The original documents are located in Box 2, folder “Early Retirement Bill - H.R. 5465 (1)” of the Bradley H. Patterson Files at the Gerald R. Ford Presidential Library.

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MY DEAR MR. PRESIDENT,


WILSON WOODGER
CLAY STEPHENS
GEORGE THOMPSON
CLIFFORD ANDERSON
GEORGE SHELFHARM
PETER STIFFFARM
WAYNE SKOW
MERCEDES NIGHTSHOOT
GEORGE CROFF
RAMONA PAPSEY
LUCILLE RACINE
VERA M SCMF
KILEENA BARWOOD
HAZEL BEAN

13:37 EST
MGM COMP MGM

PAUL MOORE
RICHARD HELFENSTEIN
RAYNE PILGERAM
CHARLOTTE MCKOWN
FRANCIS TURNER
THOMAS MEDICINEHORSE
ROY RIDESTHEDORE
DENNIS JONES
BILL THEO LEMIE
GERALD GUARAPPE
JOHN BULLCHILD
HELEN WIPPERT
FAYE MOWT
DEAR MR. PRESIDENT,

BUREAU OF INDIAN AFFAIRS OUT PLACEMENT PROGRAM IS NON FUNCTIONAL. OUR BIA INSTALLATION EXPERIENCED A SEVERE REDUCTION IN FORCE DURING FISCAL YEAR 1977 AND NOT ONE EMPLOYEE WAS PLACED THROUGH OUR PLACEMENT EVEN THOUGH MANY WERE WELL QUALIFIED AND HAD MORE VALUABLE EXPERIENCE. THE UPWARD MOBILITY PROGRAM GUIDELINES FROM THE BIA CENTRAL OFFICE IN WASHINGTON, DC CLEARLY STATE THE INDIAN PREFERENCE WILL BE ENFORCED IN THE UPWARD MOBILITY PROGRAM AS WELL AS FILING VACANT POSITIONS, LATERAL TRANSFER, PROMOTION TRAINING IN BIA.

WE DO NOT CRITICIZE THE SUPREME COURT DECISION INVOKING INDIAN
PREFERENCE IN THE BIA, WE ONLY ASK FOR AN OPPORTUNITY TO CONTRIBUTE VALUABLE SERVICE TO OUR GOVERNMENT AS FEDERAL EMPLOYEES. HOUSE RESOLUTION 5469 WILL GIVE US THE OPPORTUNITY TO DO THIS.

WE REQUEST THAT YOU CLOSELY SCRUTINIZE THE RESOLUTION ON YOUR DESK. WE FEEL CONFIDENT YOU WILL UNDERSTAND THE POSITION THE NON INDIAN IS PLACED IN WORKING IN THE BUREAU OF INDIAN AFFAIRS AND THAT YOU WILL SIGN THE BILL AND SEE THAT IT BECOMES LAW.

RESPECTFULLY SUBMITTED BY
WILBUR WOOD PRESIDENT NFFE LOCAL 241 CHEMAWA INDIAN SCHOOL
SALEM OREGON 97303

ALICE ANDERSON, EDWARD BARTLETT, MARY BARTOLOME, RONALD BERG,
NADINE BORDERS, CHARLES BROMLETTE, WILLIAM BURRIGHT, PEARL CARLSON,
JAMES CRONE, HARRY COX, EARL DOUGLAS, ELBERT ELLISON, PAT ERNSTROM,
DEAR MR PRESIDENT, BUREAU OF INDIAN AFFAIRS OUT PLACEMENT PROGRAM IS NON FUNCTIONAL. OUR BIA INSTALLATION EXPERIENCED A SEVERE REDUCTION IN FORCE DURING FISCAL YEAR 1975 AND NOT ONE EMPLOYEE WAS PLACED THROUGH OUR PLACEMENT EVEN THOUGH MANY WERE WELL QUALIFIED AND HAD MORE VALUABLE EXPERIENCE. THE UPWARD MOBILITY PROGRAM GUIDELINES FROM THE BIA CENTRAL OFFICE IN WASHINGTON DC CLEARLY STATE THE INDIAN PREFERENCE WILL BE ENFORCED IN THE UPWARD MOBILITY PROGRAM AS WELL AS FILING VACANT POSITIONS, LATERAL TRANSFER, PROMOTION TRAINING IN BIA.

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JAMES GOLDSMITH, JACKIE GRAPE, EDGAR HANSON, DUANE HILDEBRAND, CHARLES HOMES, LUTHER KNOX, FLORENCE KUBIN, PATTY LANE, LOUISE LINDAUER, FRANK LAMB, MARION MARSHALL, EUGENE MERWIN, ROSEWELL SEARE, ROBERT WITTMAAN, MILBUR WOOD, THOMAS WRIGHT, MYRNA McMURTY, GEORGANNA USREY, DOROTHY PENTECOST, ROY CARTER, GORDON FOSTER AND BEULAH GRAHAM
The President
The White House
Washington, D. C. 20500

Dear Mr. President:

I respectfully urge you to sign H. R. 5465, a bill to provide early retirement benefits for certain non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service. This legislation has passed both Houses of Congress following Conference Committee agreement, and is now on your desk awaiting further action.

Current law grants preference to Indians in promotions and personnel actions in the BIA and IHS. This has been the case since a 1972 court decision clarified the interpretation of the Wheeler-Howard Act of 1934. As a result many non-Indian BIA and IHS employees with long records of Federal service now find themselves blocked off from promotion or transfer. H. R. 5465 addresses this problem by providing early retirement benefits for those senior employees.

I know there are many non-Indian BIA and IHS employees in my own state who will benefit from this reasonable legislation.

I ask for your serious consideration and support for H. R. 5465.

With warm regards,

Very truly yours,

Pete V. Domenici
United States Senator

PVD/dcg9
Mr. President:

I am writing you concerning HR 5465, a bill which would make it possible for B.I.A. and I.H.S. non-preference employees to retire if they meet certain requirements.

When you are considering the merits of this bill, there are several factors which you should weigh before making a decision:

1. All non-preference employees hired before about 1972, clearly were hired as merit system employees. Some understood that Indian Preference was involved but only with regards to initial employment. Further none of us hired before 1972, in anyway gave up our merit system rights (earned through competition) by virtue of being hired or transferred into I.H.S. or B.I.A.

2. The administrative extension of the Indian Preference was done by our superiors without public input, without consideration to the effects upon non-preference employees and in a manner that demonstrated an abuse of administrative discretion.

3. The B.I.A. has greatly increased its budget for the higher education of Indians. Now it is time they reap rewards from this expenditure. The retirement of the non-preference employee would make room for these Indians who have received this education, which would lead to the goal of Indian self-determination.

4. Some of the departments have expressed a concern of a massive exodus of non-preference employees. This of course would not happen, the significant point here is that the vast majority of Indian Service employees have expressed their desire to continue working and provide the necessary training of Indian personnel to take over their positions, but they feel as though they must have a way out if things get to rough such as lives being threatened. They have devoted twenty or more years of their working career and would hate to drop all of their earned benefits.
5. Another objection that has been expressed was the cost if this bill was implemented: the fact is that even greater cost would be paid if not passed when you consider these elements:
   a. The poor moral of Indian Service employees, which greatly effects their productivity.
   b. Salary savings, because new employees would be brought aboard at a lower G.S. rating.
   c. Indians would be filling these jobs leading to Indian self determination.

6. Why should we be punished for something that happened in the past and had nothing to do with.

7. The affected employee's are at an age when it is difficult or impossible to start new careers.

8. This bill is one in which many Indian Tribes have expressed a desire to have passed. (Blackfeet Tribe, West Oklahoma, etc.)

9. Non-preference employees have had their congressional vested rights in the merit system and constitutional (due process, compensation for rights taken and other) illegally taken away.

I would like to refer you to the testimony given by Tom Gonomion at the Senate hearings on S-509 and we are also air-mailing you material sent to the Comptroller General on December 9, 1975 and the General Accounting Office has completed its investigation and it should be available at the G.A.O. Office in Washington D.C.

It is hoped that you will consider these factors and make an affirmative decision on HR-5465.

Sincerely yours,

[Signature]

Gordon J. Wilson
President Gerald Ford
The White House
Washington D.C. 20500

Attn: Brad Patterson

Ro: HR 5465

Natural enclosed as stated in my letter.

[Signature]

[Stamp]
1. The following service is requested (check one):

☐ Show to whom and date delivered............ 15¢
☐ Show to whom, date, & address of delivery. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered............... 65¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery

2. ARTICLE ADDRESSED TO:

E. B. S. Tates, Commissioner
General of the United States
441 G St NW, Washington, DC

3. ARTICLE DESCRIPTION:

REGISTERED NO. CERTIFIED NO. INSURED NO.
22-1675

4. SIGNATURE

Delivered to addressee only

DATE OF DELIVERY
11/25/75

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE

CLERK'S INITIALS
December 9, 1975

Senator Ted Stevens
U. S. Senate
301 Old Senate Office Building
Washington, D.C. 20510

Dear Senator Stevens:

For a number of weeks now members of your staff have informally been working with us regarding our efforts to regain our status in the Federal government’s Native employment system and to gain compensation for our documented losses caused by the operation of the Indian Preference laws. We appreciate your help and interest. We urge you to present the enclosed document (see enclosure) to the Comptroller General of the United States for us and further ask that you support our action with the full force of your office.

We must stress that our search for equity, reinstatement and due compensation for our losses, accepts the fact that Indian Preference laws are constitutional and operational. Our point or direction of attack stems only from the realization that the facts show establish that those public administrators charged with the administration of the Indian Services have done so with results that clearly demonstrate an operation so exclusively against a particular class of persons (the special class citizens that indeed we are), as to warrant and require the conclusion that whatever may have been the intent of the Indian Preference laws, they are applied by those public administrators with a mind so unequal and oppressive as to amount to a practical denial by the U. S. Government of the equal protection of the laws, due process of law, and right to receive just compensation for private property taken for "public use," all of these rights being ours, as citizens, and secured by the Constitution (and its amendments) of the U.S.

Perhaps the Indian Preference laws are fair and just, as written, but the facts available demonstrate that the administration of these laws indeed have placed approximately 8,000 Federal employees in a special class alone; denied both earned and retained congressionally vested rights (with tremendous dollar value involved) and Constitutional Rights: forced by circumstances to suffer insults, indignation, mental anguish, to say nothing of the torment one must suffer when his family and church teachings, as well as professional training, receives almost daily degradation.
With this in mind, we sincerely seek your assistance.

Sincerely,

[Signature]

1 Enclosure

P. S. Your timely consideration of this matter is urgent because of not only the daily damages received by the special class citizen above referred to, but because of impending legislation such as S-503, HR-5858, etc.
TO: Comptroller General of U. S.  December 9, 1975
FROM: See Last Page
SUBJECT: Request for Intervention, Supervision and Resolution of a Problem

INTRODUCTION

This letter is our last resort within the U. S. Government system to resolve our problem. As individuals and as a group—we have been improperly denied a resolution—even confrontation of our problem by our own Agency(ies) and various levels and offices of the United States Civil Service Commission. We think the problem, below stated, is so clearly evident (and an illegal breach of our rights—earned and retained rights) that we as individuals and as a group should not be required to go outside "the system" and pay a private attorney to fight the issues for us. Even a U.S. Attorney’s office has said his office is unable to assist us because the opposing party (certain Public Administrators of high government rank in the three concerned agencies) in our complaint could possibly have to seek the assistance of the U.S. Attorney’s office in regard to our complaint.

GENERAL

It is now a well-known and accepted fact and practice, in the Federal Indian Services (BIA/IHS), that "Indian Preference" prevails and is a dominate factor in any Personnel Action. The writer and his associates do not wish to imply, much less make you think we are saying directly—we oppose Indian Preference: that would be untrue and an unfair assumption. We agree with the Congress and its utterances, relative to Indian Preference. However, since 1970, the senior public administrators involved in implementing the "Indian Preference Laws" (namely the Secretary of Interior, BIA and the Chairman, U.S.C.S.C. and their senior level assistants) have done so in such a manner as to deny a limited and identifiable group of Merit System employees (herein called Special Class Citizens) both congressionally vested rights and constitutionally vested rights: To wit—

1. Congressionally vested rights stemming from earned and retained (because employees continually meet the requirements of continued employment and retention of those rights) career appointments in the CSC Merit System of Federal Employment (civilian); those rights— as an example—the right of promotions, training and education opportunities, transfers, etc.—based on Merit System principles and not influenced by Race; and

2. Constitutionally vested rights enjoyed by all citizens of this Nation—such as:
a. The Right of Due Process of Law! Why--because our vested rights to employment in the Federal Merit System were in fact withdrawn from us, as a limited and identifiable group, by both direct action and a lack of diligently adhering to ministerial responsibilities (inactions) by certain Senior Federal Officials, in a manner that clearly was arbitrary, discriminatory and in fact, offended the right of due process.

b. The Right of Equal Protection of the Laws! Why--because Preference Indians are promoted, trained, educated, transferred, etc., within the Indian Service on a basis of RACE--they are in fact treated better, earn more money, get more responsible positions--through means other than allowed by the Merit System and the various Civil Rights Laws, rules and regulations to the recorded and documented disadvantage of non-preference employees. This is invidious discrimination, and we, as a limited and identifiable group, have been denied equal protection of the laws by virtue of the manner of operation of the various laws concerned (Civil Rights Acts, Indian Preference Laws, etc.) and by simple failure on the part of certain specific Public Administrators of the concerned agencies to administer these programs, the laws applicable to these programs, etc.--within the house of the law, in accordance with all laws applicable, the Common Law, the Supreme Court decisions, etc.

c. Our Civil Rights: Why--because we have been required to work under conditions that stress RACISM, allow a certain minority group to openly criticize other racial, ethnic and religious groups and do so without fear of retribution.

