



ARGU

AMERICAN RIGHTS GUARDIAN UPDATE

VOLUME 9 NUMBER 5 Winter 2007

The only printed voice of opposition to Federal Government Indian Policy / Programs in Wisconsin

Published By Protect Americans' Rights & Resources to maintain an informed membership

As a Christmas Present the people of Wisconsin, Governor Doyle's committee recommendation was to raise the cigarette tax by \$1.00 per pack. Understand, that I don't smoke and haven't for several decades. So, I am not blowing my own horn. I think if people want to smoke they should not have to pay Doyle's re-election debt to the Indians. That's right Doyle's Indian Debt. Let me explain!!! Indians operate convenience stores throughout the state, and as of last report, they don't pay state tax on the cigarettes they purchase, so they can undersell all other cigarette outlets, creating another monopoly. Phase one of Doyle's repayment; and I am sure there is more to come.

Another eye-brow raiser is the uproar by several groups including Mayor Barrett over the Coast Guard's plan to hold live fire exercise on Lake Michigan. How else are the Coast Guard personnel suppose to become proficient, with their new light machine gun? They need practice to enable them to hit a target from a pitching boat!!!

Mayor Barrett was livid with the possibility of live fire exercises five miles East Milwaukee. Wonder why the good mayor doesn't feel the same about the live fire going on 1/2 mile west of the Milwaukee shore. And those people don't need practice, they hit where there aiming. Proof: over 100 murders before Christmas 2006. And of course that's the fault of the gun. So, with the newly elected state legislature; hang on to your guns folks!!! But this is just my opinion.

Woops !! There goes my Dole

This is Part of an article by Amy Harmon of The New York Times which appeared in The Milwaukee Journal Sentinel.

The National Geographic Society's multimillion-dollar research project to collect DNA from indigenous groups around the world in the hopes of reconstructing humanity's ancient migrations has come to a standstill on its home turf in North America.

Indigenous leaders argue that genetic ancestry information also could jeopardize land rights and other benefits that are based on the notion that their people have lived in a place since the beginning of time. "What if it turns out you're really Siberian and then, oops, your health care is gone?" Said David Barrett, a co-chairman of the Alaska Area Institutional Review Board, which is sponsored by the Indian Health Service, a federal agency. "Did anyone explain that to them?"

Such situations have not come up, and officials with the Geographic Project discount them as unlikely. Spencer Wells, the population geneticist who directs the project, says it is paternalistic to imply that indigenous groups need to be kept from the knowledge that genetics might offer.



(Woops Continued From Page 1)

I don't think humans at their core are ostriches," Wells said. "Everyone has an interest in where they came from, and indigenous people have more of an interest in their ancestry because it is so important to them."

But indigenous leaders point to centuries of broken promises to explain why they believe their fears are not far-fetched. Scientific evidence that American Indians or other aboriginal groups came from elsewhere, they say, could undermine their moral basis for sovereignty and chip away at their collective legal claims. *Actually the fear is the loss of a place at the taxpayer's trough.*

The pursuit of indigenous DNA is driven by a desire to shed light on questions for which the archeological evidence is scant.

How did descendants of the hunter-gatherers who first left humanity's birthplace in East Africa some 65,000 years ago come to inhabit every corner of the Earth? What routes did they take? Who got where, and when?

As early humans split off in different directions, distinct mutations accumulated in the DNA of each population. Like bread crumbs, these genetic markers can reveal the trail of the original pioneers.

§§§§§§

The Easy Accessibility of High Stakes Gambling, Claims Another Victim.

By Bob Manzke

Michael Goelz killed himself last year...Why? Because, the fact that he allegedly stole \$224,000 from the Milwaukee County Transit System, was about to be exposed. Milwaukee police have told transit system managers "they believe there were significant gambling losses at Potawatomi" Bingo Casino and maybe elsewhere. In his spare time, Goelz was "an avid sports

Page 2

enthusiast," according to his death notice. But his co-workers didn't know he "was also an avid gambling enthusiast" - although apparently not a successful one. It's doubtful if he would have been hooked on gambling if it wasn't so available.

