdiction on Indian reservations which has been concurred in by Interior, Justice and OMB. Attached at Tab B is the relevant part of the President's statement to the Indian leaders, and attached at Tab C is the lead-in paragraph to the AP wire story which appeared in a Spokane, Washington newspaper and most probably in other papers throughout the West.

There are two additional points that you should be aware of that do not appear in the talking points:

(1) The present legal status of non-Indians residing within reservation boundaries is uncertain and confused. The issues involved are very complex and there are a number of cases presently in litigation that deal with different aspects of non-Indian status. The Administration draft bill does not attempt to legislatively alter any aspect of that status and the Administration position to date has been to leave the dispute to the courts. Many Anglo residents of Indian reservations want the Administration to legislatively attempt to solve non-Indian jurisdictional problems.

(2) The draft Administration bill only applies to States that have exercised jurisdiction under P. L. 280 and similar statutes. North Dakota asserted State jurisdiction over the Devil's Lake Reservation by a statute prior to P. L. 280; Montana asserted jurisdiction for criminal matters over the Flathead Reservation under the provisions of P. L. 280. Wyoming, Colorado and South Dakota have not asserted State jurisdiction.



However, the AP news wire story will create concern in all Western states, regardless of their P. L. 280 status, because the story implies that any tribe in any State could assume all criminal and civil jurisdiction over Indians and non-Indians residing on its reservations.

JULY 16, 1976

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
TO THE
AMERICAN INDIAN LEADERS

THE EAST ROOM

3:15 P.M. EDT

Let me welcome each and every one of you to the White House this afternoon. I am extremely happy to have the opportunity to meet with you individually as well as collectively and I am very proud to have the distinguished leaders and the elected representatives of America's Indian tribes here in the East Room of the White House.

I looked over your schedule and I hope from the distinguished speakers that spoke with you that you have had an informative briefing session, not only with Secretary Kleppe, but the others -- those who were responsible for some of the Government Indian programs. I think it is vitally important that you tell us what your problems are, what your needs are and then we can be fully informed as to the right policies and the right programs.

Let me take just a few minutes to talk with you on a personal basis, to let you know of my personal concern and for the needs of Indians and native Americans. The Federal Government has a very unique relationship with you and your people. It is a relationship of a legal trust and a high moral responsibility. That relationship is rooted deep in history, but it is fed today by our concern that the Indian people should enjoy the same opportunities as other Americans, while maintaining the culture and the traditions that you rightly prize as your heritage.

That heritage is an important part of the American culture that we are celebrating in this great country in our Bicentennial year. Your contribution has been both material and spiritual. Your ancestors introduced settlers not only to new foods and new plants, but to Indian ways of life and Indian values which they absorbed.

MORE



This is a year for all of us to realize what a great debt we individually and collectively owe to the American Indians. Today, you are concerned about such serious problems as poverty, unemployment, crime, poor health and unsuitable housing on Indian reservations. I share your concern. I am hopeful about the future and about what we can achieve by continuing to work together.

The 1970s have brought a new era in Indian affairs. In the last century, Federal policy has vacillated between paternalism and the threat of terminating Federal responsibility. I am opposed to both extremes. I believe in maintaining a stable policy so that Indians and Indian leaders can plan and work confidently for the future.

We can build on that foundation to improve the opportunities available to American Indians, and at the same time, make it possible for you to live as you choose within your tribal structure and in brotherhood with your fellow citizens.

We have already begun to build. My Administration is supporting the concept of allowing Indian tribes to determine whether they and their members, in addition to being under tribal jurisdiction, should be under State or Federal civil and criminal jurisdiction.

I have directed the Departments of Justice and Interior to draft legislation which would accomplish this goal efficiently, effectively and within adequate guidelines. They have solicited the views of the Indian community in preparing their recommendations which I will soon send to the Congress.

I am committed to furthering the self-determination of Indian communities but without terminating the special relationship between the Federal Government and the Indian people. I am strongly opposed to termination. Self-determination means that you can decide the nature of your tribe's relationship with the Federal Government within the framework of the Self-Determination Act, which I signed in January of 1975.

Indian tribes, if they desire, now have the opportunity to administer Federal programs for themselves. We can then work together as partners.

On your part, this requires initiative and responsibility as you define your tribal goals and determine how you want to use the Federal resources. On the Federal Government's part, self-determination for Indian tribes requires that Federal programs must be flexible enough to deal with the different needs and desires of individual tribes.

MORE

In the past, our flexibility has been limited by the lack of effective coordination among departments and agencies offering a wide variety of programs and services to the Indian people. Programs serving both reservation and non-reservation Indians are spread across half a dozen different Cabinet Departments involving agencies ranging from the Economic Development Administration to the Federal Aviation Administration.

MORE



As many of you know, this is Ted Marrs' last day on the White House staff. Ted's service as White House Liaison for Indian Affairs has been invaluable to me as President and to the Cabinet officers and, I am confident, to the Indian community.

With his departure, I will announce shortly the name of a person who will assume Ted Marrs' duties in the Office of Public Liaison in the area of Indian Affairs. This appointee will be an individual with responsibility to work with the Cabinet officers, with the Office of Management and Budget, with the Domestic Council and with my Legal Office to encourage the improved coordination of the various Federal agencies and programs that currently serve the Indian population.

As an additional step in this direction, I am also sending a memorandum to the heads of all Cabinet departments with Indian responsibilities, directing them to give priority attention to the coordination of Indian programs. These two actions will help to insure that one and one half billion dollars spent annually on Indian programs and services will be spent efficiently, with cooperation and without duplication.

An important task we can help you with is the challenge of economic development of your lands. I congratulate you on the initiative that you have shown. I pledge encouragement. I pledge help in your efforts to create long-term economic development.

Many Indian reservations contain valuable natural resources. There must be the proper treatment of these resources with respect for nature, which is a traditional Indian value. My Attorney General has established an Indian resources section whose sole responsibility is litigation on behalf of Indian tribes to protect your natural resources and your jurisdictional rights.

Indian leaders and the Indian people have gained an increasing skill in managing these resources so they benefit your tribes and our nation as a whole. I wholeheartedly and unequivocally pledge our cooperation in working with you to improve the quality of Indian life by providing soundly managed programs and a stable policy.

We can make the rest of the 1970s decisive years in the lives of the Indian people. Together we can write a new chapter in the history of this land that we all serve and this land that we all share.

I thank you very much.

END

(AT 3:25 P.M. EDT)



(1) In his statement to American Indian leaders on July 16, the President indicated he would introduce legislation to allow those Indian tribes, which have been subject to State civil and criminal jurisdiction under provisions of Public Law 83-280 and similar statutes, to decide whether they wish to continue under State jurisdiction or return to Federal jurisdictional status, subject to adequate standards established by the Secretary of the Interior. Under this retrocession legislation, a tribe could independently make a request to the Secretary of the Interior for retrocession of jurisdiction. However, in the process of considering retrocession, the Secretary of the Interior would be required to consult with the U. S. Attorney General and with the governors of the appropriate States. The draft Administration bill requires more comprehensive standards for retrocession than the Jackson bill, S. 2010.

(2) This bill would only apply to those tribes over which States have exercised jurisdiction under Public Law 280 and similar statutes.

(3) The draft Administration bill does not alter the present legal status of non-Indians residing within reservation boundaries. In contrast, the Jackson bill does provide for an alteration in non-Indian status.



(4) The Administration has made a substantial effort to consult with the governors of 35 states in order to elicit their views on the draft legislation.

Spokesman Review, Spokane, Washington, Saturday, July 17, 1976

"Ford Backs Tribal Jurisdiction Rights", Washington--AP

President Ford told Indian leaders Friday he soon will seek a new law that could give tribal governments criminal and civil jurisdiction over people living on Indian reservations.

I. The Act of August 15, 1953, Public Law 83-280, granted five States jurisdiction over Indian country. Section 6 of P.L. 280 permitted other States to amend their constitutions in order to assume such jurisdiction, and section 7 permitted States without a constitutional impediment to assume such jurisdiction through legislation. The States could act unilaterally without consultation with tribes.

Original P.L. 280 States

California; Minnesota; Nebraska; Oregon; Wisconsin

Later P.L. 280 States

Alaska; Florida; Idaho; Montana (only on one reservation and concurrent with tribe); Nevada; Washington

Other Statutes (prior to 1954)

North Dakota (1946); Iowa (1948); Kansas (1940); and New York (1948 and 1950).

II. Administration draft bill:

Any tribe subject to State civil and criminal jurisdiction pursuant to statutes listed in bill may adopt a resolution requesting that the tribe and U.S. acquire any or all of the jurisdiction acquired by the State. Only jurisdiction tribe could acquire was that it had prior to P.L. 280.

Tribe will forward resolution and plan of implementation to Secretary. Secretary has 90 days to accept or reject it, and to consult with affected governor and the U.S. Attorney General.

Secretary will approve the tribal resolution unless: (1) tribal plan contains inadequate law and order code; (2) no adequate means to resolve civil disputes; (3) tribe lacks capacity to implement plan; (4) jurisdiction impracticable - small or scattered membership; (5) proposed allocation of jurisdiction among tribe, U.S., and State impracticable.



If Secretary approves, retrocession within one year, or later by mutual extension. Secretary will assist tribe with preparing acceptable implementation plan and achieving capability to implement it if tribe's plan disapproved, although tribe has primary responsibility for such.

