

ATNI Spring Conference Close-ups

Jurisdiction and Sovereignty: Keys to Tribal Strength

Limitations on a tribe's jurisdiction over those within reservation boundaries became a sore topic at the Affiliated Tribes' spring conference. Only months before, the Yakima lost a court case challenging the State's partial criminal jurisdiction on the reservation under Public Law 280. And just days before the conference, three tribal police were shot in a tavern incident while responding to a call that was technically outside their jurisdiction.

But delegate Roger Jim said his tribe was not about to remain a loser. "The court reaffirmed the state's responsibility in eight points of law," said Jim. And the Yakima Tribe is going to hold the state to that responsibility.

Jim described a pilot effort called the Unified Service Project, whereby the Yakima Tribe would provide law enforcement services for the whole reservation under contract with the State. Yakima has a large enforcement program and the state apparently has no funds for a reservation patrol, noted Jim, so the Unified Service Project would fill the gap in services as well as prove Yakima's commitment to protecting life and property on the reservation.

Jim recommended that despite P.L. 280, tribes moved toward improving law and order programs on their reservations.

According to Sho-Ban attorney Larry Echohawk, the reasoning behind the passage of P.L. 280 in 1953 was the inadequacy of law enforcement systems on reservations. "That reason no longer exists," said Echohawk, but the reservation programs will have difficulty making further improvements while states continue to exercise jurisdiction.

A panel on law and order took up on this theme, stressing the importance of improving the image of tribal courts. Sho-Ban associate judge Clyde Hall described his tribe's efforts to update its law and order code and turn the "trouble court" into a respected reservation justice system. Tribal Courts are weakened by the fact that not only off-reservation agencies fail to recognize them but Tribal members themselves view them negatively.

Sho-Ban prosecutor Blaine Edmo was optimistic about the future of Tribal courts as long as training and education were emphasized, tribal members prepared for legal careers, and judicial powers kept separate from executive.

Sho-Ban councilman Bernard Eschief name two prerequisites for a tribe's effective assumption of full jurisdiction on reservations. First, a tribe must be recognized as a government

with sovereign powers. And second, Indians and non-Indians both must be educated in the area of federal Indian law.

Sovereignty proved to be a catchword for the conference, a rallying point for those asserting treaty rights and pushing for economic and social development. Sovereignty was also recognized as perhaps the most troublesome ingredient of the backlash problem. The status of Indians was created by the Federal government, often deceitfully, observed Roger Jim, and then never explained adequately to citizens. Such misunderstanding has resulted in the negative reaction of non-Indians to the Indian assertion of rights, as evidenced by groups like the Interstate Congress of Equal Rights and Responsibilities (ICERR).

Although a member of ICERR was not on the backlash panel, conferees heard from a private citizen who received ICERR assistance in his land dispute with the Yakima Tribe. As a deeded landholder on the checkerboarded Yakima Reservation, the man felt he should have free access to his land and the right to develop it as he saw fit, despite a new Yakima zoning ordinance. The result has been a lawsuit with which ICERR is assisting. "ICERR is not anti-Indian," he said, "It's made up

of people who have had problems similar to mine."

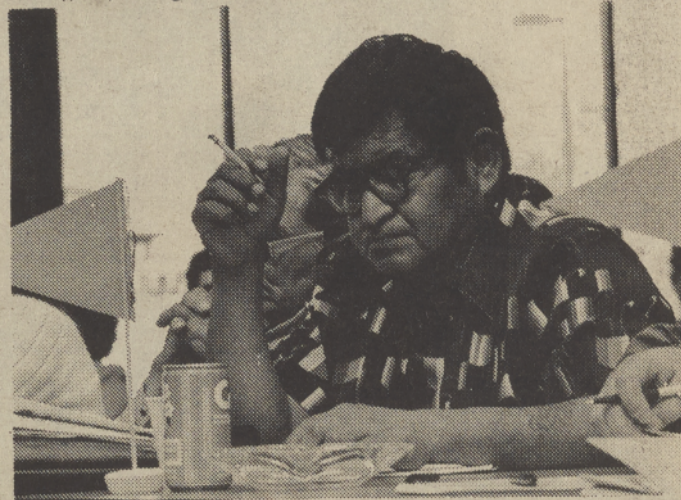
Both he and Jim recognized that this was just one of many equally awkward arrangements created by Congress when it allowed for the purchase and settlement of reservation lands by non-Indians.