Goelz worked as an assistant cashier for The Milwaukee County Transit System, a non-profit organization that operates the bus company for Milwaukee County. In the nearly 31 years since the county took over the Bus System, transit company employees handled over \$950 million with every penny accounted for, then along came Potawatomi.

§§§§§§

Oathtakers Sleep While the U.S. is Being Invaded

This article taken in part from an MSNBC.com article

Assaults against U.S. Border Patrol agents along a 260-mile stretch of the Arizona/Mexico border known as the Tucson sector, a desolate expanse of territory that is the nation's major artery for illegal immigration, are on a record clip. In the first eight months of fiscal year 2005 there have been 163 recorded acts of violence against border agents compared with 118 for all of fiscal year 2004, according to the U.S. Border Patrol. Border patrol officials in other sectors contacted; had no figures readily available; however, all those contacted acknowledged that violence is on the increase.

The State Department also is warning U.S. citizens about the violence, alerting the public about "the continuing unsettled public security situation" along the border. The warning says there is "violent criminal activity fueled by a war between criminal organizations struggling for control of the lucrative narcotics trade" and that the "criminals are armed with an impressive array of weapons."

Range of violence the violence against border agents runs the gamut from physical assaults, where a suspect actually fights with an agent, to "rockings," in which agents and their vehicles are pelted with rocks or chunks of cement blocks, to vehicles being used to try and run agents down, to shootings.

The "rockings" have gotten so violent that border patrol agents now ride in "war wagons," vehicles that are custom fitted with steel screens, said Joe Brigman, a border patrol spokesman in the Yuma, Ariz. sector.

Union officials and agents said that they are often frustrated by internal policies that keep them from taking aggressive action against illegal immigrants.

George McCubbin, a border Agent said that because of personnel shortages, the border patrol has shifted from active patrols to a policy of "high visibility" in which agents are basically static or in "watch mode" until an actual incursion is noted and they have to respond.

"We're pretty much a reactive operation," McCubbin said, "and I believe that's why we're in this position, we're like sitting ducks in a way."

Some agents complained that they are rarely allowed to pursue illegal immigrants, regardless of the situation.

"If anyone runs from us, we don't chase them," said one California-based border patrol agent who requested anonymity. "We could have information that there is a nuke in the back of a van but we don't have authority to chase them," the agent said. "We've had radiation pagers go off and we're still not allowed [by our supervisors] to give chase," he said. "They are scared to death something will go wrong and there will be a huge liability."

PARR Ed. Note: Couple the above with the flood of aliens

(Continued see Oathtakers Page 3)

(Oath takers Continued From Page 2)

pouring into this country over the Mexican and Canadian borders through the Indian reservations straddling the U.S. Canadian and Mexican borders, and you have a deluge. And what are our Oath-takers [both elected and appointed doing?] They're sitting on their thumbs, up tight about offending the legal cabal, instead of complying with the oath of office they took. Yes, the oath they took to number one protect all the **citizens** of the United States.

SSSSSS

"Illegal aliens murder 12 Americans daily

Death toll in 2006 far overshadows total U. S. soldiers killed in Iraq, Afghanistan"

-- WorldNetDaily, November 28, 2006 --

The following is in part taken from a political article by the Cox 2008 committee. Because of PARR's not for profit status we removed all the political rhetoric supporting Mr. Cox.

Think about it! If that estimate is correct, criminals who are in this country illegally have murdered over 22,000 Americans in cold blood since Sept. 11, 2001.

But if that estimate is not enough to make you sick, that same WorldNetDaily article also points out that in addition to the 12 Americans brutally murdered each and every day: Another 13 Americans are killed by illegal aliens driving under the influence -- that's an additional 4,745 Americans killed per year.

Approximately 8 children are accosted each and every day by criminals who are in this country illegally -- that's 2,920 innocent children whose lives are ruined each and every year by scum who are prowling our streets because politicians refuse to secure our borders.