Draft bill does ^{not} address question of tribal jurisdiction over non-Indians

III. <u>Major Issues</u>	<u>Administration Draft</u>	<u>S. 2010</u>
Statutes affected by legislation	only those conferring civil and criminal jurisdiction would cease to apply	lists statutes not properly includable in legislation of this type (tax statutes, allotment acts etc.) Also cites "court decisions" as retrocession basis - confusing and could lead to litigation
Extent of reacquisition	subject to Secretarial approval. One of five criteria. Assures against fragmented concurrent jurisdiction.	tribe can keep changing its mind on jurisdictional arrangements among tribe, State and U.S. and could result in fragmented concurrent jurisdiction. This arrangement not subject to Secretarial discretion
Guidelines for Secretarial approval of tribal plan	5 criteria set out above (II) address the potential problems tribes could face in implementation of plan. Gives Secretary reasonable discretion to approve or disapprove	2 criteria too narrow and severely limit Secretary's discretion to approve or disapprove. Does not take into account any potential problems in implementation.
Tribal Jurisdiction over non-Indians	Does not address the issue. Left to the courts.	Provides for tribal jurisdiction over non-Indians.

IV. State responses to draft legislation

1. Issues

<u>Support</u>	<u>Oppose</u>	<u>Not affected/No objection</u>
Washington Kansas	California Alaska	South Dakota North Carolina Nevada

2. Washington

a. What is to be the status and powers of Indian tribal governments and how does this relate to other governmental (State and local) jurisdictions

1. Need for Federal policy direction on appropriate method of delivery of State-funded services - do State and local agencies continue to administer or will funds be channeled through tribes

2. Federal policy on State-tribal relations, most notably in hunting and fishing and State taxing jurisdiction on reservations

b. What is the territory over which tribal jurisdiction will be authorized

1. "Checkerboard" pattern of Indian/non-Indian land ownership on reservations

2. Incorporated Washington cities located wholly or partially within reservation boundaries (includes Tacoma)

3. Question of jurisdiction of reservations encompassing major State highways

c. Revision of term "Indian country" to "established Indian reservation" - would remove checkerboard situations from bill

d. Legislation must consider the rights of non-Indians and the extent of their participation in tribal government. Recommends revising section 7 to take non-Indians out of tribal government jurisdiction.

California

a. Cites compelling State interest in applying State civil and criminal laws to Indian reservations, particularly California environmental and safety laws. Draft legislation would not protect State interests as they are affected by tribal activities.

b. Law enforcement - prior to P.L. 280, States unable to apply their laws to Indian reservations, tribes ill-equipped to apply their laws, and U.S. failed to adopt and apply Federal law. Enactment of this draft would lead to same absence of any enforcement jurisdiction on reservations.

c. California tribes not adequately able to regulate their own reservations at this time.



Alaska

a. Unique situation because of Alaska Native Claims Settlement Act: legislation could create legal and social confusion, and undo settlement

1. 40 million acres of land to Natives specifically not considered "Indian lands"

2. Thousands of Native allotment applications pending all over the State. Allotments came from public domain, not former reservations.

3. ANCSA intent to accomplish settlement without creating any reservation system or lengthy trusteeship.

b. Congress has never recognized tribal sovereignty in Alaska.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

July 21, 1976



Note to Bobbie Greene Kilberg:

This responds to your request for a summary of my telephone conversation of July 20, 1976, with Mr. Ingram of Montana.

Mr. Ingram, a non-Indian, lives on the Flathead Reservation, Montana. He expressed concern about what he perceives to be the President's unqualified support for legislation authorizing tribes to request reacquisition of State civil and criminal jurisdiction. Mr. Ingram is not opposed to retrocession per se, but to tribal jurisdiction over non-members. In this regard, Mr. Ingram, an attorney, stated that he represents both "Montanans Opposing Discrimination" and the "Interstate Congress for Rights and Responsibilities." Mr. Ingram stated his concern about the "President's support" of tribal jurisdiction over non-members, and his belief that the President has not taken into account the views and feelings of those non-tribal members affected.

Mr. Ingram particularly raised the following points:

1. he wants tribal jurisdiction over non-members deleted from any legislation the Administration might consider;
2. "Indian country" should be redefined to exclude non-Indian landowners;
3. tribal courts are not favorably disposed towards non-Indians, especially in the criminal area;
4. with retrocession, law and order on reservations may break down completely, and non-Indians will have no protection;
5. non-tribal members will have no voice in tribal decisions that would affect their lives and property;



6. he expressed concern about the extent of tribal civil jurisdiction over non-members, particularly zoning, taxes, probate and land title disputes. He stated that even on reservations where State jurisdiction applies, there is confusion surrounding the exercise of such jurisdiction, and many tribal and State court judgments in Indian country are not being enforced under the present jurisdictional arrangement;

7. he emphasized that once tribes did reacquire jurisdiction, there should be full faith and credit between tribal and State courts.

Mr. Ingram indicated that his organizations are so concerned about the impact of tribal jurisdiction that they are seriously considering a letter campaign to the President. He said that he could generate 10,000 letters opposing the legislation.

I told Mr. Ingram that the Governor of Montana had not responded to our request for his views on the draft bill and suggested that he urge his Governor to send us Montana's comments. I emphasized that we had requested responses from 35 governors so that we could have the benefit of the views of all the citizens affected by any retrocession legislation. I also assured Mr. Ingram that I would relay his concerns to you.

I described the Interior/Justice draft in detail. I stressed that it was entirely procedural in nature, and contained no substantive provisions concerning tribal jurisdiction over non-Indians, but left the matter to the courts. I also pointed out that we had written guidelines into section 3 which insured sufficient Secretarial discretion in approving a retrocession plan, so that any plan finally approved must be adequate and protect everyone's interests.

Gerrie S. Greene
Gerrie S. Greene

TELEGRAM

The White House
Washington

FULL RATE
(STRAIGHT TELEGRAM)
NIGHT LETTER

July 27, 1976



It has been erroneously reported that President Ford supports legislation to give tribal governments criminal and civil jurisdiction over people living on Indian reservations. This is inaccurate. The President does not support any bill that would alter the present legal status of non-Indians residing within reservation boundaries.

In his statement to American Indian leaders on July 16, President Ford indicated that he supported the concept of allowing certain Indian tribes (those which have been subject to State civil and criminal jurisdiction under provisions of Public Law 83-280 and related statutes) to decide by tribal resolution whether they wish to continue under State jurisdiction or return to Federal jurisdictional status. This resolution is subject to the approval or disapproval of the Secretary of the Interior under a clear set of reasonable guidelines.

Under this concept, a tribe by itself could initiate a request to the Secretary of the Interior for a return to Federal jurisdictional status. In reaching his decision on this request, the Secretary of the Interior would be required to consult with the U.S. Attorney General and with the governors of the appropriate States. Application would be limited to tribes in States which have exercised jurisdiction under P.L. 280 and related statutes.

The Departments of Justice and Interior are drafting legislation on this subject, and the Administration has asked the governors of 31 states for their views on the draft legislation. It is the President's intention to continue these consultations and to expand them to include a wide range of interested groups.

SGM
Stephen G. McCahey
Special Assistant to the President
for Intergovernmental Affairs

APPROVED FOR DISPATCH

Honorable Jay S. Hammond
Governor of Alaska
Juneau, Alaska 99801
(907/465-3500)

Honorable Paul Castro
Governor of Arizona
Phoenix, Arizona 85007
(602/271-4331):

Honorable Edmund G. Brown, Jr.
Governor of California
Sacramento, California 95814
(916/445-2841)

Honorable Richard D. Lamm
Governor of Colorado
Denver, Colorado 80203
(303/89202471)

Honorable Ella Grasso
Governor of Connecticut
Hartford, Connecticut 06115
(203/566-4840)

Honorable Reubin O'D Askew
Governor of Florida
Tallahassee, Florida 32304
(904/488-4441)

Honorable Cecil D. Andrus
Governor of Idaho
Boise, Idaho 83701
(208/384-2100)

Honorable Robert D. Ray
Governor of Iowa
Des Moines, Iowa 50319
(515/281-5211)

Honorable Robert F. Bennett
Governor of Kansas
Topeka, Kansas 66612
(913/296-3232)

Honorable Edwin W. Edwards
Governor of Louisiana
Baton Rouge, Louisiana 70804
(504/389-5281)

Honorable James B. Longley
Governor of Maine
Augusta, Maine 04330
(207/289-3531)

Honorable William G. Milliken
Governor of Michigan
Lansing, Michigan 48903
(517/373-3400)

Honorable Wendell R. Anderson
Governor of Minnesota
Saint Paul, Minnesota 55101
(612/296-3391)

Honorable Charles C. Finch
Governor of Mississippi
Jackson, Mississippi 39205
(601/354-7575)

Honorable Thomas L. Judge
Governor of Montana
Helena, Montana 50601
(406/449-3111)

Honorable J. James Exon
Governor of Nebraska
Lincoln, Nebraska 68509
(402/471-2244)

Honorable Mike O'Callaghan
Governor of Nevada
Carson City, Nevada 89701
(702/885-5670)

Honorable Jerry Apodaca
Governor of New Mexico
Santa Fe, New Mexico 87501
(505/827-2221)

Honorable Hugh L. Carey
Governor of New York
Albany, New York 12224
(518/474-8390)

Honorable James E. Holshouser
Governor of North Carolina
Raleigh, North Carolina 27611
(919/829-5811)

Honorable Arthur A. Link
Governor of North Dakota
Bismarck, North Dakota 58501
(701/224-2200)

Honorable David L. Boren
Governor of Oklahoma
Oklahoma City, Oklahoma 73105
(405/521-2345)



