

Treaties & Trust Responsibilities?

Major Policy Resolution Number One Adopted without objection, Oct. 21, 1976 NCAI 33rd Annual Convention, Salt Lake City

WHEREAS, the immemorial rights of native peoples existed prior to and independent of formal recognition by the United States Government;

and WHEREAS, these aboriginal rights were recognized by the fact that the United States Government entered into treaties with the Indian nations; and

WHEREAS, the United States has affirmed that the trust responsibility extends to

rights reserved by treaties, executive orders, agreements, statutes and aboriginal rights for which the United States is trustee, and that the central purpose of the trust responsibility is the protection and enhancement of tribal resources and tribal rights of self-government; and

WHEREAS, the National Congress of American Indians believes that basic concepts relating to the Federal-Indian trust responsibility have consistently been misunderstood by state officials, Federal agencies and the courts, resulting in unnecessary litigation, repeated delays, unreasonable expenses and unjust results to Indian people; and

WHEREAS, Congressional legislation should expressly state that its purpose is not to create new law concerning the trust relationship, but to clarify certain basic aspects of the trust relationship;

THEREFORE BE IT RESOLVED THAT the trust responsibility is a duly binding responsibility on all Federal agencies, and no agency may take any action which directly or indirectly interferes with any trust right except as clearly authorized in the express language of a statute enacted by Congress and consented to by affected tribes.

BE IT FURTHER RESOLVED THAT Indian and Indian tribes shall have the right to enjoin Federal or state action which interferes with trust rights by seeking equitable remedies in Federal courts. Toward this end, 28 USC Section 1362 shall be amended to provide for a waiver of sovereign immunity of the United States in any action commenced under that section.

BE IT FURTHER RESOLVED THAT the trust responsibility of the United States is not limited to protection of treaty rights, but extends equally to aboriginal rights and other rights secured by agreement, executive order or statute enacted by Congress and to such other lands as the United States may acquire for the benefit of the tribes or the tribes may acquire for themselves, specifically:

a. Congress should provide that both treaty and non-treaty rights protected by the trust responsibility shall not be abrogated or in any way infringed upon unless there exists both consent of affected tribes and express language of a statute enacted by Congress.

b. That aspect of the trust

responsibility extending to the protection and enhancement of tribal resources and particularly natural resources as a paramount responsibility of the United States involves a duty of care and exclusive loyalty consistent with the highest standards of common law trust.

c. The United States holds bare legal title to these resources solely as trustee for Indians, and full equitable title is in the Indians.

d. In the event of conflict between an Indian trust right or reasonable claim and a conflicting Federal policy, claim or program, all Federal agencies shall subordinate those conflicting Federal policies, claims or programs to the protection of Indian trust rights or reasonable claims unless those rights have been abrogated as provided above.

BE IT FURTHER RESOLVED THAT Congress must amend 25 USC Section 175 to provide:

a. That the Department of Justice has a mandatory duty to represent Indian tribes and individual Indians in all cases where there is a reasonable claim that is the subject of the trust responsibility unless the Department has a conflict of interest, in which case the United States shall provide funds to pay attorneys' fees of private counsel selected by the tribe to represent its claims.

b. In any case where the Department of Justice declines to represent Indians or Indian tribes on the ground that there is no reasonable legal support for the Indian claim, its decision to decline representation shall be subject to judicial review. The Department of Justice shall have the burden of showing that there is no reasonable legal support for the Indian claims, and, in the event of failure to carry its burden, the court shall allow reasonable attorneys' fees to the Indian litigant.

c. In all cases where Indian tribes commence an action under this section or 28 USC Section 1362, they shall be entitled to all the advantages that would inure to the United States as if it were a party to the case.

To The Readers

This has been one hectic, interesting and a very enjoyable year for me. To define each term I must say "hectic", being the first year for the "Spilyay Tymoo" Coyote News, and also being new at this type of work was scary. Took the position because it posed a great challenge and believe me it was. This office started out from scratch, a couple of broken down tables for desks, had to go around to find idle typewriters while others were not looking, make a quick call on their phone 'N' stuff like that. But after a time things began to jell and we finally rented two typewriters. And after waiting for an open extension on the Tribal switch board I decided to have a separate phone number, which in time I thought was a good move because I see now we do need

our own line.

In the beginning it was said, "let there be light", and there was light, but with the beginning of the newspaper if anyone said, "let there be light", nothing would have happened as it was, we seemed to be in the dark for quite some time. "Well" after a few meetings with some experts in the newspaper field and other personnel, things began to fall in place slowly.

At first there were two of the most outstanding reporters and photographers to get the ball rolling and that was Olney Patt, Jr. 'N' myself, and when we walked down the street we could hear whispers among fans such as "isn't that Sid and J.P. of Spilyay News?" We finally over came all our

problems and settled down compiling our news articles, also it was J.P. and "8 Ball" who combined equipment to set up a darkroom where we develop our negatives. After this we felt we were pretty well organized.