To provide the reader with basic evidence to establish Charges 1 and 2 above, see Enclosure.

SPECIFIC REQUEST

The purpose of this letter is to request your good offices to FULLY investigate this isolated problem, to take such appropriate action as is necessary to require the aforementioned Senior Public Administrators to implement the Indian Preference Laws in conjunction with ALL other appropriate laws, rules and regulations, and to take whatever action is appropriate to: (1) re-vest or recognize the rights of those of us serving in the Merit System, and (2) provide those of us that have been unwittingly made special class citizens, by virtue of the continued denial of our rights, benefits equal to the damages we have experienced to our careers.

In other words, we individually and as a group are asking the Comptroller General to determine if our charges are valid; if they are
We ask only one favor and that is that our names and careers (already marked and diminished) be protected from retribution. A complaint and request such as this indeed will incur the wrath of our superiors, some of us can prove previous retribution by U.S. Government officials for our fight in trying to correct this situation, some of us can prove we have been denied jobs illegally because of race, and all of us can prove our careers have been sacrificed, if not killed, because certain senior public administrators failed to do their ministerial duty and/or failed to take timely action to protect our above mentioned rights. Some of us are currently serving under superiors who are equally as disturbed (regarding this matter) as we are, therefore, we suggest a full, impartial and searching investigation into our charges of both mal and misfeasance on the part of certain high level public administrators is mandatory.

CONCLUSION

We are willing to keep our problem "in-house" only to the extent that we can get the problem resolved to our satisfaction. We
truly hope your offices can assist us directly or point to a viable alternative. Without this kind of assistance, we will be forced into U.S. District Court using private funds. If this latter alternative is forced upon us, we are prepared to present the same evidence now offered your office, only our cause of action will be criminal in nature, larger stakes involved, and we fear the best interests of the U. S. Government and some individual high level Federal employees will not be served. We hope you understand the gravity of this matter.

Sincerely,

See signature below

Next page
SYNOPSIS OF EVIDENCE

The reader is advised that attachments are indexed and tabbed in accordance with the below index.

Charge 1: Violation of congressional and vested rights, i.e. illegal withdrawal of complainants from Federal Merit System; illegal taking of our property.

Charge 2: Violation of constitutional guarantees, i.e.:
   a. Right of Due Process
      Tabs 1, 2, 14, 15
   b. Right of Equal Protection of the Laws
      Tabs 5 and 14
   c. Civil Rights
      Tab 16

The writers suggest the tabs emphasize our main points; however, the total text of each attachment should be read to understand the previous wrong perpetrated upon complainants. It is further suggested that a competent investigation to determine real damages, including passed, ongoing and certain future, occurring and anticipated would reveal startling further compulsion to pursue the matter.
I am signing for approximately 50 B.I.A. and I.H.S. employees, who want their names held in strictest confidence because of fear of retribution.

I am signing for approximately 84 B.I.A. and I.H.S. employees, who want their names held in strictest confidence because of fear of retribution.

I am signing for myself and approximately 140 B.I.A. and I.H.S. employees whose names are a matter of public record.
The enclosed newspaper articles (attachment 1) are clear evidence that many of the employees of DIS who attended that conference were, and are continuing to be denied equal conditions of employment because of the documented continuing series of insults and other type statements made by DIS employees and contract speakers that are degrading and unkind regarding one's culture and race.

It is apparent that within the DIS, and government in general, the same type statements concerning Indians and Indian culture (as attached news clippings) are not allowed to be said, are not part and parcel to "training programs" and you don't hear or see similar points made as a part of policy; hence, those non-Indians witnessing those "training sessions", and similar exposures, are victims of race and culture discrimination, which is forbidden by the Civil Rights Act of 1964, the various executive orders covering federal employees in general and
By DAVID FARLEY
Glencoe St. Peter

"The Indian must know who he is... and the non-Indian must know, too."

This was the message brought Tuesday afternoon to an equal employment opportunity conference of the Indian Health Service by Dr. McGaughy, Sioux Indian and director of the Upper Midwest Indian Center, Minneapolis, Minn.

Indian culture is superior to the white man's in many ways, said McGaughy, "and now we're going back to our Indian ways."

The ways of the white culture have degraded the Indians who sought to adopt them, McGaughy said, and he cited mission boarding schools, religious persecution, and general destruction of the Indians' culture.

THE PILGRIMS came to America, he said, because their former social-economie system was inferior to that of the Indians. But then the new culture began to improve its ways on the native one, he continued.

One of the causes of problems among white children, for example, is the fact that their grandparents are in "old folks' homes" and the youngsters are raised by babysitters, McGaughy said.

Walters imposed their will on the Indian by taking children away to mission boarding schools, he said, and — on top of all — denied Indian religion.

He recalled an incident when a Catholic priest tried to intercept a Sioux Sun Dance and, when warned to stay off the dance floor, considered a microphone and, said "bad thing" about the religious practice.

"Would I have been a Mosie at that time?"

But the Indian is returning to his own culture, said the Sioux, not to be separate from the rest of the country but to be a part of it as an Indian.
HOW MUCH BETTER MUST A JUNIOR EMPLOYEE BE TO WIN A BID OVER A SENIOR MAN? What Happened: When personnel director Bob Nelson arrived and saw the two men impatiently pacing in front of his office, he mentally groaned: "Not before my morning coffee!"

Then he said: "I know, I know, Sam, here, tech he should have won, that bid on the fisher operator job. But our plant manager, Jim Klayer, put up a convincing case for promoting the junior man!"

"We may have convinced you," the steward replied, "but not us. We're here to give the company a chance to correct its mistake. Otherwise, we're going to take this right through arbitration."

"Okay, let's go over it. We put up the job for bids. If two men are eligible, the senior man gets the job — provided abilities are relatively equal. Sam is the senior man, but he got turned down."

The personnel director then enumerated the main reason:

The manager asked six foremen to evaluate the two men and to consider eight criteria: mechanical aptitude, ability to follow written instructions, ability to keep written records, judgment, initiative and attitude, health, responsibility, seniority.

When the scores were in, every one of the six said that Ralph had the edge over Sam.

Also, Ralph had worked three months on the fisher job — or even had experience.

"None of that proves Sam can't handle the job. The junior man may be a little better — but that doesn't give him the right to promotion over a senior man," persisted the steward.

Was The Union: RIGHT □ WRONG □

What Arbitrator George Swengy King ruled: The senior man gets the job. "Before a junior employee is given preference, the company must be prepared to show that he is head and shoulders above the senior man in ability — where the senior man does not have the basic ability to perform the task." (62-3 ARB 1551)

COMMENT: Neither the three months' experience nor the supervisory ratings made much impression on the Arbitrator.

1. What did impress him was: The company got deny that the senior man would probably work out — although it was convinced that the junior was the better man.

DO PLANT RULES HAVE TO BE KEPT UNCHANGED FOR THE DURATION OF A UNION CONTRACT? What Happened: The personnel man who wrote the company's rule book must have been a dropout from the English language. The writing was so bad, the meanings so obscure, that workers and foremen had conflicts over almost every paragraph.

Finally the general manager ordered a complete overhaul of the booklet. "While we're at it," he told the editor, "we want to tighten up some old rules and put in some new ones."

Six months later a new rule book, in a bright cover, was distributed to employees. Whereupon the union hit the roof: "You can't change work rules in the middle of a contract any more than you can change wage rates or rest periods!"

When the company disagreed on the ground that nothing in the agreement from the rules for the duration, the union called in its lawyer. The legal eagle quoted from a raft of decisions by the N.L.R.B., which held that "contents of plant rules are mandatory subjects of bargaining."

"But that applies to negotiations for a new contract. Our agreement still has two years to run. If you feel any of the rules are unfair, file a grievance. You want to throw out the whole book."

Was The Company: RIGHT □ WRONG □

What Arbitrator John Tevlin ruled: The company won. "For some 15 years the union did not question the right of the company to revise or amend plant rules. Such past practice indicates that the union has accepted the fact that there was no restriction on management's right to issue new rules."

(63-1 ARB 1020)

COMMENT: The right to issue and change rules should be incorporated into your union contract. However, the union can always challenge any rule that it feels is unreasonable.

MUST A COMPANY DISCRIMINATE EMPLOYEES WHO MAKE RACIAL REMARKS? What Happened: When a member of a minority group breaks a company's barriers to employment, he sometimes finds he must then contend with the hostility of some of his supervisors and co-workers.

Michael Stern, a civil engineer, was the first Jewish employee to be hired by the General Crop...
hostility—which was in no way related to Michael's competence. Bratty disliked him solely because he was a Jew.

He loudly directed anti-Semitic slurs in Michael's direction. A few other hinted employees took Bratty's remarks as a cue to mimic their own epithets. Bratty's purpose was obvious—to humiliate Michael Stern into resigning.

The Granlux front office ignored Michael's request that his tauntings be stopped to allow him to leave in peace. So Michael filed his employer before the state anti-discrimination agency. He asked:

- What good does it do to stop a company from practicing discrimination in hiring—if it permits personnel to torment a minority group individual once he's taken on?

Company president Ed Granlux countered with:

- We do not approve of the racial insults. But I can't control what employees say. Also, I think Stern is being overly sensitive.

Was Michael Stern: RIGHT □ WRONG □

After The N.Y. State Div. Of Human Rights ruled:

What is the employer's responsibility to control actions of employees on the job?

"A man who suffers degradation and insult without any restraint by management is certainly being denied equal conditions of employment when such insults are directed at a man's creed."

The employer agreed to inform all employees that it would not tolerate racial and religious insults—and that those who voiced them would be disciplined. (Release PRX-1178)

Company president Ed Granlux countered with:

- We do not approve of racial slurs. But I can't control what employees say. Also, I think Stern is being overly sensitive.

Was Michael Stern: RIGHT □ WRONG □

**What Arbitrator Kenneth H. Hays ruled:**

No re-statement for Sam. Traditionally, a probation period is used to determine how well an applicant functions on the job—not to investigate truthfulness of statements made on the application.

"The company had a right to rely on the truthfulness of the applicant's statement. With all speed upon discovering the fabrication." (GP-1 AKB 19114)

**COMMENTS:** The onus is on telling the truth on the employee.

Furthermore, the seriousness of the lie important. If the worker would not have been hired had the truth been known, delay in recovery will not protect him.

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**5. QUIZ CASE**

**Test Your Skill As An Arbitrator**

**CAN EMPLOYMENT COLLECT MONEY DAM FROM A UNION FOR A WIDOW STRIKE?**

**What Happened:** Shop steward Elton Reynolds aided a loyal following. When he fired himself and other fighting, 15 rank-and-file workers were fired from the plant. And they stayed out for three days.

The men rounded out the week without pay—for each received a two-day suspension for "loyalty" to the union official.

The company decided to hit the union with it hurt the most—in its pocketbook. It sued union a bill for $16,393.58 for losses incurred, the wildest strike—itemizing:

- Lost production time—& the cost of his equipment
- Overtime pay to employees assigned to fill for the striking employees
- Supervisors' time helping out on product

The union did some figuring on its own—defended its case before an Arbitrator:

1. Foremen are on salary and are paid any
2. The company owns its equipment and therefore no loss was incurred by its absence
3. There was no real loss in production as the employees filled the gap
4. Besides, who ever heard of using union money against the interests of the men back to work as soon as possible
5. The men already have paid for their it there's no longer any days pay.

*Scott" Vol. XIV No. 55 p. 41
November 10, 1972

In the matter of Civil Suit No. 9626, C. R. Mancari, Anthony Franco, Wilbert Garrett and Juiles Cooper, on behalf of themselves and all others similarly situated, vs. Rogers C. Morton, as Commissioner of Indian Affairs; Walter G. Olson, as Area Director, Bureau of Indian Affairs, Albuquerque Area Office; and Anthony Lincoln, as Area Director, Bureau of Indian Affairs, Navajo Area Office; defendants, I desire to submit the following information pursuant to Rule 23 of the Federal Rules of Civil Procedure:

1. The U. S. Bureau of Indian Affairs is only one of two Indian Services directly affected by Title 25, USC Sections 44, 46, and 472; and that Indian Health Service (USPHS-DHHEW) is the other;

2. That Title 25, Sections 44, 46, and 472 of the U. S. Codes is applicable only to positions in the Indian Services (Agencies) - i.e., BIA and IHS equally, which number approximately 26,000 employees (19,000 in BIA and 7,000 in IHS (USCSC 6-9-72 figures)); that about one-half of these positions are non occupied by Indians, the number of non-Indian employees potentially affected by the court action being about 13,000;

3. That the American Federation of Government Employees (AFL-CIO) represents a certain number of non-Indian employees of BIA;

4. That, because of fear of retribution by superiors, a portion of said non-Indian employees of BIA, have asked me to represent them in a response to the court's request for information (in Notice - pursuant to Rule 23 of the Federal Rules of Civil Procedure) and,
5. That many of the non-Indian employees of IHS consider themselves in the identical situation of plaintiffs in No. 9626 Civil and consider the representation by the plaintiffs to be fair and accurate. Further, except for the fear of retribution, that some of my members indeed would want to join with plaintiffs and be party to that cause.