Honorable Robert Straub
Governor of Oregon
Salem, Oregon 97301
(503/378-3111)

Honorable James B. Edwards
Governor of South Carolina
Columbia, South Carolina 29211
(803/758-3261)

Honorable Richard F. Kneip
Governor of South Dakota
Pierre, South Dakota 57501
(605/224-3212)

Honorable Dolph Briscoe
Governor of Texas
Austin, Texas 78711
(512/475-4101)

Honorable Calvin L. Rampton
Governor of Utah
Salt Lake City, Utah 84114
(801/533-5231)

Honorable Mills E. Godwin, Jr.
Governor of Virginia
Richmond, Virginia 23219 (804/786-2211)

Honorable Daniel J. Evans
Governor of Washington
Olympia, Washington 98501
(206/753-6780)

Honorable Patrick J. Lucey
Governor of Wisconsin
Madison, Wisconsin 53702
(608/266-1212)

Honorable Ed Herschler
Governor of Wyoming
Cheyenne, Wyoming 82001
(307/777-7434)

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FRANCIS C. ROSENBERGER
CHIEF COUNSEL AND STAFF DIRECTOR

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WILLIAM P. WESTPHAL, CHIEF COUNSEL

United States Senate

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY

(PURSUANT TO SEC. 19, S. RES. 375, AGREED TO MARCH 3, 1976)

WASHINGTON, D.C. 20510

July 30, 1976

Mel Tonasket, President
National Congress of American Indians
Suite 700
1430 K Street NW
Washington, D. C. 20005

Dear Mr. Tonasket:

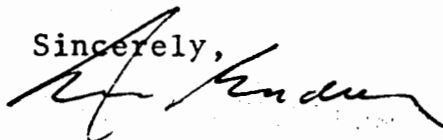
Thank you for your recent letter requesting my views regarding the formation and activities of the Interstate Congress on Civil Rights and Responsibilities and similar groups.

I must first confess that I am not personally familiar with the above mentioned organization. As a general statement, however, I feel that all groups of people in this country should have the right to associate with similarly thinking people and form groups to advocate their cause. This would apply across the board from groups like AIM to groups such as the Interstate Congress on Civil Rights and Responsibilities.

Thank you for bringing the Interstate Congress on Civil Rights and Responsibilities to my attention and also for informing me of the National Congress of American Indians' view concerning the group.

With kind regards, I am

Sincerely,



Quentin N. Burdick

QNB:rfk



Congress of the United States

House of Representatives

Washington, D.C. 20515

August 2, 1976

Mr. Mel Tonasket, President
National Congress of American
Indians
1430 K Street, NW
Suite 700
Washington, D C 20005

Dear Mr. Tonasket:

Thanks for sharing with me your letter to Governor Castro and the articles describing formation of the Interstate Congress on Civil Rights and Responsibilities.

I hope that my record in Congress since 1961 has reflected my concern with the political, social and human rights of the Indian people. Rest assured that I will continue to follow that concern.

Sincerely,


Morris K. Udall

lmb



DON BONKER
THIRD CONGRESSIONAL DISTRICT
STATE OF WASHINGTON

COMMITTEES:

MERCHANT MARINE AND
FISHERIES
INTERNATIONAL RELATIONS
SELECT COMMITTEE
ON AGING

Congress of the United States
House of Representatives
Washington, D.C. 20515

August 2, 1976

1881 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-3536

DISTRICT OFFICES:
209 FEDERAL BUILDING
OLYMPIA, WASHINGTON 98501
(206) 753-9528

U.S. POST OFFICE
LONGVIEW, WASHINGTON 98632
(206) 636-3280

104 N. LAUREL STREET
PORT ANGELES, WASHINGTON 98362
(206) 457-0213

RECEIVED AUG 7 10 1976

Mr. Mel Tonasket, President
National Congress of American Indians
Suite 700, 1430 K Street, N.W.
Washington, D. C. 20005


Dear Mr. Tonasket:

Thank you for the copy of your letter to Governor Evans outlining your opposition to the Interstate Congress on Civil Rights and Responsibilities.

I think the position of the Washington Congressional delegation is clear and well known in regards to the Indian Rights and any attempt to abrogate the treaties existing between the U. S. Government and Indian Tribes.

Although I may disagree with the purpose or objective of some group I also recognize their right to form an organization so long as they comply with all laws relative to such activity.

Sincerely,


Don Bonker
Member of Congress





STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY

CALVIN L. RAMPTON
GOVERNOR

August 3, 1976

RECEIVED AUG - 6 1976

Mr. Mel Tonasket
NCAI President
Suite 700, 1430 K Street, N.W.
Washington, D. C. 20005



Dear Mr. Tonasket:

Thank you for your letter of July 21, 1976, expressing concern over the participation of certain Utah citizens in the activities of the Interstate Congress on Civil Rights and Responsibilities.

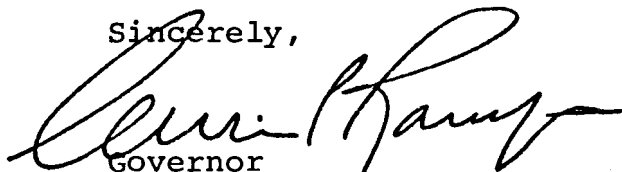
While I am not in a position to control the activities of individual citizens of the State with regard to the Interstate Congress on Civil Rights and Responsibilities, I can state clearly the position of my administration.

We have and will continue to support the concept of Tribal self-government and Indian self-determination and as citizens of the State, Indians social and human rights will be guaranteed and protected on the same basis as our other citizens.

There have been times in the past, and I expect there will be in the future, when the government of the State and Tribal governments have disagreed on issues. These differences have always been worked out through direct negotiation or other acceptable and appropriate ways.

For further information you may contact Mr. Bruce Parry, Utah Division of Indian Affairs, Room 104 State Capitol Building.

Sincerely,


Governor

THE WHITE HOUSE
WASHINGTON

August 10, 1976

MEMORANDUM FOR:

FOSTER CHANOCK ✓
BOBBIE KILBERG

FROM:

STEVE McCONAHEY *SEM*

SUBJECT:

Indians

For your information, attached are copies of responses we have received from my July 27 telegram and July 28 letter regarding clarification of the President's position on the criminal and civil jurisdiction of tribal governments on Indian reservations.

Attachments



August 4, 1976

To: Mr. Stephen G. McConahey
Special Assistant to the President
for Governmental Affairs
White House
Washington, D.C. 20500

From: James B. Rossiter, Chairman
Concerned Citizens Council, Inc.
Nebraska Chapter, Interstate Congress on Equal
Rights and Responsibilities. - P.O. Box 308
Walthill, Nebraska 68067



In response to your Telegram of July 27, 1976, on the President's position on criminal and civil jurisdiction for Tribal Indians, we wish to make a few comments.

First, the Indian people themselves have never trusted the Bureau of Indian Affairs, and federal government, unfortunately many non-Indian fee patent holders did. In this respect, "approval or disapproval of the Secretary of the Interior under a clear set of reasonable guidelines" means nothing but disaster to us. We have had and are now experiencing some of this "reasonableness" as are many other people from other parts of the nation.

Second, why have the courts and congress determined that the Reservation Indians should be immune from all forms of taxation? The answer poses the biggest hypocrisy of all. The United States Supreme Court, the tax courts and the Commissioner of Indian Affairs have all stated that the Indian must be immune from these taxes because he is fiscally non-competent or incompetent to handle his own financial affairs. This is why the Bureau of Indian Affairs exists, and spent \$3,461,893,000 in 1975, to oversee Tribal and individual affairs. Yet we are now told that these same Reservation Indians can govern the finances and taxes of Thurston and Knox counties. One has but to inquire about the many projects and programs and millions of dollars spent on the reservations, and then ask what are the results?

Third, congressional and court actions has created a legal status the very essence of which violates the non-Indian population's civil rights and rights to equal protection and due process of law. Whenever responsibilities of citizenship, such as taxation, subjection to state courts and allegiance to state law are involved, the Reservation Indian is a member of an Atonomous Nation. However, when the rights of citizenship are at issue such as voting and holding public office and the right to federal, state, and county tax benefits, the Reservation Indian contends he is a full fledged citizen and resident of the nation, state and county. The inconsistency makes reason stare.

more

Either the Reservation Indian is a full fledged citizen of the United States and subject therefore to like punishments, pains, penalties, taxes, licenses and exactions of every kind suffered by all other races of people in this country, or, he is a member of a sovereign nation with a right to govern his nation and his people, but not to govern those persons in governmental subdivisions to which he owes no allegiance and pays no taxes.

As the President said "My Attorney General has established an Indian resources section whose sole responsibility is litigation on behalf of Indian tribes to protect your natural resources and your jurisdictional rights". We would hope there might be someone that is interested in protecting our inherit rights.

Frankly, we are convinced that the report to be submitted by the Indian Policy Review Commission will be strictly biased. Members of our groups were flatly denied access to these hearings to testify. We are quite concerned by the impact of the report on proposed legislation of criminal and civil jurisdiction, and are also concerned by proposed legislation that would interfere with the individual rights of the Indian. We would appreciate a copy of the names and addresses of the individuals who testified at the Indian Policy Review Commission's hearings.

If the Governors of the several states affected by S1328 or S2010 do not realize the total impact of this type of legislation, we would think it quite remote that they would be interested in this new proposal.

We are pleased to learn from Ms Bobbie Kilburg that meetings with our groups are being discussed. We are sure we can be of help in determining which direction this social experiment might take.