Tribal sovereignty was further challenged when delegates received word that H.R. 9950, the Omnibus Indian Jurisdiction Bill, fathered by Lloyd Meeds in 1977, had been reintroduced by Rep. Arlan Strangeland (Minnesota). In an explanatory letter to his colleagues, Strangeland refers to

"direct conflict between Indian tribal aspirations and constitutionally protected rights of non-Indians."

His bill would guarantee a tribe civil jurisdiction over its members but not over non-members on the reservation. H.R. 9950 is, in Strangeland's words, a "middle ground" approach to resolving the "confusing and complex area of law (that) has developed regarding Indian affairs."

Indian tribes see it as a dangerous threat to their sovereignty.



Tribal delegate Gene Greene listened closely to ATNI panel discussions. Spilyay Tymoo Photo by CDS

Room For Improvement In Tribal-Local Government Relations

Improved communication with local governments was a thread running through the spring conference of the Affiliated Tribes of Northwest Indians. Due to the location of the conference, participants gained insight into the local problems and successes of such relations.

The panel portion of the conference opened with a discussion of state-tribal relations led

by Dan Emborg, assistant to the Governor of Idaho. "We in the state of Idaho are very proud of the Shoshone-Bannock people," said Emborg. "What they have is the result of hard work. They are citizens of our state and we want to provide the best that we have."

Emborg went on to cite the "considerable activity" in the Governor's office with regard to

human services and the encouragement of economic development. The Governor's office has a new tribal liaison and an Indian graduate student working on economic development matters.

Although the governor has gone on record as supporting treaty rights ("They are law") and the Indians have done a "superb job" of preventing tense relations, according to Emborg, there are improvements needed in communication. Three proposals have been considered recently, he explained. First, the tribes have recommended the hiring of a liaison who is Indian, unlike the new liaison who has Indians added to her already large responsibility in the area of human rights advocacy. A second plan favored by the Lieutenant Governor and the Nez Perce tribe is a legislative committee similar to Oregon's Commission on Indian Services. A third alternative, not popular

among anyone other than local governments, is a governor-appointed committee made of representatives of local governments.