Sincerely yours,

Robert C. Vogler
National Representative
Eleventh District, AFGE

RGN:jp
Present Bureau of Indian Affairs policy concerning employee promotions, reassignments etc. appears to be based primarily on race and not on merit considerations. Other employment is available to me which will not impose racial restrictions on my ability to advance in skills and knowledge.

The effective date of my resignation will be September 29, 1972.

[Signature]
I resigned for the following reasons: Believing in the precepts of our beloved Constitution, I can no longer work under the Communistic tactics and the 100% discrimination against the white race practiced by the Commissioner of Indian Affairs in general, and the Administrative Officers of the Aberdeen Area Office, in particular, the Area Director and the Asst. Area Director in charge of Administration. They break U.S. Civil Service Laws and Regulations and even the Constitution of our United States means nothing to them. They refuse to consider a white person for promotion regardless of their merit. Mr. Briscoe is the immediate supervisor of his wife a GS-11. All of this is completely undermining the morale of BIA employees. The white people are seriously discriminated against, and I will not be a part of dragging our flag through the mud and I will not be subservient to another race. WE ARE ALL EQUAL. That is what our forefathers fought and died for. I hereby tender my resignation in the service of the country I so love. God help these United States.

F. M. C. W.

P.A.T.I. (Continued)

December 27, 1970

(Hereinafter tow).

No. 2.

PART IV. SEPARATION DATA

FORWARD COMMUNICATIONS INCLUDING SALARY CHECKS AND BONDS TO THE FOLLOWING ADDRESS

417 No. Jay St., Aberdeen, South Dakota 57401

PART I. (Continued)

□ REMARKS BY REQUESTING OFFICE

□ REMARKS BY REQUESTING OFFICE

□ REMARKS BY REQUESTING OFFICE

□ REMARKS BY REQUESTING OFFICE

PART II. (Continued)

□ SUBJECT TO COMPLETION OF A YEAR PROBATIONARY OR TRIAL PERIOD CONVINCING

□ SERVICE CREDIT TOWARD EARNED SERVICE IN THE GOVERNMENT SERVICE

□ OCCUPATIONAL POSITION—EMPLOYEE REMAINS IN THE CONCURRENT SERVICE

□ PERFORMANCE RECORD SATISFACTORY

□ SEPARATIONS SHOW REASONS BELOW, AS REQUIRED. CHECK, IF APPLICABLE:

□ DURING PROBATION

□ FROM APPOINTMENT OF 6 MONTHS OR LESS

Memorandum

To: Area Directors
   Area Equal Employment Opportunity Officers
   Equal Employment Opportunity Counsellors

From: Bureau Equal Employment Opportunity Officer

Subject: Discrimination Complaints based on Indian Preference

This office has received several letters complaining of alleged racial
discrimination in promotional opportunities in the Bureau of Indian
Affairs as a result of the Indian Preference Policy announced on

In Executive Order 11478, issued August 8, 1969, President Nixon
assigned the Civil Service Commission overall responsibility for
leadership and guidance of the Federal Government's internal equal
employment opportunity program. The Executive Order prohibits
discrimination in Federal employment on the basis of race, color,
religion, sex, or national origin. It provides for an affirmative
action program to assure equal opportunity in all aspects of Federal
employment, and contains provisions for prompt, fair, and impartial
processing of complaints of discrimination in Federal employment
based on race, color, religion, sex, or national origin. Equal
employment opportunity is national policy and is applicable to all
citizens. It is not restricted to any particular segment or segments
of our population.

With reference to employment in the Bureau of Indian Affairs, however,
there is a Federal policy of "Indian Preference" embodied in Section 12
of the Indian Reorganization Act of June 18, 1934 (48 Stat. 985,
986; 25 U.S.C. 472). This legislation directs the Secretary of the
Interior "to establish standards of health, age, character, experience,
knowledge, and ability for Indians who may be appointed, without regard
to civil service laws, to the various positions maintained, nor or
hereafter, by the Indian Office, in the administration of functions
or services affecting any Indian tribe. Such qualified Indian shall

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20242

Dec 15 1972
hereafter have the preference to appointments to vacancies in any such position. Indian preference eligibles are further defined as those having one-fourth or more degree of Indian blood. The Civil Service Commission supports and agrees with the announced interpretation of Indian preference laws and has indicated that this policy interpretation is consistent with programs administered by the Commission.

We have the responsibility of giving full effect to the Indian preference laws which Congress has enacted and that, of course, is the purpose of the policy revision approved by the Secretary. Any questions concerning the validity of those laws is not a matter of administrative determination. We are aware that our interpretations have been challenged in the United States District Court in New Mexico, and shall, of course, be bound by any final judicial decision resulting from that action.

The impact of Indian preference has been weighed against Veteran preference, by the Civil Service Commission, which is a program comparable in nature and intent. Incidentally, neither has been determined to be discriminatory, and it has been determined that in the Bureau of Indian Affairs, Indian preference prevails over Veteran preference.

The effect of the most recent legislation places the responsibility for monitoring Federal Employment Programs under the Civil Service Commission, and in view of the fact that they support the position on Indian preference announced by the Department, we do not regard this as an issue for consideration as a discrimination complaint.

Equal Employment Opportunity Officer
Dear Mr. President:

I am writing you to urge your signature on H.R. 5465 "An Act to revise retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service not entitled to Indian preference, provide greater opportunity for advancement and employment of Indians and for other purposes." It has never been the intention that non-Indian employees of the government should unduly suffer from Indian preference or self-determination. This bill should go a long way to insure equitable treatment while furthering Indian preference and your policy of Self-Determination.

Respectfully,

Peter MacDonald, Chairman
Navajo Tribal Council

The Honorable Gerald Ford
President of the United States
The White House
Washington, D.C.
 memorandum
 of call

you were called by...

you were visited by...

name: jon gonzalez

please call...

phone no.

code/ext.

will call again...

is waiting to see you...

returned your call...

wishes an appointment...

message:

(605) 225-0250

x 653

re: h.r. 5463

received by...

date: 9/16

time:

standard form 63

revised: august 1951

gsu fpms 01: 03-11.8
TO: Brad

YOU WERE CALLED BY--

YOU WERE VISITED BY--

Carl Smith
So. DnKte. B.I.A.

PLEASE CALL: PHONE NO. CODE/EXT.

WILL CALL AGAIN
IN WAITING TO SEE YOU
RETURNED YOUR CALL
WISHES AN APPOINTMENT

MESSAGE

Re: H.R. 5465

(605) 224-8865

DATE

RECEIVED BY

STANDARD FORM 63
REVISED AUG 1977

GSA FMMR (A1-07) 101-10E
You were visited by—
Ted Reams
Negotiator, B.I.A.

Please call—

He will call again
He wishes an appointment

Support:
HR 5465

(406) 768-3441

Received by: [Signature]
Date: 9/6
Time: 12

Standard Form 84
Revised 1981

No. 15580-1-81-0000-1

83-388
YOU WERE CALLED BY

Glenc Kolstend

Or (Organization)

Billings Montana

PLEASE CALL
PHONE NO.
CODE/EXT.

WILL CALL AGAIN
IS WAITING TO SEE YOU

RETURNED YOUR CALL
WISHES AN APPOINTMENT

MESSAGE

(406) 245-6711
X 6301

RECEIVED BY

DATE

TIME

STANDARD FORM 63

REVISED AUGUST 1957

GSA FPMR (CFR) 101-11.6
TO: [Name]

YOU WERE CALLED BY—

OF (Organization)

YOU WERE VISITED BY—

[Name]

[Location]

PLEASE CALL —

PHONE, CODE/EXT.

WILL CALL AGAIN

IS WAITING TO SEE YOU

RETURNED YOUR CALL

WISHES AN APPOINTMENT

MESSAGE

[Message]

(404) 248-3284

SUPPORT # 5465

RECEIVED BY

DATE

TIME

STANDARD FORM 63

REVIEW: August 1999

GSA FPIN R1 (UJ CR) 160-11.8
MEMORANDUM
OF CALL

To: [Name]

You were called by—

You were visited by—

We contacted
[Name] for you.

We received your return call

We wish to see you.

We wish an appointment.

Message:
H.R. 5465

[Handwritten note: Send support please]
TO:  

John Fleming  
Indian Health Services

□ YOU WERE CALLED BY  □ YOU WERE VISITED BY

□ PLEASE CALL  □ PHONE NO.  □ CODE/KEY.
□ WILL CALL AGAIN  □ IS WAITING TO SEE YOU
□ RETURNED YOUR CALL  □ WISHES AN APPOINTMENT

MESSAGE

Re: H.R. 5465
(801) 723-2880

RECEIVED BY  

STANDARD FORM 63
REVISED AUGUST 1967
GSA PPMR 561 CFR 105-11.6
No great hazards of individuals 600 in lifetime of bill (5 yrs)

Would presently

Mr. signature.

Not over 30-31-40-50

(only 100 eligible as 1st grad)

in 1st year 50

232

+ 30 over 5-year period
They try to override.
150-200 and of 600

MT:

Personally no problem except for liberal bill
50 x 20 - 25 x any age

Congress would probably:
245 but don't leak left
Speaker has a primatial interest in it

House 1 out of 51 + 5S own objections of Henderson. Otherwise they
MEMORANDUM OF CALL

To: [Redacted]

You were called by—

[Redacted] (Organization)

Please call again.

Message:

(406) 245-6711

X 6615

Received by: [Redacted]

Date: 9/15

Time: 3:00

Standard Form 83

Rev. 8/31/67

GA-Fi 41-52-109

For use of U.S. General Services Administration.
People will read by
read — they can be
instructed by tutors or
employing assistants
or consultants.
<table>
<thead>
<tr>
<th>YOU WERE CALLED BY:</th>
<th>YOU WERE VISITED BY:</th>
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<tbody>
<tr>
<td>Brad</td>
<td>Daniel</td>
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<tr>
<th>PLEASE CALL</th>
<th>PHONE NO. CODE/EXT.</th>
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<tr>
<th>WILL CALL AGAIN</th>
<th>IS WAITING TO SEE YOU</th>
<th>RETURNED YOUR CALL</th>
<th>WISHES AN APPOINTMENT</th>
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**MESSAGE**

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5509-8888
2808
544-1112
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**RECEIVED BY**

<table>
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<th>DATE</th>
<th>TIME</th>
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</table>

**STANDARD FORM 63**

| FORM: 1-13000-400-12-10006-6 | 505-600 |

| REVISED AUGUST 1995 | OMB PAPERW 13: GDP 135-11.1A |
IN THE SENATE OF THE UNITED STATES
MAY 4, 1976
Read twice and referred to the Committee on Post Office and Civil Service
MAY 13, 1976
Reported by Mr. McGee, with an amendment and an amendment to the title
(Strike out all after the enacting clause and insert the part printed in italic)
JUNE 22 (legislative day, JUNE 18), 1976
Referred to the Committee on Appropriations
JULY 2 (legislative day, JUNE 18), 1976
Reported without amendment

AN ACT

To allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, 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, for purposes of this Act—

H—O
4. "eligible employee" means an employee who—

(A) is employed in a position in the Bureau of Indian Affairs of the Department of the Interior, or in the Indian Health Service of the Department of Health, Education, and Welfare, under a career or a career-conditional appointment; and who has been so employed since June 17, 1974; and

(B) is not entitled to benefits under, or has been adversely affected by the application of—

(i) section 12 of the Act of June 18, 1934 (25 U.S.C. 479);

(ii) the first section of the Act of June 7, 1897 (25 U.S.C. 274a);

(iii) the Act of April 30, 1908, and section 26 of the Act of June 25, 1910 (25 U.S.C. 47); and

(iv) section 6 of the Acts of May 17, 1882, and July 4, 1884 (25 U.S.C. 46);

(v) section 2069 of the Revised Statutes (25 U.S.C. 45); and

(vi) section 10 of the Act of August 15, 1884 (25 U.S.C. 44); or

(vii) any other provision of Federal law providing Indians preferential employment consideration for positions within the Federal competitive service; and

5. "vacancy" means a vacancy in a position in the competitive service for which the minimum rate of basic pay is less than the minimum rate for GS-15;

6. an employee who has received a specific notice of separation by reduction in force;

7. by an employee of the Bureau of Indian Affairs who—

(A) must be reassigned because of circumstances beyond his control which threaten his life or health; and

(B) cannot be reassigned to a position within the Bureau of Indian Affairs because of the operation of any provision of law referred to in paragraph (4)(B) of the first section of this Act; or

8. by an employee of the Trust Territory of the Pacific Islands who is displaced by a Micronesian and must be returned to the United States.