Yours very truly,
James B. Rossiter
James B. Rossiter
Chairman

JBR:br



THE STATE OF MONTANA
OFFICE OF THE ATTORNEY GENERAL
STATE CAPITOL, HELENA 59601

ROBERT L. WOODAHL
ATTORNEY GENERAL

August 3, 1976

Dear Mr. McConahey:

Thank you for your letter of July 28. The President has been erroneously reported in Montana regarding the tribal jurisdiction matter.

I would suggest that a new press release be put out clarifying the President's position.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bob Woodahl".

RLW:mo
cc: Lloyd Ingraham

Mr. Stephen G. McConahey
Special Assistant to the President
for Intergovernmental Affairs
The White House
Washington, D.C. 20000

July 28, 1976

Dear Mr. Woodahl:

At the request of Senator Clifford P. Hansen, I am enclosing the President's speech on July 15, 1976 to the American Indian leaders. It has been erroneously reported that President Ford supports legislation to give tribal governments criminal and civil jurisdiction over people living on Indian reservations. This is inaccurate. The President does not support any bill that would alter the present legal status of non-Indians residing within reservation boundaries.

In his statement to American Indian leaders on July 15, President Ford indicated that he supported the concept of allowing certain Indian tribes (those which have been subject to State civil and criminal jurisdiction under provisions of Public Law 83-280 and related statutes) to decide by tribal resolution whether they wish to continue under State jurisdiction or return to Federal jurisdictional status. This resolution is subject to the approval or disapproval of the Secretary of the Interior under a clear set of reasonable guidelines.

Under this concept, a tribe by itself could initiate a request to the Secretary of the Interior for a return to Federal jurisdictional status. In reaching his decision on this request, the Secretary of the Interior would be required to consult with the U. S. Attorney General and with the Governors of the appropriate States. Application would be limited to tribes in States which have exercised jurisdiction under P.L. 280 and related statutes.

The Departments of Justice and Interior are drafting legislation on this subject, and the Administration has asked the Governors of 31 states for their views on the draft legislation. It is the President's intention to continue these consultations and to expand them to include a wide range of interested groups.

Sincerely,

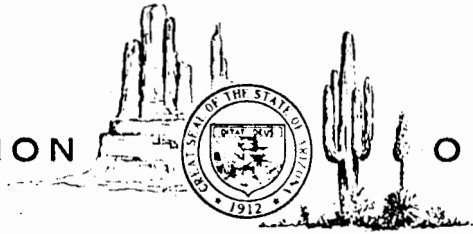
Stephen G. McConahy
Special Assistant to the President
for Intergovernmental Affairs

The Honorable Robert Woodahl
Attorney General for the State of Montana
State Capitol
Helena, Montana 59601

Enclosure

cc: Foster Chaneck

ARIZONA COMMISSION OF INDIAN AFFAIRS



1645 WEST JEFFERSON • PHOENIX ARIZONA 85007

August 20, 1976

RECEIVED 22 6 1976

Mr. Mel Tonasket, President
National Congress of American Indians
1430 K Street, N.W.
Suite 700
Washington, D.C. 20005



Dear Mr. Tonasket:

Your letter of July 21st to Governor Raul H. Castro has been referred to our Commission for comment. We would like you to know that on behalf of Governor Castro, our office shares your deep concern with respect to Indian political and human rights which your organization feels is being threatened by a group calling itself "Interstate Congress on Civil Rights and Responsibilities."

Unfortunately, except for the scant pieces of information received through news reports, our office is not aware of any illegal activities being carried out by ICCRR members in violation of Indian rights, Federal laws or treaties, or State statutes. Accordingly, although our administrative position does not condone lawlessness and constantly strives to protect the rights of each citizen in the State of Arizona, we do feel that it would be premature and inconsistent if we were to publicly comment upon the opinions expressed by a relatively few individuals of a newly-formed association.

Our State of Arizona recognizes the aboriginal rights of Indian tribes and their unique position in their trusteeship relations with the Federal Government. We hope that as long as the Arizona tribes wish, such a relationship will continue to serve not only for the betterment of the Arizona Indian reservations, but also for the improvement of all communities within reach of each Indian reservation.

Hopefully, towards this endeavor of cooperation, all will come to realize this need for respect for human rights and harmony among all peoples.

Sincerely,

CLINTON M. PATTEA
Executive Secretary

TM: CMP/pa
cc: The Honorable Raul Castro
Governor of Arizona

THE WHITE HOUSE

WASHINGTON

August 23, 1976

MEMORANDUM FOR:

BRAD PATTERSON

FROM:

BOBBIE GREENE KILBERG

Bobbie

Attached is some material in regard to the P.L. 280 problem which will be helpful to you. In July, I specifically committed the White House to organize a meeting with representatives of non-Indian people residing within reservation boundaries, particularly those individuals in checkerboard areas. I made this commitment to Lloyd Ingraham who lives on the Flathead Reservation in Montana. Mr. Ingraham represents "Montanans Opposing Discrimination" and also states he represents the "Interstate Congress for Rights and Responsibilities." I also spoke with James Rossiter of Walthill, Nebraska, who is Chairman of Concerned Citizens Council, Inc. He also states that he represents the Interstate Congress. In addition, Velma Shelton has received correspondence from Tom Tobin, an attorney for the Interstate Congress. In planning a meeting, I think it would be wise to include representatives of the governors' offices of major western states affected, especially North Dakota, Montana, Wyoming, Colorado, South Dakota and Nebraska.



Jim Mitchell supports a meeting with non-Indian representatives but opposes its being convened by the White House. He instructed Maury Thompson to get back to him with a plan for convening such a meeting by BIA or Interior. As we discussed at lunch, Maury said that it would generate hostility for BIA to call a meeting, and I concur. While I would prefer that the meeting be called by the White House, I have no objection to Secretary Kleppe personally calling the meeting in conjunction with the Attorney General or the Deputy Attorney General. What is important is that the non-Indian representatives feel that they have had an opportunity for their views to be heard by the Administration's policymakers. This is a legitimate request, and it has not been met to date.

Mr. Ingraham and I decided on the afternoon of September 13 as a tentative date for the meeting.

THOMAS S. FOLEY
5TH DISTRICT, WASHINGTON

CHAIRMAN
COMMITTEE ON AGRICULTURE

MEMBER
COMMITTEE ON STANDARDS
OF OFFICIAL CONDUCT

Congress of the United States
House of Representatives
Washington, D.C. 20515

August 24, 1976

OFFICES:
HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
AREA CODE 202, 225-2006

574 U.S. COURTHOUSE
SPOKANE, WASHINGTON 99201
AREA CODE 509, 456-4680

40 SOUTH COLVILLE
WALLA WALLA, WASHINGTON 99362
AREA CODE 509, 529-6111

Dear Mel:

Thank you for your recent memo and the attached information on your concerns about the formation of the Interstate Congress on Civil Rights and Responsibilities.

I can assure you that I share your interest in guaranteeing that the legitimate constitutional rights of Indians not be violated or suffer from wrongful encroachment. I appreciated hearing of your concern in this specific matter and hope that you will keep me advised of the Congress' opinions of all specific legislation.

With best personal regards.

Sincerely,



Thomas S. Foley
Member of Congress

Mr. Mel Tonasket, President
National Congress of American Indians
1430 K Street, N.W. Suite 700
Washington, D.C. 20005

TSF:sca



2 Glacier County Newspapers Clash on Indian Voting Rights

By CHARLES S. JOHNSON
Missoulian State Bureau

CUT BANK — Should an Indian who is not subject to state taxes or courts be allowed to vote in state elections and run for office?

The Cut Bank weekly newspaper asked this provocative question earlier this summer. It quickly triggered a war of words with the rival weekly in Browning on the Blackfeet Indian Reservation on the opposite end of Glacier County in northern Montana.

In many ways these two small newspapers are the voices for their communities and reveal the many differences that separate them even though they are only 35 miles apart.

The Cut Bank Pioneer Press, edited by J. Riley Johnson, serves mainly the eastern, non-Indian portion of the county (although he recently hired a correspondent in Browning). In Browning, the Glacier Reporter, run by Larry D. Miles, is aimed for the most part at Indians living on the reservation.

Johnson raised the emotional issue in an editorial in June after the U.S. Supreme Court ruled that states do not have the right to tax Indians living on reservations. He then zeroed in on a specific example close to home — Leo M. Kennerly Jr., a Blackfeet Indian from Browning and the Democratic nominee for the House of Representatives from Dist. 14.

"Can he serve in the legislature and pass judgment on state matters if he is not a citizen of that state?" the editorial asked. "That is, he is not a taxpayer or subject to that state's laws."

Miles fired back through his Browning paper, blasting Johnson's editorial as "nonsense" and adding: "His thinking that one should not be able to vote or run for office unless he

pays taxes represents the kind of antediluvian thinking upon which the poll tax was predicated."

The Browning editor, who is not an Indian, said he didn't find it "threatening that a state with 5 per cent Indian population should have some Indian representation in the state legislature...."

But the Cut Bank editor raised another question and suggested turning the tables: "Can a white man run for the Blackfeet Tribal Council?"

Miles responded that Johnson apparently did not appreciate "the difference between state government and a private corporation."

Johnson, a former executive secretary of the Montana Republican party, said in an interview that he did not advocate preventing reservation Indians from voting or seeking office.

"All I did is raise an issue, period, and ask for a solution," he said, emphasizing that he did not propose a specific solution.

Miles, a former college journalism professor, was unimpressed by Johnson's later statement, but said he had nothing to add to his original comments.

Meanwhile, Kennerly, a quiet man who is the center of the controversy, was puzzled but not upset.