Liberal politicians -- who want to cut and run from the War on Terror -- point to the 3,000 plus American service

members who have bravely sacrificed their lives in that noble cause and they call it a "quagmire."

Well, if the War on Terror is a "quagmire," then **THEIR REFUSAL** to secure our borders is a national disaster!

Senator John McCain, has set a goal to raise \$25 million this year -- that's over \$2 million per month. And a lot of that money will come from special interests... Pay-back for advancing legislation to grant amnesty to over 12 million illegal aliens.

Some will tell you that not securing our borders will eventually open us up to terrorist threats. But the terrorist threat is already here... And it is not just coming from Islamic extremists! It is coming across our border!

Ever hear of Mara Salvatrucha - MS-13?

Police magazine calls MS-13 "America's most dangerous gang" -- a ruthless swarm of youths that is spreading across the United States.

Human Events reports that MS-13 has, "operations in at least 34 states, have been labeled a terrorist threat by police forces, and, perhaps most sinisterly, reports have surfaced which indicate possible cooperation between MS-13 and al Qaeda."

In fashionable Long Island, N.Y., where there are around 300 gang members, 16 MS-13 leaders were arrested and charged with two murders, assault, conspiracy, and firearms violations.

In Charlotte, 53 members were arrested for involvement in 11 area murders.

In and around Washington D.C. the gang numbers between 5,000 and 6,000 members -- which is one reason why an 18-year-old federal witness was stabbed to death, a 16-year-old boy had his hands almost chopped off with a machete, and a 17-year-old was murdered.

But the members of MS-13 are not the only criminals sneaking across the border.

Here are just a few random crime figures.

The director of research for the Center for Immigration Studies, Steven Camorata, said in 2004: "Roughly 17 percent of the prison population at the federal level are illegal aliens."

The U.S. Justice Department has estimated that 270,000 illegal aliens served jail time nationally in 2003. Of those, 108,000 were in California. Some estimates show illegal aliens now make up half of California's prison population, creating a massive criminal subculture that strains state budgets and creates a nightmare for local police forces.

In Los Angeles, 95 percent of all outstanding warrants for homicide (which total 1,200 to 1,500) target illegal aliens. Up to two-thirds of all fugitive felony warrants (17,000) are for illegal aliens.

That is why our political leaders' refusal to secure the borders is more than simply dangerous... It is national suicide.

Supporters of amnesty will tell you that many of the people who sneak across our borders are decent, hardworking people who are simply looking for a better way of life. And that's probably true in most cases. In fact, America is a nation of immigrants and we should welcome anyone who wants to come to this country **legally**. But an unsecured border is more than an invitation to people who want a better life; it is also an invitation to criminals! And not knowing just who is coming across is a domestic crisis of epic proportions.

Here are just a few examples of crimes committed by illegal aliens, courtesy of the Internet website

(Continued See Aliens Page 4)

(Aliens Continued From page 3)

Immigrationshumancost.org:

"David March, a Los Angeles County Sheriff who was killed when he pulled over a car for a routine traffic stop. The driver was a dangerous Mexican drug dealer, Armando Garcia, who had been deported twice and has a long history of violent crime. After shooting Sheriff March twice in the head, Garcia was able to escape and is believed to be in Mexico, where officials refuse to send him back for trial. Garcia is also wanted for two attempted murders."

"Sister Helen Chaska was murdered in late summer 2002 by being strangled with her rosary beads.... Her accused murderer is Maximiliano Esparza, who is in the United States illegally, and was convicted in 1988 of robbery and kidnapping in Los Angeles. He was sentenced to six years in prison, was released in 1992 and was on probation until 1995. By law, this man should have been deported to Mexico after his release in 1992. Instead, the INS allowed him to remain in the United States and commit even more heinous crimes."