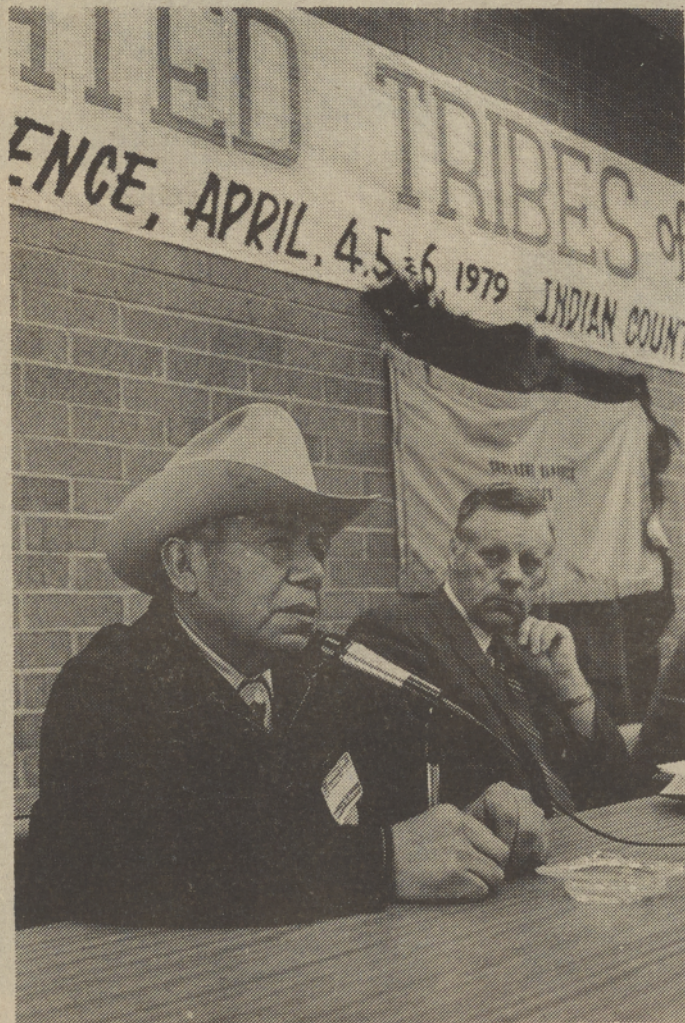
Emborg pointed to progress in the last several years in state-tribal relations, resulting in a degree of informal cooperation. The relationship needs to be formalized, said Emborg, so that the participation of the five tribes in decision-making will continue.

State legislator Is Merrill told the conference that he had recommended legislation establishing a special state committee for Indian affairs. Merrill, who also manages the Ft. Hall Trading Post, said the committee would most likely hold hearings at each reservation to identify the differing needs and issues of Idaho's Indians.

Bannock County Commissioner Seth Neibauer attended all three days of the conference and relieved some of the fear he

had felt upon accepting the invitation. "Some of the speeches were scary," he admitted, but he found that people were generally "friendly."

Constitutional rights that Indians and non-Indians have in common can result in conflict, said Neibauer, who cited three ways to resolve disputes: by Congressional action, in the courts, or through local agreements. The ambiguous definition of "sovereignty" must be resolved in Congress, he feels, but communication can be improved on a local level. Currently hard feelings exist because a minority of non-Indian landowners on the Ft. Hall Reservation are not represented on the Ft. Hall Land Use Planning Commission, explained a local. Meetings are open to visitors, said Neibauer, but more formal participation and communication is being sought by such groups as the Idaho Association of Counties.



Warm Springs Chief Amos Simtustus spoke of ATNI as the strongest of Indian organizations. Spilyay Tymoo Photo by CDS

Tribes look for greater trust commitment

For most Indians, the government's continued exercise of its trust responsibility is the launch pad for self-determination. As ever, delegates to the affiliated tribes spring conference were concerned about the government's commitment to that trust.

Special guest speaker Leo Krulitz, solicitor for the Department of Interior, announced the drafting of an official statement on trust that is now being circulated among Indian leaders. Originating from the Attorney General's office, the statement formally recognizes the special relationship that exists between the federal government

and Indian tribes.

Krulitz described Attorney General Bell and the Interior as having "one voice" on Indian issues. Bell's statement, which some Indian leaders feared would limit as well as clarify the government's role as trustee, spells out the "legally enforceable obligation" of the government to perform a guardian function and support the laws enacted by Congress for Indian tribes.

In addition Bell did not see a conflict between the government's special duties to Indian tribes and its responsibility to other American citizens.

Krulitz later noted that although Indian tribes enjoy sover-

eignty, it is a dependent status totally within the discretion of Congress and without constitutional protection. "My serious concern is that . . . Congress, to correct the excesses (increased demands from Indians) may throw out the baby with the bath."

The solicitor suggested that tribes watch for warning signals of a changing climate such as the introduction of anti-Indian legislation, adverse court decisions and the loss of friends in Congress. Some methods of asserting sovereignty could increase hostility, said Krulitz, and tribes must use sensitivity and creativity in their efforts to exercise their rights.