"The only thing I don't pay is state income taxes," he said.

Kennerly, the reservation's planning director who ousted two-term Rep. Gail Stoltz, D-Valley, in the primary election, said he pays other state and federal taxes on his income and the grocery store he owns in Browning.

"In a sense I don't pay (state) taxes, but there are a lot of other people who don't either," he said.

Earl Old Person, Blackfeet Tribal chairman, came to Kennerly's defense and said the candidate "has just as much right to run for state office as anyone else."



Blackfeet's neighbors resent Indians' special legal status

By CHARLES S. JOHNSON
Gazette State Bureau

BROWNING — An undercurrent of tension, rising swiftly as Indians and whites clash over jurisdictional issues, threatens to destroy the tranquility of the Blackfeet Indian Reservation.

The reservation, which forms the eastern border of Glacier National Park, is the center of complex disputes over law enforcement, taxation, fishing rights and other explosive issues.

These questions are by no means unique to the Blackfeet but confront Indi-



PHILIP E. ROY
outspoken lawyer

ans and whites near reservations across the country.

The complications arise from the unique status of Indian reservations because of federal treaties and laws. As a result, reservations deal nearly exclusively with the federal government and are all but autonomous from state and local governments, even though they receive some services from them.

As Barney Reagan, an outspoken white lawyer from nearby Cut Bank, said: "There is a serious question whether Indians living on reservations are citizens of the state of Montana."

Philip E. Roy, an equally brash Indian lawyer from Browning, doesn't see any question whatsoever. "Indians are not citizens of Montana," he said matter-of-factly.

Their opinions are typical of the gulf that separates Cut Bank and Browning, the two major towns in Glacier County. Although Indians and whites in both towns profess to get along well with each other individually, bitterness and animosity seem to be mounting.

Most knowledgeable observers agree that the jurisdictional disputes are potentially the most volatile around the Blackfeet Reservation, followed closely by the Crow Reservation in southeastern Montana.

Cut Bank, which bills itself as the nation's icebox because of winter temperatures that regularly plunge to the minus 30s, is the county seat, a farming and oil town. Most of its 4,004 residents are white, and some frankly resent the federal money that goes to the reservation.

Browning (population 1,700) is the heart of the Blackfeet Reservation, which an Indian brochure calls "a million-and-a-half acre Eden." But about the only sign of paradise in poverty-stricken Browning is the breathtaking view of the shiny mountains in Glacier Park.

After months of simmering, the jurisdictional problems finally bubbled over last fall when the Blackfeet Tribal Council passed Ordinance 50 asserting complete tribal authority over both Indians and whites for all civil and criminal offenses committed on the reservation.

Previously, jurisdiction was divided among tribal, state and federal law enforcement agencies and court systems, depending on the crimes and persons in-

Many white landowners and a few Indians reacted angrily and called a press conference in Helena to denounce the ordinance as an abridgement of their rights. Reagan objected because "we can't vote there or serve on juries."

The Bureau of Indian Affairs eventually nullified the ordinance, but not before the battlelines had been formed.

The furor has subsided somewhat by now, but Earl Old Person, the flat-topped, soft-spoken Blackfeet tribal chairman, still wonders what the objections were.

"If they can try us by their laws, why can't they be tried by our laws?" he asked as he leaned back in his easy chair beneath a portrait of John F. Kennedy.

In Cut Bank, some believe the matter is far from over and rumors persist that the ordinance will be adopted again.

Most agree that something must be done to simplify the complicated law enforcement jurisdictional problems. Glacier County Sheriff Jean Gertzen said it is "a nightmare to know what to do and where to go."

Law enforcement has become a sometimes touchy subject in Browning and Cut Bank since 22-year-old Clayton Hirst, an Indian, was found dead, hanging in the Glacier County Jail in March 1975.

His death was officially ruled a suicide, but lawyers for his family, citing a later autopsy done for them by the San Francisco medical examiner's office, charge that Hirst was electrocuted and authorities tried to cover it up with a simulated hanging.

The family retained Roy and San Francisco trial lawyer Melvin Belli who filed a \$35 million damage suit in federal court against a number of state and local officials. No trial date has been set.

Most of those involved in the suit on either side declined to comment, but Gertzen, Montana's only female sheriff and one of a handful nationally, wasn't reluctant to speak.

"The whole thing is just a fabrication any way you look at it," she said. "It's too bad it had to happen, but it was just one of those situations."

She called the lawsuit "a pain in the neck financially and emotionally" and said: "Even if we're cleared, people will say for years, 'I wonder, I wonder.'"

But there are other less dramatic ju-



EARL OLD PERSON
Blackfeet tribal leader

isdictional disputes around the reservation.

Some Cut Bank residents resent having the county pay for the cost of providing services to the reservation when Indians are exempt from some state taxes. The result, they say, is higher taxes for the whites.

J. Riley Johnson, editor of the Cut Bank Pioneer Press, said the burden of paying for reservation services should be spread nationwide. "Why should little Glacier County foot all the bill for the Blackfeet Reservation?" he asked.

Old Person and other Blackfeet leaders blame Glacier County officials for refusing to cooperate

"The tribe is willing to get together, but Glacier County isn't," said Leo M. Kennerly Jr., the reservation's planning director. "We've attended meetings in Cut Bank with the county commissioners, but they've never returned the courtesy by coming here."

A current hassle involves a state law requiring teachers at schools near reservations to complete a mandatory Indian studies course by 1979. The Cut Bank teachers oppose it, to the dismay of some Indians.

"It's just a one-course thing that orients you about Indians and reservations and how to react," Kennerly said. "If I



JEAN GERTZEN
law enforcement chaos

was a teacher going into a black neighborhood, I would want to learn a few things about it before I went there."

What, then, is the solution to all these various disputes?

As one might expect, no one much agrees except that it's really out of the state's hands. Gov. Thomas L. Judge appointed a state task force last year to study the jurisdictional problems, but it gave up after tribes at three of the state's seven reservations, including the Blackfeet, withdrew their support.

Old Person said the Blackfeet pulled out because the whites "put pressure on the governor" over Ordinance 50. "If these people who started up all this fuss had given the task force a chance to get on its way, it could have worked," he said.

Others are looking elsewhere for solutions.

"Until the Congress of the United States does anything, we're not going to solve it," lawyer Reagan said.

Sheriff Gertzen said the only solution is to abolish reservations.

A prominent Cut Bank resident, who declined to be identified, said Congress should provide that state law applies on reservations, while maintaining the federal protection the Indians now have.

Old Person said individuals in the two towns might be able to work out some of their differences if it weren't for the interference of some county officials.

Johnson said the question must be resolved soon by Congress or courts.

"If they want to set up the reservation as a separate area, fine," he said. "If they want to integrate it, fine, but let's quit fooling around."

Some whites privately blame Roy for inciting the Blackfeet, and his blunt views undoubtedly offend some.

"The cry is raised by non-Indians that Congress must intervene and quit pampering the Indian," Roy said. "To that I would say poppycock. The law is settled in 95 per cent of the cases."

The solution is not to "force state jurisdiction on the Indians" as some advocate but to settle the remaining issues in federal courts, where Indians have fared well, he said.

"The reemergence and resurgence of tribal authority is a reality that people who surround reservations have got to recognize," the lawyer said.

THE WHITE HOUSE

WASHINGTON

August 30

Dennis -

I just had a phone talk with Mr. Lloyd Ingraham of Ronan, Montana. He is agreeable to 10:00 AM on the 9th for the meeting.

He would appreciate it if you would send him a letter over Kent's signature confirming the meeting. He said their agenda is broader than just jurisdiction, but also includes taxing powers, water rights, fishing rights. A copy of the letter should go to Mr. Tom Tobin, whose address is Winner, South Dakota (phone 605-842-2500 for the rest of it). Pls. send me a copy of it, too.

I said that a two-hour meeting would be OK (but did not guarantee that Kent would be there for all of it.) I told him Peter Taft would be there from Justice. Ingraham wanted somebody from OMB invited and I said we could invite the proper people (Dorgstrom). You may want to have Thompson and Reid Chambers represented, plus some Civil Rights people from Justice.

Ingraham said about 25 people would be coming. He mentioned some names: Jack Freeman, Ed Bader (S.D.) Michael Platt (St. John's, Ariz), Mr. Hellinger (Roosevelt County, Utah), Mr. Howard Gray (Seattle/Tacoma), Mr. Rockwell, from Montana, Messrs. Bobby Reagan and Fred Johnson from Cutbank, Montana, Al Crook from Wind River, Wyoming.

Ingraham's address is Drawer Z, Ronan, Montana 59864 and his phone is 406-676-0600.

Brad



THE WHITE HOUSE
WASHINGTON

James Rossiter
Concerned Citizens Council, Inc.
P.O. Box 308
Walthill, Nebraska 68067

Tel: 402-846-5425

Lloyd Ingraham
Drawer Z
Ronan, Montana 59864

Tel: 406-676-0600

Rich Bechtel
(Office of the Governor of Montana
located in Arlington, Va.)
Tel: 524-2211

(He made contact with Bobbie on
behalf of the Governor)



THE WHITE HOUSE
WASHINGTON

Lloyd Ingraham

Tom Tobus

Jack Freeman

Ed Bader S.D.
Nat Fam Base

Michael Platt ST. Johns
Ariz.

Mr Hellinger Roosevelt County
Utah

Harold Grey Seattle Tacoma

Rockwell - West

THE WHITE HOUSE
WASHINGTON

Bobby Rogers }
Fred Johnson } Cutbush
Al Crook - Wild River } Montana

Interstate League for
ER & Pup
c/o Tom Tabin
Winnier, S.D.