"Tracy Owen of Nashville. The pregnant woman was murdered because a couple of drunk illegal aliens thought they had struck her in a traffic accident, so they decided to kill her in order to cover up the incident. In fact, it appears that they did not hit Tracy Owen with a truck at all, but she had fallen. Still, rather than offer aid to an injured woman who was pleading for help, the response was for the younger man to shoot her her five times."

"Vinessa Hoera was a young single mom, only 23, when she was... murdered by an illegal alien from Guatemala, Faustino Chavez, who apparently was angry when his advances toward her were not received positively."

Page 4

Sheriff Sigifredo Gonzalez of Zapata County, Texas -- a man who deals with the consequences of illegal immigration every day -- had this to say:

"For years we have seen individuals enter the country illegally. However, recently, we feel that many of these persons are no longer entering the country to look for legitimate employment. We are now seeing that many of these persons are members of ruthless and violent gangs. All of us are concerned that the border with Mexico is being used as the front door to this country and that terrorists are already in our back yard."

What's the bottom line?

Simply put: When you refuse to secure your borders, the bad comes in with the good and you have no way of controlling -- or even knowing -- exactly who is coming across.

Our refusal to secure our borders is not a farce or even a tragedy. It is sheer madness.

After I finished the above articles

I was so incensed that I wrote the following letter to President Bush, his response (if any) will be interesting.

Friday, December 29, 2006

Dear Mr. President,
I am the Executive Secretary of Protect Americans' Rights and Resources (PARR). We are a nation wide, grass roots organization with members in most states.

I am snowed under with member's complaints about the arrest and conviction of border patrol agent Ignacio Ramos and fellow agent, Jose Alonso Compean. Not one person I have been in contact with feels that this action against the two agents was justified.

The word unconscionable is employed by most when this subject is discussed. To think that these two men were arrested and

convicted for doing their job is incomprehensible.

You can build all the fences you want, but they will be worthless if the personnel who man them are afraid to do their job, because they fear prosecution.

A response is respectfully requested, so I can pass your position on this situation on to our members.

Sincerely, Bob Manzke, Executive Secretary PARR

§§§§§§

Indian Industry's Armor is pierced by California's Court

Commentary by John A. Fleming

With the New Year we can start with GOOD NEWS: the California Supreme Court, on December 21, 2006, ruled Indian Tribes must follow the same rules as other political spenders from petroleum companies to the Sierra club. But this is not all the really good news! It now follows.

Here is the story. This Court, in its pronouncement, recognized the U. S. Constitutional duty and power required of all states to maintain a republican form of government for its citizens, found in Article IV, Section 4, and the 10th Amendment regarding governmental powers in general. Clearly the 10th Amendment limits its governmental powers to state governments, the federal government, and the remaining powers (specified and unnamed) to the citizens themselves.

Tribes are excluded from the distribution of powers. Here is the actual 10th Amendment text on this matter. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people". No tribes here.

Tribal reviews of this California decision are not going to be nice much less supportive. In choirs they (American citizens of American Indian descent)

(Continued See Armor Page 5)

(Armor Continued From Page 4)

will protest - "this case does not apply to us or our tribe, its not applicable here", etc.

Think again my fellow citizens, think again. The Indian Industry's entire Wall of Defense, as offensive as it has always been, has received a crippling blow by the State of California.

The tricks available to each and every Federally Recognized Tribe, used by all of them to gain, maintain, support, retain and expand Federal Indian Programs with Unconstitutional End Results, have now been exposed by a shocking new court decision. This was just handed down when the Supreme Court of California used Article IV, Section 4 and the 10th Amendment to penetrate **THE MASSIVE RESISTANCE** (Indian Industry) movement to ignore both the Constitution and the Law of the Land.

This decision does have the effect of piercing that hardened wall of massive resistance created by the Indian Industry, but unlike the children's story of Peter, his thumb and the dike, the California Court made a big enough hole to at least drive 562 Mack trucks through.