Sec. 3. When an appointing authority has twice considered and passed over an eligible employee (disregarding any instance in which another eligible employee or an individual referred to in section 2(b) of this Act was appointed to the position), such eligible employee is entitled to appointment to the next occurring vacancy in such Department for which he applies; unless the appointing authority determines that compelling reasons exist for passing over such employee; and files such reasons in writing with the Civil
1 Service Commission: The Commission shall make such
2 reasons a part of the record of the eligible employee and
3 may require the submission of more detailed information in
4 support of the passing over of such employee. The Commis-
5 sion shall determine the sufficiency or insufficiency of the
6 reasons submitted and shall send its findings to the appoint-
7 ing authority, who shall comply with the findings of the
8 Commission. The eligible employee or his representative, on
9 request, is entitled to a copy of—
10 (1) the reasons submitted by the appointing
11 authority; and
12 (2) the findings of the Commission.
13 Sec. 4. An eligible employee who is passed over for
14 compelling reasons determined to be sufficient by the Civil
15 Service Commission under section 3 of this Act, upon his
16 application, shall be—
17 (1) separated from the service and, if otherwise
18 eligible, shall be entitled to an annuity under the pre-
19 visions of section 8336(d) of title 5, United States
20 Code; or
21 (2) entitled to appointment, in accordance with
22 section 3 of this Act, to the next occurring vacancy
23 for which he is qualified.
24 A separation under paragraph (1) of this section shall be
25 deemed to be an involuntary separation from the service. An
26 application for separation under paragraph (1) of this section,
27 shall be submitted not later than the 90th day following the
28 date of the determination of the Civil Service Commission
29 under section 3 of this Act.
30 Sec. 5. The appointment to each vacancy occurring in
31 the Department of Health, Education, and Welfare (other
32 than a vacancy occurring in the Indian Health Service)
33 shall be made, with respect to applicants who are eligible
34 employees of the Indian Health Service, in accordance with
35 the provisions of sections 2, 3, and 4 of this Act. For the
36 purposes of applying such provisions, references therein to
37 the Bureau of Indian Affairs shall be deemed to be refer-
38 ences to the Indian Health Service, and references to the
39 Department of the Interior shall be deemed to be references
40 to the Department of Health, Education, and Welfare.
41 Sec. 6. (a) The Civil Service Commission shall pre-
42 scribe such regulations as it deems necessary to carry out
43 the provisions of this Act.
44 (b) The foregoing provisions of this Act shall apply
45 with respect to vacancies occurring during the 3-year period
46 beginning with the month which begins more than 90 days
47 following the effective date of this Act, except that the Civil
48 Service Commission may extend such period 2 additional year
49 with respect to vacancies—
50 (1) in the Department of the Interior, or
(2) in the Department of Health, Education, and Welfare, or
(3) in both Departments.

The foregoing provisions of this Act shall take effect on October 3, 1976, or on the date of the enactment of the Act, whichever date is later.

That section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting the following new subsection:

"(h) An employee is entitled to an annuity if he (1) is separated from the service after completing 25 years of service before December 31, 1985, or after becoming 50 years of age and completing 20 years of service before December 31, 1985, (2) was employed in the Bureau of Indian Affairs or the Indian Health Service continuously from June 17, 1974, to the date of his separation, (3) is not otherwise entitled to full retirement benefits, (4) is not an Indian entitled to a preference under section 12 of the Act of June 18, 1934 (48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, and (5) can demonstrate that he has been passed over on at least two occasions for promotion, transfer, or reassignment to a position representing career advancement because of section 12 of the Act of June 18, 1934 (48 Stat. 986) or any other provision of law grant-

ing a preference to Indians in promotions and other personnel actions."

Sec. 2. Section 8339 of title 5, United States Code, is amended—

(1) by inserting in subsection (f), immediately after "subsections (a)-(e)", the following: "and (n)";

(2) by inserting in subsection (i), immediately after "subsections (a)-(k)", the following: "and (n)";

(3) by inserting in subsections (j) and (k)(1), immediately after "subsections (a)-(i)" each time it appears, the following: "and (n)";

(4) by inserting in subsection (l), immediately after "subsections (a)-(k)", the following: "and (n)";

(5) by inserting in subsection (n), immediately after "subsections (a)-(e)", the following: "and (n)";

and

(6) by adding at the end thereof the following:

"(n) The annuity of an employee retiring under section 8336(h) of this title is:

(A) 2 percent of his average pay multiplied by so much of his total service as does not exceed 20 years; plus

(B) 2 percent of his average pay multiplied by so much of his total service as exceeds 20 years.".
SEC. 3. (a) Section 8341 of title 5, United States Code, is amended—

(1) by inserting in subsection (b)(1), immediately after “section 8339(a)-(i)”, the following: “and (n)”;

and

(2) by striking out of subsection (d) “section 8339 (a)-(f) and (i)” and inserting in lieu thereof the following: “section 8339 (a)-(f), (i), and (n)”.

(b) Section 8344(a)(A) of such title is amended by striking out “and (i)” and inserting in lieu thereof “(i), and (n)”.

SEC. 4. The amendments made by this Act shall take effect on October 1, 1976, or on the date of enactment of this Act, whichever date is later, and shall only apply to employees separated from the service on and after June 17, 1974.

Amend the title so as to read: “An Act to revise retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service not entitled to Indian preference, provide greater opportunity for advancement and employment of Indians, and for other purposes.”


Attest: EDMUND L. HENSHAW, JR., Clerk.
AN ACT

To allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes.

MAY 4, 1976
Read twice and referred to the Committee on Post Office and Civil Service

MAY 13, 1976
Reported with an amendment, and an amendment to the title

JUNE 22 (legislative day, June 18), 1976
Referred to the Committee on Appropriations

JULY 2 (legislative day, June 18), 1976
Reported without amendment
I WOULD LIKE TO REQUEST YOUR FAVORABLE CONSIDERATION OF BILL HR5465
BECAUSE IT IS FELT THAT THIS BILL IS THE ONLY EQUITABLE ONE FOR
INDIAN AND NON INDIAN EMPLOYEES.
BONNIE COGDILL BIA EMPLOYEE CHEROKEE AGENCY CHEROKEE NC
I would like to request your favorable consideration of Bill HR5465 because it is felt that this bill is the only equitable one for Indian and non-Indian employees.

Bonnie Cogdill BIA Employee Cherokee Agency Cherokee NC

WHD016 719P EDT SEP 9 76\n\nWGA318(1706)(2-042630253)PD 09/09/76\n\nICS IPMNTZ CSP\n7049865024 TDNT SYLVA NC 30 09-09 0426P EST\nPMS PRESIDENT GERALD FORD\nWHITE HOUSE\nWASHINGTON DC\n
I would like to request your favorable consideration of Bill HR5465 because it is felt that this bill is the only equitable one for Indian and non-Indian employees.

Bonnie Cogdill BIA Employee Cherokee Agency Cherokee NC
VHA#88(1188)72-011247A253)PD 09/09/76 1059
ICS IPNAFUB AHQ
202 A 05087 PDH JUNEAU ALASKA 15 09-09 859a PDT
PINS PRES FORD
WHITEHOUSE DC
PLEASE APPROVE HR5465 THE EMPLOYMENT OPPORTUNITY
FOR INDIANS
ROGER FITZGERALD
RRA BOX 4475 JUNEAU AK 99683
I.S. IFUWUB AGH
202 A 05007 POM JUNEAU ALASKA 15 09-09 035A PDT
PM S PERS FORD
WHITEHOUSE DC
PLEASE APPROVE HR5465 THE EMPLOYMENT OPPORTUNITY
FOR INDIANS
ROGER FITZGERALD
RR4 BOX 4473 JUNEAU AK 99803
PLEASE SIGN HOUSE BILL 5462 SUPPORTING NON INDIAN GOVERNMENT EMPLOYEES DEPRIVED OF MERIT PROMOTION

CAL E ROLLING2937 BELLAMAH DR/SANTA FE/HH 87501

NNNN
PLEASE SIGN HOUSE BILL 5465 SUPPORTING NON INDIAN GOVERNMENT EMPLOYEES DEPRIVED OF MERIT PROMOTION

CAL E ROLLINS 2937 BELLAMA DR/SANTA FE/NM 87501

NNNN
REQUEST YOUR FAVORABLE CONSIDERATION OF HR 5465. THANK YOU
JAKE HYATT BOX 493 CHEROKEE NC 28719
President Gerald Ford
White House
Washington DC 20510

Would like to request your favorable consideration of HR 5465 because it is felt that this bill is the only equitable one for Indian and non-Indian employees.

Margaret O. Coggill
CIA Employee
Cherokee Agency
Cherokee NC
15135 EBT
MGM CMP MGM
MEMORANDUM
OF CALL

TO: [Name]

YOU WERE CALLED BY: [Name]

ORGANIZATION: [Organization]

YOU WERE VISITED BY: [Name]

P.O. Box [Number]

CALL NO: [Phone Number]

CALL DATE: [Date]

CALL TIME: [Time]

PLEASE CALL: [Reason]

WILL CALL AGAIN: [Reason]

RETRIEVED CALL: [Reason]

WANTED AN APPOINTMENT: [Reason]

MESSAGE:

[Message]

RECIPIENT: [Name]

DATE: [Date]

TIME: [Time]

RECOMMENDATION: [Recommendation]

REvised AUGUST 1967

GSFPM/101-11.6

STANDARD FORM 63

[Stamp: 1300-150-10-6-05711-9 20/05/04 62-19]
MEMORANDUM OF CALL

TO: Brad

YOU WERE CALLED BY: Carl Smith

PLEASE CALL: Phone No.: 

OFFICE:  

HOME: 

PHONE: 

IS WAITING TO SEE YOU: 

RETURNED YOUR CALL: 

WISHES AN APPOINTMENT: 

MESSAGE: (406) 638-2671 X 53  

re: H.R. 5465

RECEIVED BY: 

DATE: 9/16

TIME: 5

MEMORANDUM OF CALL

TO: Bial

YOU WERE CALLED BY: Charles Dinamar

PLEASE CALL: Phone No.:  

OFFICE: P.O. Box 1

HOME:  

PHONE: 605-765-0000

IS WAITING TO SEE YOU: 

RETURNED YOUR CALL: 

WISHES AN APPOINTMENT: 

MESSAGE:

(406) 638-2671 X 53  

re: H.R. 5465

RECEIVED BY: 

DATE: 9/16

TIME: 10
MEMORANDUM OF CALL

To: Russ Rhodes
From: Oklahoma City

☑ PLEASE CALL
☒ WILL CALL AGAIN
☒ IN WAITING TO SEE YOU
☒ RETURNED YOUR CALL
☒ WISHES AN APPOINTMENT

MESSAGE

(405) 272-9876
X 325

Received by:
Date: 
Time: 

RECEIVED BY
DATE
TIME

STANDARD FORM 63
REVISED NOVEMBER 1957
FDY Form 1 (Appl) 135-11.6
MEMORANDUM OF CALL

To: "Black"

You were called by:

Elsie Kolstard
Billings MT BIA

If organization

\[ \text{PLEASE CALL PHONE NO. CODE/EXT.} \]
\[ \text{PLEASE CALL AGAIN} \]
\[ \text{I WILL CALL AGAIN} \]
\[ \text{IS WAITING TO SEE YOU} \]
\[ \text{RETURNED YOUR CALL} \]
\[ \text{WISHES AN APPOINTMENT} \]

Message: [Signature for H.R. 5465]

Received by: [Signature]

Date: 9-17

Time: [Time]

STANDARD FORM 63
REVISED APRIL 1983
GSA FORM 111 Pub. 1504.1-63-2-88

I MESSAGED J/L.

22000-440-50-00000-4 800-038

STANDARD FORM 63
REVISED APRIL 1983
GSA FORM 111 Pub. 1504.1-63-2-88
TO: Brad

YOU WERE CALLED BY: Jane

OF: [Organization]

PLEASE CALL ---- PHONE NO. ---- CODE/EXT. ----

WILL CALL AGAIN ---- IS WAITING TO SEE YOU ----

RETURNED YOUR CALL ---- WISHES AN APPOINTMENT ----

MESSAGE

HR 5465

RECEIVED BY

DATE 9/17 TIME 9

STANDARD FORM 63
REVISION NOVEMBER 1967
USA FINE (1) (2) 103-119
MEMORANDUM
OF CALL

To:

You Were Called By—

Dr. Rhodes

City

You Were Visited By—

Phone No.

Please Call—

Code/Ext.

Will Call Again

Is Waiting to See You

Returned Your Call

Wishes an Appointment

Date

Time

Re: 1-425-5765-

(405) 272-9876

X325

Received By

Date

Time

1-3-108

1-3-108

Standard Form 23

Revised August 1993.

See Form 87 103-14.6
MEMO TO: Brad Patterson
FROM: Karen Keesling

DATE 9/17

For appropriate handling
For your information
Per your request

Remarks:
Do you know anything about this bill?
To The President
The White House
Washington D.C. - 20000

Sir:

As President of the Albuquerque (Zia) Chapter of Federally Employed Women, Inc., I urge you to favorably consider HR-5465, granting Early Retirement to non-preference employees of the Bureau Of Indian Affairs and the Indian Health Service.