605-842-2500

With
Tom
Fisher

Maie - SE.

THE WHITE HOUSE
WASHINGTON

Flathead cigarettes
States could tax
sales of Cs by Indians &
non-Indians but
not on sales to
Indians

THE WHITE HOUSE

WASHINGTON

August 30, 1976

NOTE FOR:

Secretary Kleppe
Under Secretary Frizzell
Solicitor Austin
Commissioner Thompson

Because of the mistaken news report about our position on PL 280, the President has received a number of letters from non-Indians who reside within the boundaries of Indian reservations.

We are sending the enclosed response to these inquiries; it is the duplicate of a telegram sent on July 27 to all the Governors by Steve McConahey of the Domestic Council.

As Mr. Frizzell is aware, there will be a session on September 9 at 10 AM at Interior to give some of these non-Indian spokesmen a hearing. Peter Taft of Justice has told me this AM that he will join Kent for this session.

cc: Peter Taft
Steve McConahey
Mrs. Kilberg
Bill Baroody

Brad Patterson



THE WHITE HOUSE

WASHINGTON

August 30, 1976

Dear Senator Hibbs:

Thank you for your letter to the President expressing concern about his jurisdictional statement to American Indian leaders on July 16. It has been erroneously reported that President Ford supports legislation to give tribal governments criminal and civil jurisdiction over all people living on Indian reservations. This is inaccurate. The President does not support legislation to alter the present legal status of non-Indians residing within reservation boundaries.

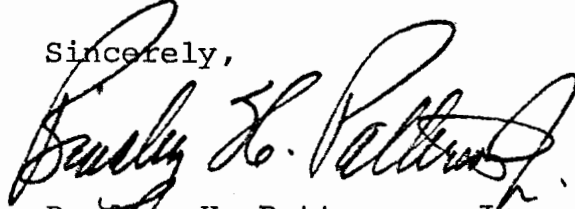
In his statement to Indian leaders on July 16, President Ford indicated that he supported the concept of allowing certain Indian tribes (those which have been subject to State civil and criminal jurisdiction under provisions of Public Law 83-280 and related statutes) to decide by tribal resolution whether they wish to continue under State jurisdiction or return to Federal jurisdictional status. This resolution is subject to the approval or disapproval of the Secretary of the Interior under a clear set of reasonable guidelines.

Under this concept, a tribe by itself could initiate a request to the Secretary of the Interior for a return to Federal jurisdictional status. In reaching his decision on this request, the Secretary of the Interior would be required to consult with the U.S. Attorney General and with the governors of the appropriate States. Application would be limited to tribes in States which have exercised jurisdiction under P.L. 83-280 and related statutes.

The Departments of Justice and Interior are drafting legislation on this subject, and the Administration has asked the governors of 31 States for their views on the draft legislation. It is the President's

intention to continue consultations on the draft and to expand those consultations to include a wide range of interested groups, including representatives of non-Indians residing within reservation boundaries.

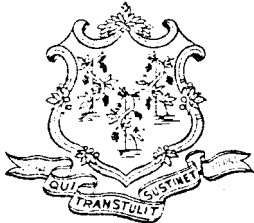
Sincerely,

A handwritten signature in cursive script, reading "Bradley H. Patterson, Jr.", written in dark ink.

Bradley H. Patterson, Jr.

The Honorable Rex Hibbs
Senator of the State of Montana
Helena, Montana 59601

cc. Kulberg
Patterson ✓



STATE OF CONNECTICUT
EXECUTIVE CHAMBERS
HARTFORD

ELLA GRASSO
GOVERNOR

August 10, 1976

Mr. Stephen G. McConahey
Special Assistant to the President
for Intergovernmental Affairs
The White House
Washington, D. C.

Dear Mr. McConahey:

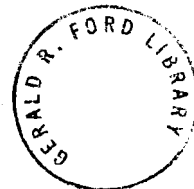
Thank you so much for your telegram advising us of the President's position concerning proposed legislation to alter the present legal status of non-Indians residing within reservation boundaries.

I have forwarded this information to Commissioner Joseph N. Gill of the Connecticut Department of Environmental Protection for his information.

With best wishes,

Cordially,

Ella Grasso
ELLA GRASSO
Governor



AUG 18 1976

Mr. Elmer H. Winter
President
White Earth Equal Rights
Committee
Mahnowan, Minnesota 56557

Dear Mr. Winter:

This is in further response to your July 20 letter to President Ford (which was acknowledged by our Solicitor's office on August 3) concerning the President's July 16, 1976 statement of support for legislation concerning civil and criminal jurisdiction on Indian reservations. We understand that a press service account of the statement was not precisely accurate and has led to some misunderstanding of his position.

A copy of the President's complete July 16 statement is enclosed for your information. On page 2, he states that -

*** My Administration is supporting the concept of allowing Indian tribes to determine whether they and their members, in addition to being under tribal jurisdiction, should be under State or Federal civil and criminal jurisdiction.

I have directed the Departments of Justice and Interior to draft legislation which would accomplish this goal efficiently, effectively and within adequate guidelines.***

As the foregoing indicates, the President has directed that legislation be drafted, for his consideration and approval or revision prior to submission to the Congress, to allow those Indian tribes which have been subject to State civil and criminal jurisdiction as authorized by Public Law 83-280 (i.e., the Act of August 15, 1953 which is codified at 18 U.S.C. 1162 and 28 U.S.C. 1360) to elect to return to Federal jurisdictional status or to do nothing and remain under their current State jurisdictional status. The Administration's draft bill would only apply to those tribes over which States have exercised jurisdiction under P.L. 83-280 (or certain other statutes not applicable to your State).

Special note should be made of the fact that the draft Administration bill would not alter the legal status of non-Indians residing within reservation boundaries, including their property rights, but leaves the



matter to the courts. The Administration is aware that this issue is extremely complex and that a number of cases are currently in litigation dealing with different aspects of tribal jurisdiction over non-Indians.

It should be noted that from 1953 to 1968, States acquired, or were authorized to acquire, jurisdiction over "Indian country" (see the definition in 18 U.S.C. 1151) within their boundaries without any requirement for consent by the tribes involved. When President Eisenhower signed P.L. 83-280 into law in 1953, he noted the lack of a provision requiring consent of the Indians involved and urged the Congress to amend the law to require such consent as a prerequisite to assumption of jurisdiction by a State. In 1968, legislation was enacted providing that any further acquisitions of such jurisdiction by States would only be applicable if accepted by a majority vote of the adult Indians within the affected area (25 U.S.C. 1326). The draft bill described in President Ford's July 16 statement would give those tribes over which States acquired jurisdiction under P.L. 83-280 while consent of the affected Indians was not required, an opportunity to, in effect, consent to continued State jurisdiction by inaction or to elect a return to their pre P.L. 83-280 jurisdictional status.

The above mentioned 1968 legislation also included the so-called "Indian Civil Rights Act" (25 U.S.C. 1302) which placed restrictions on the powers of Indian tribal governments comparable to those placed on the Federal and State governments by the Bill of Rights and the Fourteenth Amendment to the U.S. Constitution and those restrictions extend to tribal government activities involving non-Indians as well as Indians.

Under the Administration's draft legislation, a tribe could independently make a request to the Secretary of the Interior for retrocession of jurisdiction. Such a request would be subject to adequate standards established by the Secretary. In the process of considering the request, the Secretary would be required to consult with the Governor of the affected State and the U.S. Attorney General.

The draft legislation would set out comprehensive standards required for a return to pre P.L. 83-280 jurisdiction. In reviewing a tribe's request for such a return, the Secretary would be required to consider: whether the tribe's plan contains an adequate law and order code; whether the tribe's plan contains adequate means for the resolution of civil disputes; whether the tribe lacks the capacity to implement the plan; whether the resident tribal membership is so small or scattered as to make the proposed return of jurisdiction clearly impracticable; and, in cases where the tribe has not proposed a full reacquisition of jurisdiction, whether the proposed allocation of jurisdiction among the tribe, the United States, and the State is clearly impracticable. If the Secretary disapproves a tribe's plan, he could assist the tribe in preparing an acceptable plan if one is practicable.



On May 3, 1976, the Administration, through the National Governors' Conference, communicated with 35 Governors in order to elicit their views and comments on the draft legislation. Substantial efforts were made subsequent to that time to solicit their responses in order to have the views of all the affected citizens.

We hope that this response has been helpful in explaining what the Administration draft legislation would do and what it would not do. The President appreciates your concerns in this matter and will give them serious consideration when arriving at a formal Administration position.

Sincerely yours,

(Sgd) Ralph Reeser

Ralph R. Reeser
Director, Congressional and
Legislative Affairs Staff

Enclosure

THE WHITE HOUSE
WASHINGTON

August 23, 1976

TO: BRAD PATTERSON

FROM: STEVE McCONAHEY

*Kathy
Gor:*

For your information _____

Comments:

Per our conversation of this evening. Attached is the letter we received from Governor Evans of Washington.



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
OLYMPIA

DANIEL J. EVANS
GOVERNOR

*copy to
D. [unclear]*

August 3, 1976

Mr. Steven G. McConahey
Special Assistant to the
President for Intergovernmental
Affairs
The White House
Washington, DC 20050

Dear Steve:

Thank you for your recent telegram clarifying the President's position in regard to legislation giving tribal governments criminal and civil jurisdiction.