ATTACK OATHTAKER VIOLATORS John A. Fleming Consultant, Federal Indian Programs fipoversight@wavecable.com

§§§§§§

Snippets

The cop got out of his car and the kid who was stopped for speeding rolled down his window. "I've been waiting for you all day," the cop said. The kid replied, "Yeah, well I got here as fast as I could." When the cop finally stopped laughing, he sent the kid on his way without a ticket.

§§§§§§

ACLU Sues Texas Town

By the NewsMax.com

Two civil rights groups filed a lawsuit Tuesday challenging Page 5

The suburb's new law that outlaws renting to illegal immigrants, alleging the ordinance violates federal law and forces landlords to act as immigration officers. The American Civil Liberties Union and the Mexican American Legal Defense and Education Fund filed the suit on behalf of Farmers Branch residents and landlords.

The law, along with a measure that made English the official language of the city, was passed in November and is scheduled to go into effect Jan. 12. The lawsuit claims the ordinance is so poorly drafted that it excludes even legal immigrants from renting in the city just north of Dallas. "Immigration enforcement must be left to the federal government, not each local municipality," said Lisa Graybill, legal director of the ACLU of Texas. "Otherwise Texas will end up with a patchwork system that is impractical and unenforceable."

Farmers Branch spokesman Tom Bryson said the city will not comment on pending litigation. City leaders had expected legal challenges like the one filed Tuesday, which is the third brought against the city since the ordinance passed. "I don't know if there is any real expectation of what would be coming down the pipe and what wouldn't," Bryson said.

Three apartment complexes filed a lawsuit asking a federal court to halt the renter law from going into effect, saying it should be declared unconstitutional.

In November, City Council members unanimously approved having property managers or owners verify the immigration or citizenship status of apartment renters. Council members also approved resolutions making English the city's official language and allowing local authorities to become part of a federal program so they can enforce im-

migration laws. In another lawsuit filed this month, a Farmers Branch resident alleged that the city's mayor repeatedly violated the state's open meetings laws to deliberate the ordinances. Opponents of the ordinances have also submitted a petition that they hope will force a vote on the measures.

If at the city verifies at least 726 of the signatures, a public vote is expected in May. Since 1970, Farmers Branch has changed from a small, predominantly white bedroom community with a declining population to a city of almost 28,000 people, about 37 percent of them Hispanic, according to the census.

More than 50 municipalities nationwide have considered, passed or rejected similar laws, but until now that trend hasn't been matched in the Lone Star State.

§§§§§§

National Guard gets the boot off Indigenous Reservation

The Tohono O'odham Nation's Pisinimo District council has banned armed National Guard observation teams from its land. On Nov. 16, the District council approved a resolution that forbids armed National Guard troops, assisting the Border Patrol under Operation Jump Start, from using its mountains as observation posts. The decision allows to the Guard to continue its support of the Border Patrol in other ways, including fixing fences and roads. According to tribal district officials, the Border Patrol has been notified of the decision. **The ban applies only to the Pisinimo district located on the Tohono O'odham Nation west of Tucson in an area known for drug trafficking and people smuggling.**

§§§§§§

INDIAN TREATIES: A CONSTITUTIONAL MYTH

BY PAUL R. JONES

This author has often seen in print and lectures recitation and assertion of the following Indian Industry Trilogy: 1. Justice Marshall's 19th century trilogy on Indian tribes 2. Treaties and, 3. Commerce Clause. The Indian Citizenship Act of 1924 made them all moot and deserving of little more than a historical footnote.

For whatever reasons, the general populace of the United States—in particular elected servants in the various States of the Union, Congress and President of the United States—seemly accept without question the notion the United States has treaties with Indian tribal enclaves at the same time ignoring the fact there are no more "Indians" within the meaning of the U.S. Constitution subsequent to the Indian Citizenship Act of 1924.

How is such an oversight perpetuated?

For this author, the answer is reduced to its simplest form: Constitutional illiteracy by elected servants. Furthermore, this 'illiteracy' is exacerbated by brilliantly crafted and executed Indian Industry advocate's propaganda. Propaganda—re-enforced with huge amounts of apparently un-regulated Indian gaming revenue pouring into federal, state and elected servant's coffers that primarily focuses on perpetuating the guilt of the "white man's treatment" against a select group of poor down-trodden lowly Indian dating from the 1600s.