INTERESTING to see that we were only at the beginning of things still, as we took our material to the Pioneer we had no idea what more was to come. The lay-outs were just too much for me because I have never had any idea of what this would entail. First we met the publisher Art Statt who gave us a brief rundown on the type set and lay-out. Next we met the Editor, "Yikes", something else. Right from the start I had the feeling this was bad medicine. Well, I'll come back to the "Digger" a little later on.

We set our policies in publishing the paper and surprisingly we had our first edition printed which was a great accomplishment. Well, after our first edition out of the way there were still other problems to come. J.P. had decided to return to school which was bad enough but to make matters worse my camera broke down just before we were to put out our second edition. It was fortunate that I had visited with a reporter-photographer working for the Pioneer and by a chance gave her a call about taking some photos for the Spilyay Tymoo paper. With luck she agreed to help out and since has become the "ACE" reporter.

"Yikes", I had the photos taken care of but not all the problems were solved. There was work to be done in the dark room and the Spilyay was in trouble once again, what was he to do? With luck he remembered that there was another person who had just visited the Spilyay office in search for a part time job in photography. I called the individual and with luck once again she scheduled her idle time to do dark room work. Spilyay sat down with a big "Sigh", we made it!

ENJOYABLE — This job has been very enjoyable, out meeting people, around where there is action with all the activities that occur around here. The staff at the Pioneer has been super in assisting in anyway they can; just like, "Lend a Helping Hand. There it is - at the end of your arm."

During the summer vacation we had J.P. and Tammy Kalama on the staff and things went real smooth, everyone knew the duties required of them because there were a lot of activities to be covered.

Speaking of working with nice people, this is the gang: Sandy Rangila, Cynthia Stowell and of course myself, Sid Miller.

Textiles and Clothing

Only you can prevent clothing fires

With winter weather forcing people to stay indoors, the chance of clothes catching fire increases.

Consumers should be aware that clothing treated to be flame retardant does not mean it is flame proof. "The primary benefit of flame retardant clothing is the additional time it provides to react to the emergency," says Susan Gangler, Warm Springs Extension Agent.

Flame retardant clothing resists fire longer and does not permit the rapid spread of flames. In many burn cases even clothing not chemically

treated for flame resistance has played a protective role.

Flame retardant clothing does not provide complete safety from sustaining burns. Research conducted by the American Association of Textile Chemists and Colorists indicated that individual behavior and the circumstances surrounding burn accidents had a greater role in determining the nature and extent of textile burn injuries than did the flammability characteristics of the fabric itself.

"In spite of wearing flame-retardant clothing, consumers should be alert to fire hazards and practice fire safety," Sue warns.

Families should review good fire safety practices. For instance, know the local emergency telephone number and how to get out of the house or apartment quickly. If clothing catches fire, don't panic or run; roll on the ground or floor.

Don't smoke in bed. If you smoke, rather than matches use a butane lighter with a trigger that extinguishes the flame when you remove your finger.

During the holiday season, keep candles out of the reach of small children. And if you have a fire in the fireplace, be sure there is a screen to protect children.

Buying flame retardant clothing provides additional protection, but it does not substitute for safety. Consumers should be careful with matches, stoves, heaters and other sources of ignition.

Notice

The Parent Committee for Indian Education Act, Part A met on Tuesday, December 14, 1976, in the Warm Springs Elementary School Library to begin making plans for the 1977-78 program. The committee decided to ask the Tribal Education Committee to assist in conducting a needs assessment to determine what special needs the Part A program should emphasize.

The committee announced that a public hearing will be conducted on Tuesday, January 18, 1977 to gain community comment and suggestions for the Part A program.

The 1976-77 Part A program furnishes counseling and tutoring services to Warm Springs Indian students attending School District 509-J.

About Social Security

PEOPLE DISABLED SINCE CHILDHOOD MAY BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME PAYMENTS, REGARDLESS OF THEIR FAMILIES' INCOME.

People disabled since childhood may be eligible for Supplemental Security Income payments (SSI) when they reach 18 regardless of their families' income according to John Fullerton, Social Security representative in Central Oregon.

The SSI program makes monthly payments to people with little or no income and limited resources who are 65 or over or blind or disabled.

"The payments can be especially important to young people who are severely retarded or have other handicaps that keep them from becoming self-supporting," Fullerton said.

"Eligible disabled people can get payments at any age," he said. "The eligibility of

children under 18 can be affected by their parents' income and resources, but severely disabled people who remain unmarried are considered independent of their families starting at 18, or at 21 if they're in school.

"Starting then, they may be eligible for SSI payments if they have little or no income of their own," he said.

People can get information about applying for SSI payments by calling or writing any Social Security office. The Bend Social Security office is at 39 N.W. Louisiana Avenue. The phone number is 382-6922.

The SSI program is administered by the Social Security Administration an agency of the U.S. Department of Health, Education and Welfare.

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