Enclosed, for your information, is a copy of my letter to Mr. John Kyle, Assistant Secretary for Congressional and Legal Affairs, Department of the Interior, in regard to Senate Bill 2010 to which you make reference. This letter states the position of the State of Washington in regard to that bill and the administration's substitute which was forwarded to us.

I very much appreciate the President's interest in attempting to resolve some of the very difficult problems that we have experienced in this area, and I am hopeful that Congress will clarify more fully than it has to date the jurisdictional authorities of the Indian tribes vis-a-vis the states. As you know, this is a subject over which Congress exercises plenary jurisdiction, and which has been very difficult for the states to deal with due to the ambiguities and lack of direction that has prevailed thus far.

Sincerely,

Daniel J. Evans
Governor



DJE:jc



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

SEP 1 1976

Note to Brad Patterson:

Re: your August 30 note to Commissioner Thompson, et al, enclosing a copy of your response to inquiries resulting from the mistaken news report about the President's statement on retrocession of P.L. 280 jurisdiction.

A number of letters to the President on this matter have been referred to Interior and BIA. We have been sending responses such as that enclosed. Any future responses will include mention of the July 27 telegram to the 31 Governors.

Ralph R. Reeser
Director, Congressional and
Legislative Affairs Staff



[9/9/76]

Alvin H. Carter Boulder, Nebraska

Clyde Foy, Jr. Independence, Mo.

Howard Gray Seattle, Wash

Blair K. Richardson - Wash DC, Neb.

F.W. Rockwell St. Ignace, Montana

Earl Mittler - Washington, D.C.

Paul Anderson Roosevelt Utah

G.L. Ingraham - Ronan, Mont.

Wm F. Bigging East Glacier Park Mont

Edward Bader - Timber Lake, S.Dak.

John C. Cochran - Big Arm, Mont.

Philip N. Hagen - Kadoka, SD 57543

Mitchell Platt - St. Johns, Ar. 2: 85936

Chris Farand - D.O.I. Rep. Ass't Secy - Land & Water

Jack Freeman President I.S.C. for IR + R

Mylo E. Flint, U.S. Dept. of Justice

R. Dennis Tokes Deputy Under Secretary - Dept. of the Interior

Sue Kemnitz Interior Branch
Office of Management & Budget

Mrs. John C. Cochran, Housewife, Big Arm, Mont. on
Flathead Indian Reservation.

Jim Skermerhorn U.S. Dept of Justice.

George Crossland - BIA

W.C. Brady, Executive Secretariat, Dept. of Interior

John H. Williams - DOI - St. Ignace - Montana

George Hill - Montana

Paul Anderson - Montana

Frank Rockwell - Montana



Paul Anderson Quake Co Comm.

William F. Bigging Roosevelt Utah

William F. Bigging Sr. East Glacier Park Mont

Edward Bader - Timber Lake, S.D.



THE UNIVERSITY OF TEXAS AT AUSTIN
SCHOOL OF LAW
2500 Red River
AUSTIN, TEXAS 78705

September 24, 1974

Mr. Bradley Patterson
The White House
Washington, D. C.

Dear Brad:

I have thought about the problem you put to me on the telephone on Friday and have discussed it with several of my colleagues who teach constitutional law. My view, and that of those with whom I have talked, is that it would not be constitutional to give broad governmental powers to an Indian tribal council when non-Indians who own land within the borders of the reservation have no voice in the selection of those who are to govern them.

The case that seems to me most compelling for this conclusion is Kramer v. Union Free School District, 395 U.S. 621 (1969). The Court there said that

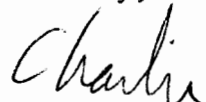
statutes distributing the franchise constitute the foundation of our representative society. Any unjustified discrimination in determining who may participate in political affairs or in the selection of public officials undermines the legitimacy of representative government.

In that case the Court held unconstitutional a New York statute that limited voting in school board elections to those who own or lease taxable property in the district or have a child enrolled in the local schools.

Although we think that this is the result that ought to be reached, none of us want to assert categorically that it is the result that the Court would reach in your situation. The recent case of Morton v. Mancari, 94 S.Ct. 2474 (1974), shows very dramatically that constitutional principles often take on a very different meaning when Indians are involved. None of us are expert in Indian law or in the historical events that have led up to the situation you describe and thus we do not want to say flatly that the Court would strike down legislation giving tribal councils this power.

It was good to talk with you and I hope that this qualified answer is of some help to you.

Sincerely,


Charles Alan Wright





THE UNIVERSITY OF TEXAS AT AUSTIN

SCHOOL OF LAW

2500 Red River

AUSTIN, TEXAS 78705

September 24, 1974

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The White House
Washington, D. C.

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Sincerely,

Charlie
Charles Alan Wright



R. F. HIBBS
HUGH SWEENEY
MAURICE R. COLBERG, JR.
WILLIAM N. JENSEN
WILLIAM T. WAGNER
HORTON B. KOESSLER

LAW OFFICES
HIBBS, SWEENEY & COLBERG
SUITE 301 MUTUAL BENEFIT LIFE BUILDING
2720 THIRD AVENUE NORTH
BILLINGS, MONTANA 59103

POST OFFICE BOX 1321
TELEPHONE 252-4101
AREA CODE 406

October 7, 1976

Mr. Bradley H. Patterson, Jr.
The White House
Washington, D.C.

Re: Indian Sovereignty

Dear Mr. Patterson:

Thank you for your letter dated August 30, in which you corrected the belief created by the press, namely, that President Ford has recommended legislation giving Indians complete sovereignty over those on the reservations. Those living on and doing business on some reservations are reaching a sorry plight. Such publicity adds fuel.

To the casual observer and, particularly, the political observer from the industrial areas, this situation seems trivial. Many non-Indians recall only that we took from the Indian his property and his way of life--sometimes in a heartless, roughshod manner. Such an observer reasons that if we hand the Indian back some money and some autonomy, it may even the score. There's not much of the Indian's aboriginal way of life we could give back now if we tried.

Through the years, the Indians generally had come a long way from their barbaric ways. There are many who have established homes, businesses and credit. I recall that one near here, displayed his leadership to Indians and non-Indians alike and made a creditable race for Congress.

It is well to say, "but those improvements are in the way of the white man--the Indians have a right to stay Indian and to still improve." That cannot be. There isn't room in the same town, state or country for two non-coordinated cultures or governments to exist. The Indian who has developed our patterns is as fearful of the attempts for power by those of this race as are the non-Indians. There are those of both races who have learned to live at peace and to attain some prosperity on reservations. They know that it isn't the present day Indian--nor the present day white who fought the battles or engaged in the trickery that hurt one side or the other. We can't be expected to repay one another for what our grandparents did.



Mr. Bradley H. Patterson, Jr. -2-

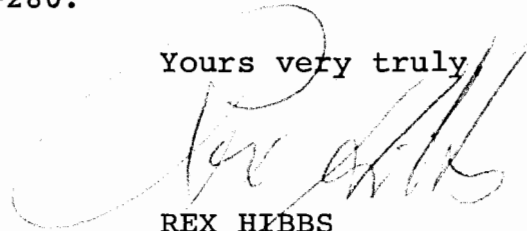
October 7, 1976

The publicity, such as I mentioned, only stirs the greed and power lust of the least responsible Indians. They look with envy at anyone with the right to control them. They are no different from other opportunists except that the unwitting do-gooders among us seem to give them an excuse--a backdrop against which to perform.

There is corollary--another sad development. Many non-Indians, seeing the growing threats of some Indians toward irresponsible self-assertion, are forming heated anti-Indian cliques. It all leads to distrust and antagonism on each side. We need to help the Indian--he needs to learn to help himself. The only way we can help him is within the society which we know. There can't be any other.

So far as we can determine, Montana has not exercised jurisdiction under P.L. 83-280.

Yours very truly

A handwritten signature in cursive script, appearing to read "Rex Hibbs", is written over the typed name.

REX HIBBS

RFH/mdh

August 30, 1976

Dear Senator Hibbs:

Thank you for your letter to the President expressing concern about his jurisdictional statement to American Indian leaders on July 16. It has been erroneously reported that President Ford supports legislation to give tribal governments criminal and civil jurisdiction over all people living on Indian reservations. This is inaccurate. The President does not support legislation to alter the present legal status of non-Indians residing within reservation boundaries.

In his statement to Indian leaders on July 16, President Ford indicated that he supported the concept of allowing certain Indian tribes (those which have been subject to State civil and criminal jurisdiction under provisions of Public Law 83-280 and related statutes) to decide by tribal resolution whether they wish to continue under State jurisdiction or return to Federal jurisdictional status. This resolution is subject to the approval or disapproval of the Secretary of the Interior under a clear set of reasonable guidelines.

Under this concept, a tribe by itself could initiate a request to the Secretary of the Interior for a return to Federal jurisdictional status. In reaching his decision on this request, the Secretary of the Interior would be required to consult with the U.S. Attorney General and with the governors of the appropriate States. Application would be limited to tribes in States which have exercised jurisdiction under P.L. 83-280 and related statutes.

The Departments of Justice and Interior are drafting legislation on this subject, and the Administration has asked the governors of 31 States for their views on the draft legislation. It is the President's

intention to continue consultations on the draft and to expand those consultations to include a wide range of interested groups, including representatives of non-Indians residing within reservation boundaries.

Sincerely,

Bradley H. Patterson, Jr.

The Honorable Rex Hibbs
Senator of the State of Montana
Helena, Montana 59601

BHP:lrc
BHP-2



THE WHITE HOUSE
WASHINGTON

August 30, 1976

NOTE FOR:

Secretary Kleppe
Under Secretary Frizzell
Solicitor Austin
Commissioner Thompson

Because of the mistaken news report about our position on PL 280, the President has received a number of letters from non-Indians who reside within the boundaries of Indian reservations.