Oops! Does that mean that notwithstanding all of the U.S. Constitutional protections guaranteed to every citizen of the United States, a select group of citizens with Indian ancestry still have treaties with its own central government?

Page 6

There in-lies the myth. Indians don't have such treaties according to the original understanding of the United States Constitution as there are no more Indians only Americans with Indian ancestry.

This author draws upon text below to amplify the fact the Constitution makes no provisions for a treaty or treaties or Executive Orders to be made or maintained with constituency of citizens of the United States let alone selected citizens with Indian ancestry:

Limited Government in Relation to The Constitution's Treaty Clause

(a) Treaties

The Constitution is the "supreme Law of the Land." It is controlling as to all officials of the three Branches of the Federal government--Executive, Legislative and Judicial--with regard to all of their pronouncements, actions, decisions, agreements and legislative Acts. Each of them is sworn, by oath of office, to support the Constitution only. To be valid, any treaty must be strictly in conformity to--free from any conflict with--the Constitution. A treaty is like a Federal law in this respect.

The Constitution is supreme over laws and treaties; it expressly states (Article VI, Section 2) that: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land . . ." This means that any such Law (Act of Congress) which violates the Constitution is automatically made null and void to start with--nullified by the Constitution itself--and therefore cannot be a part of the "supreme Law of the Land." This is also true as to treaties.

The only reason for the special language used in Article VI regarding Treaties was to make it cover those made previously, un-

der the Confederation (notably the Peace Treaty with Great Britain terminating the Revolutionary War), as well as future Treaties. Madison's official record of the Framing Convention's proceedings states that, upon his motion, there was inserted in the Treaty Clause the words "or which shall be made" following the words "all treaties made." Then his record states:

"This insertion was meant to obviate all doubt concerning the force of treaties pre-existing, by making the words 'all treaties made' to refer to them, as the words inserted would refer to future treaties." (In the original, the word pre-existing appears as pre-existing.) The words of Article VI: "under the Authority of the United States" were used regarding Treaties--instead of the words: "in Pursuance thereof" (referring to the Constitution) with regard to laws to be enacted thereafter by Congress--because the prior Treaties could not, of course, be said to have been entered into pursuant to the Constitution because they had been made before the Constitution was framed. The term "the United States" was intended to embrace both the new government and the one existing under the Articles of Confederation which had made the prior Treaties. The intent was that any and every agreement entered into by the new government, including new Treaties, should be pursuant--in conformity--to the Constitution because this government would possess no authority except that granted to it under this instrument. The fact that the above-mentioned, special language was used merely so as to embrace both past and future Treaties was noted, for example, in the 1825 book, A View of the Constitution of the United States of America (pages 59-60), written by William Rawle, a lawyer of Philadelphia

(Continued See Myth Page 7)

(Myth Continued From Page 6)

who was prominent during President Washington's Administration and was one of his appointees to Federal office.

In the "Camillus" essays--in defense of the Jay Treaty with Great Britain--published by Hamilton and written mostly by him (some by Rufus King, one of The Framers), Hamilton stated in number 37 that the Constitution itself gives ". . . The force of law to treaties, making them equal with the acts of Congress, the supreme law of the land, . . ." This necessarily means they are valid only if not in conflict with the Constitution, as Article VI expressly provides concerning Federal laws. This limitation on these laws (Acts of Congress) is discussed by Hamilton in *The Federalist*, number 33, as follows:

"Hence we perceive that the clause which declares the supremacy of the laws of the union, . . . Only declares a truth, which flows immediately and necessarily from the institution of a federal government. It will not, I presume, have escaped observation, that it expressly confines this supremacy to laws made pursuant to the constitution; which I mention merely as an instance of caution in the convention; since that limitation would have been to be understood, though it had not been expressed." (Emphasis per original.)