It is my responsibility to represent all women Civil Servants in my area and, because HR-5465 will be of great assistance to both Indians and non-Indians, I can assure you that "Early Retirement is the only way to go". The Government and the Nation have pledged Self Determination to the American Native peoples and the most effective way to achieve this is to give them an Agency that truly understands their problems. Yet we cannot in all conscience refuse non-preference employees their rights under the Civil Service Act.

A copy of this letter is being forwarded to Major General Jeanne Holm of your staff, and I do hope that you will find the time to confer with her concerning the ramifications of this bill on women employees serving in both the BIA and IHS.

Most Respectfully,

[Signature]

Isobel M. Moore
President

✓ Personal Copy To:
Maj. Gen. Jeanne Holm
Dear Mr. Patterson:

In accordance with our conversation on September 16, 1976, I am sending you a copy of the testimony presented to the House Subcommittee on Retirement and Employee Benefits hearings on HR 5465 on February 3 and 4, 1976. I believe this document covers the principal points in support of the legislation.

A major concern of both the Secretary of the Interior and the Secretary of Health, Education, and Welfare, seems to be that the passage of HR 5465 would cripple the Bureau of Indian Affairs and the Indian Health Service through the retirement of an inordinate number of skilled mid and upper level employees. I cannot speak for BIA nor for the other IHS Areas, but the following table demonstrates that the Aberdeen and Bemidji Areas of the Indian Health Service (Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, and Iowa) will lose only 53 employees between July 1, 1976 and June 30, 1981. The initial eligibility of 26 in 1976-77 accounts for almost one-half of the total. The average for the next five years (7/1/77 and 6/30/81) is only 5.4 employees per year. This is less than one percent of the total Area employees.

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I'm sure you will agree that such an attrition rate is far better than the normally expected turnover.

I would welcome the opportunity to sit down with you to explain the desperate need for this legislation. If you could arrange the time to see me before you prepare the summary of recommendations for the President, my colleagues and I would be grateful. You may reach me at (605) 225-0250, extension 553, or my home (605) 225-7978, if you believe a visit would be useful.

Sincerely,

Thomas H. Coninon
ABERDEEN AREA  
BUREAU OF INDIAN AFFAIRS AND  
INDIAN HEALTH SERVICE  
FEDERAL CIVIL SERVICE EMPLOYEES

STATEMENT FOR HEARINGS ON HR 5858 AND HR 5465  
BEFORE  
THE SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS  
AND THE  
SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE  
OF THE  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE  
UNITED STATES HOUSE OF REPRESENTATIVES  
ninety-fourth congress, second session

WASHINGTON, DC  
FEBRUARY 3-4, 1976

[Signature]
Both the preference and non-preference employees of the Bureau of Indian Affairs and the Indian Health Service have been placed in a virtually untenable employment situation by the sudden rigid application of the Indian Preference Provisions of the Wheeler-Howard Act of June 18, 1934, by the Secretaries of Health, Education and Welfare and Interior, forty-tho years after enactment!
In response to the decision of the Supreme Court of the United States in Morton vs. Mancari (No. 73-362 June 17, 1974) and the U. S. District Court for the District of Columbia in Freeman vs. Morton (No. 327-71 December 21, 1972) these agencies have broadened their policy to apply Indian preference to all personnel movements in the Bureau of Indian Affairs and the Indian Health Service.

The Supreme Court held that:

"Contrary to the characterization made by appellees this (Indian) preference does not constitute 'racial discrimination'. Indeed, it is not even a racial preference. Rather, it is an employment criterion reasonably designed to further the cause of Indian self-government and to make the BIA more responsive to the needs of its constituent groups."

The legality or constitutionality of the several Indian preference statutes, dating back to 1789, is not at issue. On the contrary, the Courts have decided that this preference is a reasonable attempt to assure the Indian tribes of the right to govern themselves and to operate the government programs which affect them. This right has been reiterated by the Congress in numerous Acts and is supported by the Courts in case after case. We do not quarrel with the decision of the Courts and we must abide with them.
However, the actions of the Courts have, in effect, informed several thousand Federal civil servants that there are no further opportunities for non-preference employees in either the BIA or the IHS. The protections of the Civil Service Merit System have been judicially and administratively erased. The primary criterion for promotion, transfer, in fact, any personnel action, is INDIAN DESCENT! Potential advancement is effectively blocked, not only for non-preference employees, but for the preference employees as well, because their advancement is impeded by the presence of the non-preference employees.

In his remarks in connection with the introduction of his Senate Bill 4070 in the 93rd Congress, Senator Ted Stevens of Alaska said:

"These persons (non-Indian BIA and IHS employees), not told differently, quite rightly assumed that they would be able to develop their full career potential within each of these two principal organizations serving the needs of the Indian people."

Since the non-preference employees of these agencies were not only "not told differently", and we were repeatedly and emphatically assured that we would, indeed, be able to develop our "full career potential", there was no need to assume otherwise. Now, however, it appears that we were seriously, and in some cases perhaps deliberately and callously, misled by authorized agents of the United States Government. We were hired under the rules and regulations of the U.S. Civil Service Commission concerning criteria for employment in the Federal Civil Service: Ability, Training, Education, Skills and Experience.
ITEM: Memorandum to all BIA employees from the Commissioner of Indian Affairs. July 30, 1970:

"I have issued instructions for a review of personnel policies to (1) place maximum attention on Indian preference in initial employment; (2) provide maximum training opportunities for all employees; and (3) assure advancement opportunities on merit promotion principles, with safeguards to see that this is achieved."

(Emphasis added)

ITEM: Commissioner of Indian Affairs Memorandum, three months later:

"The Bureau's Equal Employment Opportunity Program ... will emphasize the fact that Indian preference will be given only in instances of initial employment and re-employment. Promotions shall be made only on the basis of merit. Bureau employees are Federal employees, and as such, the nature of their employment is controlled by Civil Service Commission regulations."

(Emphasis added)

ITEM: Memorandum from the President of the United States to Heads of Departments and Agencies. March 6, 1975:

"Our Nation's strength is based upon the concept of equal opportunity for all our citizens. Decisions motivated by factors not related to the requirements of a job have no place in the employment system of any employer and particularly the Federal Government."
ITEM: LETTER FROM THE CHAIRMAN OF THE U. S. CIVIL SERVICE COMMISSION TO SENATOR GALE W. Mcgee, Chairman, Committee on Post Office and Civil Service, U. S. Senate, September 15, 1974:

"THE GENERAL RULE UNDER COMMISSION REGULATIONS IS THAT EVERY EMPLOYEE IN THE COMPETITIVE CIVIL SERVICE IS ELIGIBLE TO MOVE "NONCOMPETITIVELY" THAT IS, WITHOUT FURTHER COMPETITION WITH THE GENERAL PUBLIC IN CIVIL SERVICE EXAMINATIONS--TO ANY OTHER POSITION IN THE COMPETITIVE SERVICE HE QUALIFIES FOR."

It would be difficult, if not impossible, to find clearer statements of the commitment of the United States Government to the intentions of the Congress that Federal personnel systems be conducted on the basis of merit, without regard to matters of Race, Sex, Religion, National Origin, or Affiliation. However, consider the following memorandum from the Commissioner of Indian Affairs, Morris Thompson, to all BIA Area Directors, Personnel Officers, and Equal Employment Opportunity Officers on April 4, 1975:

SUBJECT: Adherence to Regulations, Law, Court Orders and Policy Governing Indian Preference in ALL Accession Actions in the BIA:

"On March 11, 1975, we furnished you a copy of a Teletype to the Anadarko Area which requested a report of an alleged reassignment of a non-Indian employee without competition. The attached copy of our teletype of March 31 directs the cancellation of the reassignment. During the thirty days since this action was taken, we have had numerous reports of it and questions about it."
Critical emergency situations which dictate the movement of an employee occur in every area as well as this office. These are the kinds of cases which were presented to the appeals court when we asked for limited authority for the Commissioner or the Secretary to be able to make exceptions for reassignment of non-Indian employees. The three-judge court denied the appeal. Therefore, in cases which involve non-Indian employees who must be moved because of loss of effectiveness with the Indian people, threats to life and property, health reasons, etc., there must be maximum cooperation among areas to locate jobs for which qualified Indian candidates are not available. When these emergency situations arise, efforts must be initiated immediately to locate suitable vacancies for which the employee may apply or may be nominated. This action should not be delayed until details from duty stations have reached or exceeded the time limits.

We are hopeful the outplacement program which we are putting into final form for the Bureau and those programs which are being discussed in the Congress for early retirement and outplacement assistance will be of benefit to the affected employees.

The memorandum of June 28, 1974 (copy attached) states the Bureau policy. All appointments, reinstatements, reassignments, and promotions must conform to the Freeman Court decisions.
WHICH PROVIDE FOR ABSOLUTE INDIAN PREFERENCE IN FILLING VACANCIES HOWEVER CREATED."

ITEM: LETTER TO SENATOR ROMAN HRUSKA OF NEBRASKA FROM ASSISTANT SECRETARY OF THE INTERIOR FOR MANAGEMENT, RICHARD HITE, MARCH, 1975:

"THE POSITION OF THE DEPARTMENT ON THE REFERENCED BILL S-509 DEALING WITH EARLY RETIREMENT FOR NON-INDIANS IS THAT IT DOES NOT REPRESENT A VIABLE SOLUTION TO THE PROBLEM. IT COULD DEPRIVE THE BUREAU OF AN INORDINATELY LARGE NUMBER OF HIGHLY EXPERIENCED EMPLOYEES AT A TIME WHEN THEIR EXPERTISE IS MOST NEEDED. WE BELIEVE THAT SUFFICIENT ALTERNATIVES ARE AVAILABLE TO THOSE NON-INDIAN EMPLOYEES WHO FEEL RESTRICTED, EITHER THROUGH DEPARTMENTAL MANDATORY OR PRIORITY PLACEMENT ASSISTANCE."

(EMPHASIS ADDED)


I. FEDERAL CIVIL SERVICE EMPLOYEES OF THE BIA AND IHS ARE DEPRIVED OF THEIR POTENTIAL FOR ADVANCEMENT.
2. At a time when millions of Americans are on the dole for want of employment, these employees are offered the alternative of accepting the status quo or resigning!

There is a very ugly word which describes such a situation in which an employee is forced to accept the terms of employment or starve - PEONAGE!

There are several references to Departmental outplacement programs in the mass of statements in opposition to the proposed legislation which have been offered by the representatives of the Administration. Yet, to our knowledge, there is no such program. We suggest that you inquire of the representatives of the Department of the Interior, the Civil Service Commission and the Department of Health, Education and Welfare:

I. How many non-preference employees of BIA and IHS have been transferred to other programs through in-house or CSC outplacement mechanisms?

The Indian Health Service has historically followed the lead of the Bureau of Indian Affairs in personnel policy matters. We are convinced that this has been done in violation of the intent of the Congress and of the "Equal Protection" clauses of the Constitution of the United States. Even the most cursory perusal of the legislative history of the Act of August 5, 1954, which transferred the Indian Health responsibilities from the Secretary of the Interior to the Secretary of Health, Education and Welfare, will reveal that the fundamental factor influencing this transfer was the inability of the Bureau of Indian Affairs to attract sufficient qualified personnel to operate the Indian Health facilities. Even the Supreme Court left this matter open when they devoted only a footnote to
the Mancari decision to the matter:

"Presumably, despite this transfer, the reference in Section 12 to the 'Indian Office' has continuing application to the Indian Health Service."

We are sure a thorough test in the courts would demonstrate the error of this presumption.

As further evidence of the cavalier attitude of the Department of the Interior and the Bureau of Indian Affairs in giving lip service to employee rights and concerns while continuing to hold the non-preference employees in economic peonage, we would like to call the attention of the Committee to two recent events:

The first is a memorandum from Mr. Jose Zuni, Director, Office of Administration, Bureau of Indian Affairs, to the Commissioner of Indian Affairs outlining a proposed action by the Department which can only be interpreted as being designed to effectively scuttle any outplacement program.

Mr. Zuni's memorandum transmits the results of an "informal survey" which purports to indicate the number of BIA employees who would desire outplacement assistance along with a few high priority outplacement employees who we assume must be moved but have no place to go in the Bureau of Indian Affairs. The number desiring outplacement assistance as given in the memorandum represents less than one-sixth (1/6) of the BIA staff personnel. It is extremely difficult for anyone familiar with the situation in the Indian Services to accept this estimate; however, it would seem to contradict the Bureau's argument that early retirement or an effective outplacement program would be extremely costly and result in an unprecedented exodus of "highly experienced employees when their expertise is most needed"... Contrary to the opinions presented by the opponents of the proposed legislation,
The employees with whom we are familiar who wish to leave the Indian Services want to get out by whatever route is available to them, not only to continue their careers in the Federal Civil Service, or, if they must, attempt to begin new ones, but also, although it may seem unrealistically altruistic in view of the treatment they have suffered, to provide an opportunity to the Indian employees who will replace them. Therefore, the total who desire outplacement should provide an indication of the number of DIA employees who might take advantage of early retirement, but of course, the actual number would be much less because many employees would not be able to afford it.