We are sending the enclosed response to these inquiries; it is the duplicate of a telegram sent on July 27 to all the Governors by Steve McConahey of the Domestic Council.

As Mr. Frizzell is aware, there will be a session on September 9 at 10 AM at Interior to give some of these non-Indian spokesmen a hearing. Peter Taft of Justice has told me this AM that he will join Kent for this session.

✓ cc: Peter Taft
Steve McConahey
Mrs. Kilberg
Bill Baroody

Brad Patterson

ERNEST R. FOR

17
June 6
DP



The Big Sky Country

MONTANA STATE SENATE

HELENA, MONTANA 59601

SENATOR REX F. HIBBS
DISTRICT NO. 9, YELLOWSTONE COUNTY
BILLINGS, MONTANA 59102

July 19, 1976

COMMITTEES:
JUDICIARY
NATURAL RESOURCES
STOCKGROWING AND GRAZING

The Honorable Gerald L. Ford
President of the United States
Washington, D.C.



Dear Mr. President:

The annexed article quotes you as proposing a new law giving tribal governments criminal and civil jurisdiction over people living on Indian reservations.

There is a growing movement to create nests of sovereignties, irresponsibly governed, but independent within these United States. That movement seems to have reached to you.

The urge to bring this about stems from a combination of the militant Indians and misguided liberal whites who don't have to live with the havoc they are causing. Those tribal members who have made efforts to acquire property and to live in harmony with their own people and with the non-Indians, are as afraid of this movement as the whites are.

There are many second and third generation non-Indians who have their lives and their fortunes invested on Indian reservations. There are the substantial Indians whose roots are still deeper. I am somewhat familiar with the Law and Order Code tentatively adopted by the Crow Tribe in Montana. By way of example it proposes punishment for murder as a fine of \$500.00 or six months imprisonment.

Perhaps the laws affecting Indians need improvement. These new proposals however making of them a nation within a nation can lead to no good for the Indian whose heart is right. It can only give power to a dissident group and it will drive from the reservations thousands of good people who have settled there--doing business with the Indian people in the belief that the laws of the United States and of the state protected them.

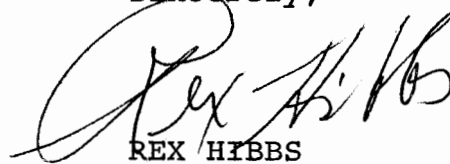
Although I am no longer a member of the Montana State Legislature, I am somewhat familiar with political processes and with the need to develop color in election years. The

The Honorable Gerald L. Ford -2-

July 19, 1976

enclosed proposal seems to me a poor way to do it. Most of the ranchers and others doing business on Indian reservations might have been counted on to help the Republican nominee. Of late years, the Indian vote tends to the radical side. Such a proposal, in my opinion, will lose votes and it won't buy back the liberal ones, if that is what was intended.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rex Hibbs". The signature is written in dark ink and is positioned above the printed name "REX HIBBS".

REX HIBBS

RFH/mdh

Enclosure

P.S. - Once I was a delegate to a Republican National Convention.

Ford vows more clout for tribes

WASHINGTON (AP) — President Ford told Indian leaders Friday he soon will seek a new law that could give tribal governments criminal and civil jurisdiction over people living on Indian reservations.

Addressing about 200 American Indian leaders in the East Room, Ford said the legislation now being drafted would let the tribes determine whether they wanted to share jurisdiction with state or federal authorities or handle such matters themselves "effectively and within adequate guidelines."

Some Indian leaders said in advance of the session that they suspected the President might be trying to use them for political purposes, particularly since the White House had invited them to wear traditional native costumes to the affair.

Few of the Indians wore native garb, however, and Ford's speech seemed well received as he declared that in this Bicentennial year "together we can write a new chapter" in the often-troubled relations between Indians and the federal government.

Senate
of the
State of Montana
Helena

SENATOR REX F. HIBBS
DISTRICT NO. 9, YELLOWSTONE COUNTY
BILLINGS, MONTANA 59102



BILLINGS POST OFFICE
United States 13c
BELLAMY AWARD SCHOOL

The Honorable Gerald L. Ford
President of the United States
Washington, D.C.

M. O. D.

Montanans Opposing Discrimination

P. O. Box 673, Polson, Montana 59860

Affiliated With

INTERSTATE CONGRESS FOR EQUAL RIGHTS AND RESPONSIBILITIES

October 12, 1976

Bradley H. Patterson, Jr.
The White House
Washington, D. C. 20013

Dear Mr. Patterson:

Thank you for your letter of October 5, and thank you also for your invitation to submit in writing some legislative and/or administrative recommendations. We are now working on this and Mr. Tobin feels that we will have something completed by the first part of January 1977.

Sincerely,



F. Wayne Rockwell
President



October 5, 1976

Dear Mr. Rockwell:

Thank you for sending me the copy of Mrs. Randall's letter. I am very sorry to see any tension or ill-will between Indian and non-Indian.

I learned a lot from our meeting in September and was glad to have your views presented first-hand.

We would repeat our invitation to you and to Tom Tobin to supplement our meeting by setting forth your position in writing and by putting down in writing some of the legislative and/or administrative recommendations which you and your associates would suggest.

Sincerely yours,

Bradley H. Patterson, Jr.

Mr. F. Wayne Rockwell
President
Montanans Opposing Discrimination
Post Office Box 673
Polson, Montana 59860

bcc: Mr. Ickes
Mr. Taft
Mrs. Kilberg

BHP:pft



M. O. D.

Montanans Opposing Discrimination

P. O. Box 673, Polson, Montana 59860

Affiliated With

INTERSTATE CONGRESS FOR EQUAL RIGHTS AND RESPONSIBILITIES

Winner, South Dakota

October 1, 1976

Bradley Patterson
The White House
Washington, D. C.

Dear Mr. Patterson:

I am sending you a copy of a letter received from a Mrs. Bruce Randall, 525 Custer, Wolf Point, Montana 59201. This letter is representative of others we have received. She states that she attended "our" meeting. Actually, it was the Wolf Point meeting. We had been requested to come over and help them organize under M. O. D.

After reading this letter I believe that you will share our concern over the situations on and near reservations all over the western states.

I would be very interested in your comments.

Sincerely,



F. Wayne Rockwell
President

Enclosure

CC: Peter Taft
Bobbie Kilberg
Blair Richindifer
Kim Fast

Sept. 26, 1976

MOD
302 Main P.O. Box 673
Polson, Mt. 59860

Dear Sirs -

After attending your meeting in Wolf Point, I was horrified to see the militant, dissident Indians who were imported to disrupt the meeting, and hamstringing your proceedings. I understand that events in our town since, have taken on a dangerous turn. There was a shoot-out of 3 young Indians from Frazer and a raping at a local laundromat. The attitude of the tribes is more belligerent, and deliberately hostile to all of us.

I have lived here for 42 years, and have seen this Reservation grow from a small group of Indians, to a grossly over-grown minority group, who are determined to drive us off. I talked to several farmers & ranchers who live south of the river, and the stories of robbery, assault, poaching of game, etc. all is being ignored because they say nothing can be



done about it. How shameful!! They are off the reservation in unlicensed vehicles, predators on other peoples property, and nothing can be done? The people who came to your meeting were afraid of reprisals, if they spoke out against the Indian, another sad state of affairs. I could have gotten up and told my story, too but for fear of my life and home I did not.

Another thing I cannot understand, the building of the Indian Community College in Poplar — Montana has several colleges and Universities, the programs and Instructors all for the Indian, over the white person. I object to any more programs or aid of any kind being given to them.

Mrs. Bruce Randall

525 Custer

Wolf Point, Mt. 59201

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BRAD PATTERSON, SPECIAL ASSISTANT TO THE
PRESIDENT
OFFICE OF THE PRESIDENT
WASHINGTON DC 20500

DEAR SIR,

WE ARE DEEPLY DISTURBED THAT THE OFFICE OF MANAGEMENT AND BUDGET IS ATTEMPTING TO SET INDIAN POLICY BY INSERTING LANGUAGE IN THE APPROPRIATIONS BILL DIRECTLY IN CONFLICT WITH ESTABLISHED LAW, PARTICULARLY RECENT FEDERAL COURT DECISIONS UPHOLDING THE RIGHT OF INDIAN TRIBES TO EXERCISE JURISDICTION OVER ALL PERSONS ON THE RESERVATION, MEMBERS AND NON-MEMBERS.

WE URGE YOU TO TAKE IMMEDIATE ACTION TO DELETE ALL AND ANY SUCH RESTRICTIVE PROVISIONS FROM YOUR BUDGET REQUEST TO THE CONGRESS.
SINCERELY

LADONNA HARRIS, PRESIDENT
AMERICANS FOR INDIAN OPPORTUNITY
GENE CRAWFORD, EXECUTIVE SECRETARY
NATIONAL LUTHERAN INDIAN COUNCIL

17:56 EST

MGMCOMP MGM



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BP

THE HONORABLE GERALD FORD, PRESIDENT OF
UNITED STATES
WASHINGTON DC 20500

DEAR SIR,

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LADONNA HARRIS, PRESIDENT
AMERICANS FOR INDIAN OPPORTUNITY
GENE CRAWFORD, EXECUTIVE SECRETARY
NATIONAL LUTHERAN INDIAN COUNCIL

17:54 EST

MGMCOMP MGM