This is equally applicable to treaties.

In the Virginia Ratifying Convention, Patrick Henry voiced the fears of many when he took the position that the language of the Treaty Clause was not sufficiently clear in limiting Federal power with regard to treaties. Speaking in the light of his intimate knowledge of the intent of the Framing Convention, Madison refuted this contention, stating: "Does it follow, because this power is given to Congress, that it is absolute and

unlimited? I do not conceive that power is given to the President and Senate to dismember the empire [Union], or to alienate any great, essential right. I do not think the whole legislative authority have this power. The exercise of the power must be consistent with the object of the delegation . . . **The object of treaties is the regulation of intercourse with foreign nations, and is external.**"

The understanding of the Virginia Convention in this connection, in keeping with Madison's statement, was even more specifically expressed by member George Nicholas as follows: "They can, by this, make no treaty which shall be repugnant to the spirit of the Constitution, or inconsistent with the delegated powers. The treaties they make must be under the authority of the United States, to be within their province." The question of the Treaty Clause being limited by the Constitution as a whole was discussed in the United States House of Representatives on April 6, 1796 concerning the Jay Treaty (with Great Britain), when the point was made by Madison and other members that the record of debates with regard to ratification in the Pennsylvania, Virginia and North Carolina Conventions in 1787-1788 had made it clear that the understanding was "that the Treaty-making power was a limited power" (limited by the Constitution as a whole). **An especially interesting piece of evidence supporting the conclusion that the Treaty Clause was intended and understood by the Framing and Ratifying Conventions not to authorize the President and Senate, by a treaty, either (a) to override the Constitution, in whole or in part, or (b) to make domestic law (as distinguished from governance of relations with foreign governments), was**

provided by a statement by Jefferson--presumably reflecting at the time the prevailing opinion among governmental leaders also and especially leaders in Congress--in his 1801 *A Manual of Parliamentary Practice*. It was written by him as Vice President, while serving as the presiding officer of the Senate. It was reprinted in many editions in the following generations, being incorporated in full in the "Manual" of the Senate and in the "Manual" of the House of Representatives (as to the part applicable to the particular body in each case). Use of his Manual to some extent continues at the present writing. In this guide, Jefferson stated with regard to the Treaty Clause and power: [Section 52.] **"Treaties are legislative acts. A treaty is a law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation ...**

2. By the general power to make treaties, the Constitution must have intended to comprehend only those objects which are usually regulated by treaty, and cannot be otherwise regulated.

3. It must have meant to except out of these the rights reserved to the States; for surely the President and Senate cannot do by treaty what the whole Government is interdicted from doing in any way."

This brief review of even a small part of the pertinent, historical evidence is sufficient to make inescapable the conclusion that the Framing and Ratifying Conventions intended the Treaty Clause to be limited by the Constitution; that in order to be valid a treaty, like any Federal law (Act of Congress), must be in strict conformity to the Constitution, as amended. The pertinent evidence supporting this proposition is so

(Continued See Myth Page 8)

(Myth Continued From Page 7)

conclusive that not to accept it would mean (to use Jefferson's striking phraseology in another connection) that human reason must be surrendered as a vain and useless faculty, given to bewilder and not to guide us. The United States Supreme Court has repeatedly decided that the foregoing conclusion is correct, that the treaty-power under the Treaty Clause is limited by the Constitution as a whole; and the Court most recently confirmed this, upon full consideration, in the 1957 Reid case.

It merits repetition here, for emphasis, that--as observed earlier in this Part II--the Federal government was not intended by the Framing and Ratifying Conventions to be given under the Constitution any implied power of sovereignty, nor any power whatever other than as enumerated in this instrument. This applies, of course, to the Treaty Clause. Any pretense to the contrary violates historical truth. If such a pretense were sound, it would mean that the Federal government was meant to be a government not of definitely limited powers but, instead, of unlimited and indefinable powers; than which nothing could be more violative of the intent of the Framing and Ratifying Conventions.