The second recent event we would like to call to your attention is the memorandum from the Commissioner of Indian Affairs to all Bureau of Indian Affairs employees, December 1, 1975, Subject: Department Career Placement Assistance Program. A copy of this memorandum is also attached. Among the prerequisites an employee must fulfill to meet the outplacement assistance eligibility criteria of the Bureau of Indian Affairs is one which requires the employee to submit evidence that he has applied for at least two vacancies for which he was qualified and for which a preference candidate was selected over him. It is apparently not sufficient humiliation to be a de facto second class employee, the employee must himself provide the evidence which afford the Administration the opportunity to remind him of that distressing fact at least twice. The final section of the “Out Placement Program”, Section 4, Counselling, contains this statement:

“There are presently 46 Foresters GS-9 in the entire Bureau. Two Indian and forty-four non-Indian. With this ratio, the non-Indian Forester still has opportunity for advancement in the Bureau.”

If this was meant to imply that their chances for advancement have not been
seriously limited, it is patently false! In the face of this limited ratio of non-preference to preference employees, the Bureau still had to fill the agency's top forestry position with a preference candidate. The two preference GS-9's, along with other preference Foresters at other grade levels, would, as a matter of statutory entitlement, have the choice of jobs, leaving only the less desirable positions and locations for the non-preference candidate. When a situation such as this exists, it cannot be denied that the affected employees have been damaged, nor can it be argued that their career opportunities have not been seriously affected by the intransigent attitude of the Agencies.

It is further submitted for your consideration that no class or profession employed in the Indian Services can be demonstrated not to have suffered significant damage as a result of the Indian Preference requirement of the Act of 1934. Most individuals, when joining an organization, look very carefully at the career development opportunities in the organization as a whole, not within a narrow segment of it. In the past, Foresters have had the opportunity to move up; to become Administrators, Realty Specialists, Programmers, etc. These avenues of upward mobility, advancement, and career development have been closed. This is true not only for Foresters, but for non-preference employees in other disciplines as well. There is not, and with the presence of the Indian preference statute, there cannot be an equal employment opportunity in the Bureau of Indian Affairs nor in the Indian Health Service. There is either preference or non-preference, and any semblance of opportunity for non-preference employees is at best, superficial and ephemeral.

Under the Constitution of the United States only the Congress has the
authority to legislate in Indian Country. An exhaustive review of the legal history of United States-Indian Tribal relations, and the legal status of Indians and Indian Country, submitted to the Secretary of the Interior by his Solicitor General, Mr. Nathan R. Margold on October 25, 1934, leaves no room for conjecture on this point. It is the law of the United States and only the Congress of the United States has the power to provide an equitable remedy for the unfortunate interpretation of the intent of the Congress which has been handed down by the Judiciary.

Congressmen Runnels of New Mexico, Pressler of South Dakota and Young of Alaska, three states with substantial Indian constituencies, have proposed legislation which we believe will go far toward solving this dilemma by allowing non-preference Civil Service employees having completed twenty (20) years of service before December 31, 1935, and continuously with the Bureau of Indian Affairs or the Indian Health Service since June 17, 1974, the date of the Supreme Court’s decision in Mancari, to retire from the Federal Service, thereby providing additional opportunities for the employment and advancement of Indians. In order for the Indian people to assume total control and responsibility for the Government programs which most affect their lives, they must control these powerful agencies which are most closely related to them. To accomplish this end, they must, of necessity, displace the non-Indian and non-preference employees of these agencies. We can be sure the Indian people will approve of this; they want these opportunities, there will be no lack of preference applicants for every vacancy. When the non-preference employees leave Federal Service, there will be no vacuum in BIA or IHS.

Substantial opposition to this proposal has been voiced by the Commissioner of Indian Affairs, the Chairman of the Civil Service Commission,
and the Director of the Indian Health Service. The most frequent argument is that the exodus of the non-preference employees would deprive the Indian Service of large numbers of highly experienced employees at a time when they are desperately needed to fulfill the mission of the Bureau and Indian Health Service. However, there is no opportunity for advancement.... again, this is tantamount to peonage.

Another frequently heard argument against the enactment of this legislation is that this proposal would create a "Special Case" for a relatively small segment of the Federal Civil Service. Such an argument is illogical and ignores the facts of the matter. The CONGRESS and JUDICIARY have established that a special case exists; in the Indian Preference statutes. Pure logic demands that if "A" is a special case before the Law and "B" is affected by the application of the statutes, then "B" is also a special case. Res ipsa loquitur! The thing speaks for itself.

There are additional precedents: The United States Military enjoys twenty-year retirement for which they are not required to contribute a substantial percentage of their annual gross income. Similar "Early Retirement" benefits have been provided for Law Enforcement and Firefighters; for Air Traffic Controllers; Legislation is pending which will extend this same retirement option to employees of the Customs Service.

The proposal before you has been written to place the annuity into close agreement with the provisions of the Federal Law Enforcement and Firefighter's Retirement Act, as here briefly quoted from the Federal Employee's Almanac, 1975:
"The basic annuity of an employee who retires under the special provisions for Law Enforcement and/or Firefighting personnel is figured by taking 2-1/2 percent of the "high 3" average pay and multiplying the result by 20 years (including credit sick leave). They also take no cut in annuity for retiring under age 55."

In your deliberations of the retirement annuity computation provisions of this legislation, we beg you to take into account the fact that the annuity benefit an employee will receive will be based on his "high 3" average pay and that this baseline figure will be determined by his grade level and years of service. Quite frankly, we know of very few, if any, affected employees in either the BIA or IHS who will be able to continue his or her present lifestyle on the 50% of their salary they would be entitled to receive under this legislation. The average grade of the Aberdeen Area employees who would be affected by this Act is GS-9, which would result in an average retirement pension of $6,750.00 per year or $130.00 per week which is less than many so-called disadvantaged persons receive in public assistance.

This raises another of the opposition's favorite arguments against the enactment of this legislation: The Cost! If all of the several hundred employees of the BIA and the IHS who were eligible were to retire on the date the law took effect, the cost to the Civil Service Retirement System would actually be less than 1% of the BIA-IHS Budget for fiscal year 1974!

In February, 1975 we wrote a letter to Mr. Robert Hampton, Chairman of the United States Civil Service Commission, asking him for a statement of the Commission's position of Senate Bill S-509, the companion legislation
to the Bills now under consideration. Our inquiry was promptly acknowledged, and on June 2, 1975 we finally received a reply from Mr. John G. McCarthy, Associate Director of the Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission, from which the following is quoted:

"We recognize that current BIA and IHS personnel policies do limit non-Indian employee career prospects, and thus we can understand your concern in this matter. However, it should be considered that the Civil Service Retirement System is a staff retirement plan; its primary intention is to reward the performance of career service for the Federal Government by providing benefits at retirement in amounts directly related to an employee's Federal Service and salary history. In light of this objective, we have generally opposed the introduction of employment factors into the retirement annuity computation procedures which are essentially unrelated to the length of an employee's Federal Service or to his salary history during the period."

(Ephasis added)

The balance of this letter indicates that the agency whose entire reason for being since its inception almost a century ago has been to protect the Federal Civil Service from the spoils system in Federal employment and stand as a safeguard against manipulation and coercion of employees and contravention of merit principles, considers the Civil Service Retirement System a "management tool" and a "reward". Gentlemen, "... benefits at retirement in amounts directly related to an employee's Federal Service and salary history" are at the heart of the matter here under discussion!

It should be obvious that any restriction of an employee's career
POTENTIAL OR UPWARD MOBILITY MUST, OF NECESSITY, PLACE A SIMILAR RESTRICTION ON HIS ULTIMATE RETIREMENT BENEFITS. IN EFFECT, WE ARE BEING ASKED TO SACRIFICE OUR OPPORTUNITIES TO EARN REASONABLE SECURITY AND A MODICUM OF DIGNITY FOR OUR TWILIGHT YEARS ON THE ALTAR OF EXPEDIENCY. THE NON-PREFERENCE CAREER CIVIL SERVANTS OF THE BIA AND IHS ARE REQUIRED, AS A MATTER OF LAW, TO ACCEPT LESS THAN THEIR ABILITIES, SKILLS AND EFFORTS MIGHT ACHIEVE BECAUSE OTHERS MIGHT BE ENCOURAGED TO SEEK “SPECIAL” BENEFITS AND THAT WOULD DIMINISH THE RETIREMENT SYSTEM’S VALUES AS A “MANAGEMENT TOOL”, AND THE CIVIL SERVICE COMMISSION VIEWS THIS AS A “HIGHLY UNDESIRABLE PROSPECT”. FURTHERMORE, IF RETIREMENT IS INDEED A REWARD, WHY THEN ARE WE ASKED TO CONTRIBUTE 7% OF OUR ANNUAL GROSS INCOME TO THE RETIREMENT FUND? MY COPY OF WEBSTER’S NEW WORLD DICTIONARY OF THE AMERICAN LANGUAGE, COLLEGE EDITION, DEFINES “REWARD” AS:

“SOMETHING GIVEN IN RETURN FOR GOOD OR, SOMETIMES, EVIL OR FOR SERVICE OR MERIT.”

THERE IS NOTHING THERE CONCERNING CONTRIBUTIONS ON THE PART OF THE RECIPIENT OTHER THAN SERVICE OR MERIT. CIVIL SERVICE RETIREMENT IS NOT A REWARD ANY MORE THAN DEATH BENEFITS PAID BY AN INSURANCE COMPANY. IN THE CONTRARY, IT IS A HARD-WON, EARNED AND PAID FOR BENEFIT, AND AS SUCH, IS A SUBSTANTIAL PORTION OF THE COMPENSATION OF EVERY FEDERAL EMPLOYEE.

IN ALL CANDOR, CAN THE CONDITIONS OF EMPLOYMENT WITH THE BIA OR IHS BE CALLED ANYTHING OTHER THAN PEONAGE? “TAKE WHAT WE GIVE YOU OR GET OUT!” “DON’T COMPLAIN OR ATTEMPT TO EXERCISE YOUR CONSTITUTIONAL RIGHTS AS FREE CITIZENS OR YOU MAY BE SUBJECTED TO THE WRATH OF THE ADMINISTRATION.” CAN ANYONE OFFER ANOTHER SINGLE WORD WHICH SO ACCURATELY DESCRIBES THIS SITUATION?

MR. HENDERSON HAS OFFERED AN ALTERNATIVE TO EARLY RETIREMENT. HOUSE
Bill 5465 would provide for mandatory outplacement preference for affected non-preference employees to migrate to other Federal agencies. At a time when millions of other Americans are unemployed, while Government agencies are being required to reduce their workforces, it is proposed that displaced non-preference employees of BIA or IHS should be given preference in filling vacancies in other Federal agencies! Such a program would be as patently unfair to the present employees of the receiving agencies as the existing Indian Preference policy is to us.

Some time ago, Mr. Paul Harvey devoted one of his broadcasts to this issue. In commenting on the recent proliferation of Affirmative action plans, hiring quotas and other schemes to "correct" prior discrimination, Mr. Harvey stated that, if discrimination, for whatever reason, is wrong, that wrong cannot be correct by "reverse" discrimination, because, as is so eloquently enunciated in the first principle of social behavior most of us learned at our mother's knee: two wrongs don't make a right!

There is an additional argument against the viability of any outplacement measure. It is the fact that there is a distinct stigma of less than complete professional competence connected with employment in the Indian Services. We are quite certain that this allegation will be vigorously denied by the Civil Service Commission and others opposed to the adoption of this legislation. But, believe me, just as certainly as there is an imaginary equitorial line which divides North from South on this swirling ball of mud, this barrier to migration to other Federal agencies or departments without a substantial and humiliating reduction in grade and salary exists.
In the face of the December 31, 1985 limit written into the proposals, some provision must be made for those non-preference employees who will not complete the required twenty years of Federal Service by the deadline date. For these people, an outplacement program is the only alternative. But, bear in mind that any such measure must have sufficient strength to overcome the natural reluctance of program Directors to accept personnel imposed upon them by outside agencies.

We who are urging the adoption of these proposed statutes are not responsible for any of the alleged wrongs or discrimination the Indian people may have suffered during the past three hundred years. None of us are in positions to control the policies of the United States Government toward the Indian people. We have done our utmost to fulfill our obligations to give an honest day's work in return for an honest day's pay. Most of us have reached that stage in our lives where the possibilities of developing new careers are extremely limited. Yet we are being told that there are no more rungs to our ladders. Eligibility for promotion, transfer, training, in short all of the usual personnel movements is reserved for others, not because they have done any more to earn them than we, but because the Law says it is their right. In all sincerity, we cannot dispute the right of the Indian people to attempt to rule their own destinies. As stated earlier, however, in order for them to accomplish this goal, then we, the non-preference employees, must be displaced to make room for them. If they are to be allowed to develop to their potential, it is neither just nor equitable to restrain this natural process by impeding their upward mobility.

One final word: Custer did not die for OUR sins! If the American Indian ethnic identity, the surging tide of their cultural awareness is
To be given the opportunity to meet the challenges of today, the non-preference employees who now occupy mid-level and supervisory positions must be given an incentive to retire and leave the field with honor.

For myself and other concerned Federal Civil Service Employees of the Indian Health Service and Bureau of Indian Affairs.

Thomas H. Donovan
902 South-Jay Street
Aberdeen, South Dakota
ABERDEEN AREA
BUREAU OF INDIAN AFFAIRS AND
INDIAN HEALTH SERVICE
FEDERAL CIVIL SERVICE EMPLOYEES

STATEMENT FOR HEARINGS ON HR 5858 AND HR 5465
BEFORE
THE SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS
AND THE
SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE
OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
UNITED STATES HOUSE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS, SECOND SESSION

WASHINGTON, DC
FEBRUARY 3-4, 1976
My colleagues and I have prepared a statement of our views on the matters before this hearing, but in discussions with the Subcommittee staff we learned that you preferred not to duplicate the testimony presented to the Senate Subcommittee hearings, rather, you were interested in hearing of specific cases. Therefore, with your permission, I will present our prepared statement to the Clerk for the record, and confine my remarks here to more definite evidence of the effects the application of Section 12 of the Indian Reorganization Act of 1934 has had on the non-preference Federal Civil Service employees of the Bureau of Indian Affairs and the Indian Health Service.

At the outset it is necessary to overcome the difficulty of shifting the burden of proof of our allegations from the employees to the Agencies. We recognize this as contrary to the basic tenets of jurisprudence, and respectfully suggest that in this instance you should set aside this concept, and seek the truth, wherever it may be found. We believe it will be found in the files of the Agencies.

In the real world, it is not always possible to produce proofs in accordance with the rules of evidence. I will present several cases of which I have personal knowledge and am able to answer your questions. However, I will give you, for the record, a substantial volume of documentary and other evidence for consideration, and request that you forward this material to the Comptroller General of the United States for investigation.
With your permission, I will present this to the Clerk for the record. Copies have been made available to members of the Subcommittee Staff. Briefly, we ask the Comptroller General to investigate our allegations that certain officers of the United States have failed to fulfill their ministerial duties in the application of Section 12 to the personnel policy of the Indian Services; that they have ignored the whole body of Civil Service Law and Regulation in abrogating the Constitutional, Statutory, and Civil Rights of the non-preference employees of these Agencies, who are career Federal Civil Service Personnel.

Accuse is perhaps too strong a word to describe this situation. This word implies some sort of malevolent intention on the part of the Commissioner of Indian Affairs and the Director of the Indian Health Service, the Secretaries of the Interior and Health, Education and Welfare, and the Chairman of the United States Civil Service Commission. No one involved believes such a thing. However, many people have begun to believe that there is no hope of any remedy short of an appeal to the Courts for relief. We are convinced that the United States Government, in the administration of the Indian Services has erred grievously in the application of the Indian preference laws. We cannot believe that the Congress of the United States intended to destroy the careers of almost 9,000 civil servants when this law was enacted! Furthermore, we are convinced that the several cases involving Indian preference were so narrowly drawn that the Courts had no choice; they were forced to decide these cases on their merits and the various arguments presented.
For example, nowhere in the decisions, either Freeman vs. Morton or in Morton vs. Mancari, have we found any reference to the Equal Protection clauses of the various amendments to the Constitution of the United States. We think this concept of equal protection under the law as handed down by the Supreme Court of the United States in Yick Ho vs. Hopkins, and Brown vs. Board of Education apply to our situation.

We are certain the Court erred in the decisions in Freeman and Mancari, and we fully expect them to be reversed, just as Plessy vs. Ferguson and other Landyark cases have been reversed. But it takes time for the Supreme Court to reconsider and correct an error in a decision. For this reason, we have brought our plight to the Congress. The fact that we are invited here today is an indication of the concern of the Congress, and also of the various constituencies, that there is a wrong here which must be redressed.

Before I begin this recitation of grievances, please let me assure you that we are not attacking the Indian peoples in any way. We do not intend to imply that the thousands of hardworking, competent and dedicated Indians employed in the Indian Services are the cause of this problem, On the contrary, the Indian peoples are as much victims of the system as the non-Indians! The presence of the non-preference employees impedes their progress toward full self determination and realization of their goals just the same as the application of Indian preference to ALL personnel actions in the Bureau of Indian Affairs and
THE INDIAN HEALTH SERVICE interferes with the careers of non-preference employees.

If you have any questions on any of these cases, please don't hesitate to let me try to answer them. As I said, I will go into details only on those cases of which I have personal knowledge, and trust you to investigate the others.

--The first case involves a Secretary in my office. This employee worked in the same position for 6 1/2 years in a full-time temporary status. The Aberdeen Area Indian Health Service Branch of Personnel Management determined that in order to convert this position from temporary to permanent career status it would have to be advertised for seven (7) days. The incumbent employee was the only qualified applicant. She was selected by her supervisor, with the concurrence of the Office Director and the signed Selection Certificate was forwarded to the Area Equal Employment Opportunity Office. The Acting Equal Employment Opportunity Officer recommended that the position be readvertised for an additional 30 days in order to allow more time for Indian candidates to apply. The Equal Employment Opportunity Officer personally recruited preference candidates to apply, two (2) of whom did so. One declined the position, and an unknown individual informed the other that she had been selected before the Selection Certificate had been signed or the candidate interviewed. The case is now in the formal grievance process in the Indian Health Service.
The second case concerns a Supervisory Statistical Assistant, non-Indian, female, with ten (10) years progressively responsible experience since 1964 in the Indian Health Service Program Analysis and Statistics Branch, six years at the GS-9 level, who applied for the announced GS-11 Public Health Analyst and Chief, Program Analysis Branch, position on the retirement of her supervisor. She had previously been given a temporary promotion to GS-11 to provide a temporary Branch Chief while her supervisor was in extended leave (trial retirement) status from December 1973 to March 1974. From the time of her supervisor’s retirement in October 1974 until an Indian candidate was selected in April 1975, she was designated Acting Branch Chief. The preference candidate was appointed in an initial Class B excepted category at GS-11 until he has completed a year’s experience. The non-preference incumbent received a letter of non-selection.

The next case deals with the Service Unit Director position at one of our IHS Hospitals. The non-Indian, female Acting Service Unit Director was passed over by the Selecting Official. (The Tribal Health Board!) Although she had functioned in the position in all but title and salary five years, before enough political pressure was brought to bear to put an Indian in the position. The individual selected to fill the position is non in an on-the-job training program under the woman he replaced! She stays on the job because she has a deep love and respect for the people she serves and cannot bear to see them suffer because of her misfortune! She has also invested over fifteen (15) years of her life in her career.
Then there is the case of Roy Max Johnson, a GS-9 Forester, Staff Assistant, in the Minnesota Agency BIA, who applied for the position of Forester, GS-9/11 in the Fort Washakie, Wind River Agency. Mr. Johnson has served over ten (10) years as a BIA Forester, in progressively responsible positions. A preference candidate with less than two (2) years limited experience was selected over him by the Tribal Council. Mr. Johnson asked in his formal Equal Opportunity Complaint whether the United States Civil Service Commission Regulations include the review of applications for Federal Employment (Standard Form 171, Personal Qualifications Statement) by other than authorized appointing officials and selecting officials.

(It is now routine practice in both the BIA and the IHS for applications for Federal Employment to be referred to non-Federal persons and agencies for review and selection for positions in the Federal Civil Service.)

—the highly qualified and extremely competent Hospital Maintenance Foreman who was passed over for a similar position in Alaska.

—the GS-9 Teacher at Fort Thompson who wrote a special resources project (and successfully operated it) who was informed that it should be a GS-11, but she wouldn’t want to lose her situation; would she? It would have to be advertised and a preference applicant would be certain to be appointed . . .

—the teacher who lost out on a transfer to the Forest Service because his Principal didn’t think he could operate the school without him and refused to provide a favorable recommendation . . .
--The GS-13 Health Educator who was offered a GS-14 position, but when his Area Director refused a recommendation the offer was withdrawn.

--The isolated Indian Day School that operated without a Principal for over a year, before a preference candidate was found who would accept the assignment.

--Howard P. Edwards, Housing Program Coordinator who has applied for at least six (6) positions, all but one of which has been filled by a less well qualified preference candidate, and had his EEO complaints answered by quotations of EEO technicalities and bureaucratic double-talk.

--Frank E. Pick, GS-9, Education Specialist, was detailed from the Education Department of the Navajo Area to the U.S. Indian Police Training & Research Center, Academy Unit, Brigham City, Utah, for one month. He has been there over two (2) years, without an official position description and without orders. During this time he has lost over 200 hours of accumulated annual leave because he was required to assist with the training program.

--Vernon L. Erickson, GS-9, Criminal Investigator, with over twelve (12) years progressively responsible experience in BIA Law Enforcement, passed over for a preference candidate who was minimally qualified. Also passed over for a minimally qualified candidate who had flunked out of the BIA Police Training Academy where Mr. Erickson taught.

--John Fleming, GS-13, Assistant Area Director, passed over for a GS-14 Public Health Advisor position in the Denver Regional Office, Liaison between IHS and the Regional Office, highly qualified, training
in Administrative Law. A school teacher with a clouded employment record was selected, but rejected by the Director, Indian Health Service. The position was readvertised, a preference candidate from Oklahoma was selected. Mr. Fleming wasn't even considered, yet his application was on file in the personnel office!

--Jerry Ochsner, Engineering Draftsman, GS-4, since September 1974, displaced by a qualified preference applicant.

--La Yavuna Jean Nathan, GS-3, Clerk-Typist from July 1970 until a "qualified" preference applicant was located for the position in November 1971.

--Donald Lee Keller, Backhoe Operator from March 1971 until February 1975, the job had to be advertised and a "qualified" Indian took the job from him.

--Paul Edward Keller, Construction Inspector, GS-7 from July 1970 until the Branch was instructed to advertise the position and a "qualified" Indian was located.

--Robert J. Kramer, Construction Inspector, GS-5 from October 1973, the job was advertised and a "qualified" Indian applied. Mr. Kramer resigned effective January 21, 1975.

--Eldoris Schamber, Secretary, GS-5 entered on duty 1963, resigned October 16, 1975. The position was advertised and no qualified candidates applied. Miss Schamber returned when the job was re-advertised, but couldn't be hired for her old job because a qualified Indian applied.
Donna Wagner, Clerk-Typist, GS-4 from April 1970 until September 1972 when her job was advertised and a "qualified" Indian applied.

In 1975 the Billings Area Office, Indian Health Service, advertised for a Contracting Officer, GS-12. K.L. Thompson, GS-11 Contract Specialist in the Aberdeen Area Office for four (4) years, thirteen (13) years in Indian Health Service Hospital Administration, 1 1/2 years as Property and Supply Officer Services, applied but was passed over in favor of a GS-9 applicant with no previous Indian Health Service experience but with a minimal amount of Indian blood.

A GS-13 Safety Officer in the Bureau of Indian Affairs Area Office elected to accept a reduction in grade and salary to transfer to the U. S. Fish and Wildlife Service.

In December 1973 a GS-7 Property Management Assistant (non-Indian), with ten (10) years of procurement experience was advised verbally (later by memo) she was being detailed to the Procurement Section as Acting Procurement Officer (the position was classified GS-9). In February of 1974, the Area Property Management Officer (non-Indian) was advised he would be responsible for and supervising the Procurement Section in addition to his other duties; this also by memo. Both of the employees were led to believe that the situation was temporary—until a reclassification of their jobs could be made. In August of 1974 both employees were summoned by the Acting Deputy Area Director to his office. He said he had been advised by the Branch of Personnel that if their jobs were reclassified to include the additional duties, the jobs would have to be advertised, and if one person with Indian preference applied and was even minimally qualified he/she would be selected and the two (2) employees would "be out in the cold"!
said under these conditions if he were them he'd "sure get out of BIA, there's not much future for either one of you here." He said the Property Management officer was being relieved of his additional duties immediately. The GS-7 would continue as Acting Procurement Officer, however, she was being given a temporary promotion to GS-9, not to exceed 120 days - this action was "to buy time until we can decide what to do." Upon termination of the temporary promotion, a GS-5 Purchasing Agent (non-Indian) was designated as Acting Procurement Officer (by Memo) for the next six months, through June 30, 1975; since that date the office has been without a Procurement Officer!

The Property Management Officer GS-9 (non-Indian) has since been advised that due to restructuring of the Area Office he has to become a Division Head, again with additional duties: Procurement, Office Services. Supervision of eight (8) subordinate positions, but there would be no promotion. Such an advance would have to be advertised ...

Employee: non-Indian, GS-4, with ten (10) years experience applied for the following positions during calendar year 1975:

Accounting Technician, GS-5
Clerk-Typist, GS-4
Contract Clerk, GS-3/4
General Clerk, GS-5

Each time this employee was passed over and preference applicant Indians with little or no previous experience were hired ...

One employee was selected for a GS-5 Secretarial position, but was not given the job in spite of the fact that of the thirteen (13) applicants she was the only person "highly qualified". Three (3)
appeals, the last one being to the Department of Health, Education and Welfare were denied on the basis of Indian preference. This employee applied for two (2) other vacancies and was notified that other applicants had been selected in accordance with the provisions of the Agency Promotion Plan . . .

--In 1973 a Phoenix Area employee with twenty-one (21) years experience in Administrative Services, including approximately two (2) years in the Aberdeen Area Office applied for the Branch Chief’s job in Albuquerque. He was rated as the best qualified of all the applicants for the job but was passed over for a preference applicant Indian who was rated third on the register.

--In 1974, this same individual applied for the Area Property Management Officer’s job in Anchorage, Alaska. He has passed over for an Indian who had no government experience, and virtually no experience in Property Management - he worked for a commercial trucking firm in Anchorage . . .

--In 1973 this same employee applied for the job of Assistant Chief, Administrative Services Branch in the Aberdeen Area Office. He was passed over for an Indian with no experience in the field of Administrative Services. Then an Aberdeen Area non-preference employee, (who was eligible but elected not to apply) was asked to train the preference applicant who was selected. A difficult situation, training your supervisor!

--In 1973 a Grade GS-12 employee in the Aberdeen Area Administrative Services Branch applied for the job of Assistant Chief, Administrative Services and was bypassed for a preference applicant who had no experience in the field of Administrative Services . . .
In early 1974 the Aberdeen Area Office issued a Vacancy Notice for a position in Financial Management. A non-preference, highly qualified individual was selected. Before a formal offer was made, it was discovered that an individual eligible for Indian preference was interested and the certificate reopened and the preference eligible candidate hired.

In October 1975 the Aberdeen Area Indian Health Service Area Classification and Position Management position was advertised under the Promotion Program. Three (3) well qualified non-Indian candidates were certified to the Selecting Official, however, no selection was made from this certificate. On January 4, 1976, an Indian with no classification experience whatsoever was appointed to this critical management position.

An Assistant Director of Nursing position was filled with an outside preference applicant although two (2) highly qualified Nurses who were already employed in the Indian Health Service had applied.

It is not only in the area of Federal Civil Service Career appointments that this reverse discrimination exists. It has been extended to include the various programs provided by the Congress to enable students and others to obtain valuable work experience and income.

ITTA: The Aberdeen Area Director, BIA, a GS-15 has one son employed with the IHS as a GS-3. His daughter was also employed by the IHS during the past summer and now works part-time while attending the local high school. Another son was employed during the 1974-75 school term and was employed full time during the summer.
with the Indian Health Service. In August 1975 he resigned to attend college in another city.

In the same vein, the Aberdeen Area IHS Tribal Affairs Officer, GS-14, and his wife, who is employed by the Bureau of Indian Affairs, have a daughter who is employed as a student aide while attending school. Meanwhile, the children of less affluent families are denied access to these supposedly public programs of student assistance.

--A GS-12 employee of the Indian Health Service with over 25 years of service accepted a downgrade to GS-9 and transfer to another Federal Agency in 1974 because he was convinced there was no opportunity in the Indian Health Service and he feared his career was in jeopardy.

--Another IHS employee with a number of years of service transferred to the U.S. Forest Service as a GS-7 because he felt his career was blocked in IHS. He is now a Personnel Officer with that Agency.

--A non-Indian employee applied for training on three occasions during the past three (3) years and was turned down each time, although preference eligible employees who applied were approved. We have two standards—one for Indians and one for non-Indians.

--In yet another case, a minimally qualified Indian employee applied for a top Branch Chief position together with eight well qualified non-Indian employees. The supervisor wanted desperately to hire the best qualified individual but was forced to appoint the minimally qualified preference candidate.

--In the Management Trainee program, in one Indian Health Service Area Office, Trainee positions were filled with preference candidates at
Grades GS-5, 7, and even 12. Again, well qualified non-Indians were available and eager for the opportunities offered by this program, but none were selected. Many others are interested in this program but do not apply because they know that it is reserved strictly for preference candidates in the Indian Services . . .

To a great extent non-Indian candidates are no longer applying for advertised vacancies in the Indian Services because after being turned down time after time they have learned that the preparation and submission of an application is an exercise in futility. "What's the use?" is the prevailing attitude. About the only vacancies being filled by non-preference candidates either by initial appointment or promotion are the hard to fill or highly skilled professional and para-professional disciplines or at isolated or otherwise less desirable locations. The non-Indian population of the Indian reservations know that they are not welcome, so why should they apply? Also, all non-Indians are well aware of the "Mounded Knee" situation at Pine Ridge and Rosebud and the activities of certain militant Indian groups on these reservations, and they are reluctant to subject their families to the potential hazards. They just don't want to become involved with BIA and IHS so they are not applying for advertised vacancies. The outplacement program proposed by the Department of Interior suffers from this one significant flaw - it requires that the employee demonstrate that he has been refused two positions in the competitive service before he is eligible for assistance . . . which is in effect asking him to prove that he is a second class citizen.
All the high sounding statements are worthless...  

Here, for brevity's sake, is a tabulation of positions recently affected by Section 12 of the Wheeler-Howard Act --

1926

<table>
<thead>
<tr>
<th>Position</th>
<th>GS</th>
<th>Location</th>
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<tbody>
<tr>
<td>Community Planner</td>
<td>11/12</td>
<td>Los Angeles, California</td>
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<tr>
<td>Teacher</td>
<td>7</td>
<td>Lower Brule, S. Dak.</td>
</tr>
<tr>
<td>Clerk-Typist</td>
<td>4</td>
<td>Lower Brule, S. Dak.</td>
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<tr>
<td>Economic Development Officer</td>
<td>12</td>
<td>Lower Brule, S. Dak.</td>
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1975

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<tr>
<th>Position</th>
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<tbody>
<tr>
<td>Tribal Operations Officer</td>
<td>12</td>
<td>Aberdeen, S. Dak.</td>
</tr>
<tr>
<td>Education Specialist</td>
<td>12</td>
<td>Aberdeen, S. Dak.</td>
</tr>
<tr>
<td>Education Specialist</td>
<td>11</td>
<td>Flanrea, S. Dak.</td>
</tr>
<tr>
<td>Education Specialist</td>
<td>12</td>
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</tr>
<tr>
<td>Education Specialist</td>
<td>11</td>
<td>Delcourt, N. Dak.</td>
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<tr>
<td>General Clerk</td>
<td>5</td>
<td>Rosebud, S. Dak.</td>
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<tr>
<td>Accounting Technician</td>
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<td>Aberdeen, S. Dak.</td>
</tr>
<tr>
<td>Housing Development Officer</td>
<td>13</td>
<td>Minneapolis, Minnesota</td>
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<tr>
<td>Education Program Administrator</td>
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<td>Lower Brule, S. Dak.</td>
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<tr>
<td>Administrative Manager</td>
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<tr>
<td>High School Principal</td>
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<tr>
<td>Elementary Principal</td>
<td>11</td>
<td>Lower Brule, S. Dak.</td>
</tr>
<tr>
<td>Maintenance Man</td>
<td>9</td>
<td>Lower Brule, S. Dak.</td>
</tr>
<tr>
<td>Agency Superintendent</td>
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<td>Shiprock, N. Mex.</td>
</tr>
<tr>
<td>Housing Officer</td>
<td>11</td>
<td>Tuba City, Arizona</td>
</tr>
<tr>
<td>Education Program Officer</td>
<td>12</td>
<td>Muskogee, Oklahoma</td>
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<tr>
<td>Position</td>
<td>Grade</td>
<td>Location</td>
</tr>
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<td>--------------------------------------------</td>
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<tr>
<td>Personnel Officer</td>
<td>GS-13/14</td>
<td>Aberdeen, S. Dak.</td>
</tr>
<tr>
<td>Clerk-Stenographer</td>
<td>GS-4/5</td>
<td>Aberdeen, S. Dak.</td>
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<tr>
<td>Investment Officer</td>
<td>GS-9/11</td>
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<tr>
<td>Clerk</td>
<td>GS-2</td>
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<tr>
<td>Accounting Technician</td>
<td>GS-6</td>
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<tr>
<td>Preventive Maintenance Specialist</td>
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1971

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<tr>
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<tr>
<td>Housing Officer</td>
<td>GS-12</td>
<td>Juneau, Alaska</td>
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<tr>
<td>Program Officer</td>
<td>GS-12</td>
<td>Sacaton Agency</td>
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<tr>
<td>Budget Officer</td>
<td>GS-11/12/13</td>
<td>Aberdeen, S. Dak.</td>
</tr>
<tr>
<td>Plant Manager</td>
<td>GS-9/11</td>
<td>Wapeton, N.Dak.</td>
</tr>
<tr>
<td>Plant Manager</td>
<td>GS-12</td>
<td>Pine Ridge, S.Dak.</td>
</tr>
<tr>
<td>Budget Analyst</td>
<td>GS-7/9/11</td>
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</tr>
<tr>
<td>Contract Specialist</td>
<td>GS-5/7/9/11</td>
<td>Aberdeen, S. Dak.</td>
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1975

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<th>Location</th>
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<tbody>
<tr>
<td>Economic Planner</td>
<td>GS-12</td>
<td>Albuquerque, New Mexico</td>
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<tr>
<td>Secretary-Steno</td>
<td>GS-5</td>
<td>Fort Thompson, S. Dak.</td>
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1972

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<thead>
<tr>
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<tbody>
<tr>
<td>Contract Specialist</td>
<td>GS-9</td>
<td>Aberdeen, S. Dak.</td>
</tr>
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</table>

1971

<table>
<thead>
<tr>
<th>Position</th>
<th>Grade</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Planner</td>
<td>GS-12</td>
<td>Albuquerque, New Mexico</td>
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1970

<table>
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<tr>
<th>Position</th>
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<tbody>
<tr>
<td>Economic Development Officer</td>
<td>GS-12</td>
<td>Phoenix, Arizona</td>
</tr>
<tr>
<td>Industrial Development Officer</td>
<td>GS-12</td>
<td>Phoenix, Arizona</td>
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</table>
This list is certainly not complete . . . It was compiled by telephone and contribution of penciled notes . . . in a matter of two days.

It is very easy to toss off allegations of discrimination and damage to individual careers, denial of guaranteed and retained rights, arrogation of Civil Service Commission protection, invasion of privacy in permitting confidential job applications to be reviewed by Tribal Councils, and interference with fiduciary and ministerial functions. It is also very easy to prepare a lengthy tabulation of positions which have allegedly been affected by the strict application of Indian preference to all personnel actions in the Bureau of Indian Affairs and the Indian Health Service . . . I would be disappointed if some of you were not questioning the veracity of this statement as I present it. That is why we have appealed to the Comptroller General of the United States for an impartial investigation of these allegations. The General Accounting Office has the necessary staff and resources to investigate all of this. We welcome such an investigation, and I believe many of the responsible officials of both the Department of the Interior and Department of Health, Education and Welfare would also welcome it, although there are undoubtedly some who will do all in their power to avoid it.

We are convinced that the Congress intended an orderly transfer of responsibility for Indian Affairs from the non-Indian domination of the past to a primarily Indian staff of capable, competent, well-qualified employees. We cannot believe that the present wholesale destruction of 9,000 careers was intended when Section 12 of the
Indian Reorganization Act was written in 1934!

There is a growing body of evidence that many of the Indian employees themselves are dissatisfied with the trend of personnel policies in the Indian Services... Many career civil servants of Indian descent have recently become aware of the threat to their livelihoods represented by the implementation of Public Law 93-538 - The Indian Education and Self-Determination Act. They have realized that the contracting provisions of this law pose a very real danger to them. There are also indications that the Bureau of Indian Affairs and the Indian Health Service have recognized this fact and have initiated the exploration of the possibilities of having Indian employees who are threatened by the loss of their jobs through the implementation of PL 93-538 included in the provisions of this proposed legislation.

For himself and approximately one hundred and sixty (160) other concerned employees of the Indian Health Service and the Bureau of Indian Affairs.

THOMAS H. GOMINION
902 SOUTH JAY STREET
ABERDEEN, SOUTH DAKOTA 57401
THOMAS J LONG
PO BOX 884
BROWNING MT 59417

MR BRAD PATTERSON SPECIAL ASSISTANT TO THE
PRESIDENT ON INDIAN AFFAIRS
WHITE HOUSE
WASHINGTON DC 20501

PLEASE ENCOURAGE PRESIDENT FORD TO SIGN BILL HR5465. I AM A NON-INDIAN
EMPLOYEE OF IHS AND HAVE BEEN A VICTIM OF RAW DISCRIMINATION BECAUSE OF
INDIAN PREFERENCE IN HIRING AND PROMOTIONS. MY GOVERNMENT CAREER HAS
BEEN RUINED BECAUSE I HAVE BEEN UNABLE TO ADVANCE FOR THE PAST 7 YEARS.
I KNOW OF MANY CASES SIMILAR TO MINE. OTHER GOVERNMENT AGENCIES WILL
NOT HIRE ME BECAUSE THEY MUST PROMOTE THEIR OWN EMPLOYEES.

THOMAS J LONG
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21157 EST
MGMCOMP MGM