(b) Executive Agreements Executive Agreements with foreign governments made by the President alone are, at the minimum, as limited as treaties insofar as concerns the President's power to enter into them being limited by the Constitution; that is, any such agreement must be in strict conformity to the Constitution in order to be valid. The previously quoted statement by Hamilton, in *The Federalist* number 33, about the supremacy of the Constitution over any Federal law being implied, even if it had not been made express in the Constitution, is as Page 8

applicable to Executive Agreements as it is to treaties. If they had had occasion to express themselves on the topic, The Framers and Adopters would unquestionably have stressed the strict limits under the Constitution upon any such power of the President alone, even more than with regard to treaties--as to which they required approval by the Senate. The grave danger inherent in allowing any single official, specifically the President, to have the sole power to make international agreements was discussed by Hamilton in *The Federalist* number 75. He stated, with regard to the power to make treaties: ". . . It would be utterly unsafe and improper to entrust that power to an elective magistrate of four years duration." After discussing in detail the weaknesses of human nature in government and the danger of excessive power to deal with foreign governments being given to one man occupying the Presidency, he continued:

"The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created and circumstanced, as would be a president of the United States."

Hamilton further commented that, though it would be "imprudent to confide in him solely so important a trust," his being joined with the Senate in this regard provides reasonably adequate protection of the public interest. The danger involved was highlighted in a statement by Madison (in a letter to Jefferson, 1798) as follows:

"The management of foreign relations appears to be the most susceptible of abuse of all the trusts committed to a Government,

because they can be concealed or disclosed, or disclosed in such parts and at such times as will best suit particular views . . . Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad."

This makes clear the reason why Executive Agreements, entered into with foreign governments by the President alone, are not only potentially dangerous in highest degree but undoubtedly violate the limits imposed by the Constitution upon the power of the Federal government whenever this device (an Executive Agreement) is used to bring into being any international agreement of a type which traditionally would have been considered to require a treaty to be entered into by the President with the advice and consent of the Senate. Under this principle, only Executive Agreements as to very minor matters would be exempted and permitted to the President alone. The danger involved in any one-man power to make agreements with foreign governments is all the more apparent in the light of this truth stated in Washington's Farewell Address (emphasis per original):

"Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens) the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of Republican Government." (Here "Republican" means that of a Republic.)

For the President to resort to an Executive Agreement in order to evade the Constitution's limits on his power in international dealings constitutes usurpation of power and is as offensive from the standpoint of the American philosophy and system of

(Continued See Myth Page 9)

(Myth Continued From Page 8)
constitutionally limited government as it is according to the principles of sound morality.

The foregoing discussion also makes clear the reasons why certain fallacious statements, which have sometimes been made by supposedly responsible sources, are utterly unsound. An example is the false pretense that a treaty completely and permanently binds the hands of Congress. The truth is that Congress has the power to revoke a treaty at any time, just as Congress has the power to annul one of its own enactments; because Federal laws and treaties are on a par in this respect. As the above-quoted statement by Jefferson notes, treaties are legislative acts; they are on a par with laws. **Another fallacious statement is that a treaty "can override the Constitution;" which defies historical truth, as we have seen. A related and most preposterous allegation is that a treaty "can cut across the rights given the people by the constitutional Bill of Rights"--than which nothing could be further from the truth, partly for two reasons: the Constitution does not authorize any such treaty and, secondly, the people are, of course, given their rights by God and not by themselves through their own creation: the Constitution (including its Bill of Rights, or Bill of Prohibitions, Amendments). The quoted statement is farcical.**

There is no limit to the madness which could be perpetrated by Federal officials in violation of the rights of their masters, the sovereign people, if there were any soundness in this monstrous doctrine--that the Treaty Clause gives these officials unlimited authority so to impose their Will, and even a system of tyrannous Government-over-Man, upon the people regardless of, indeed in Page 9

defiance of, the Constitution as a whole. So to contend is to deal in nonsense." Author makes special note in the above text of the fact the Founding Fathers did not incorporate or understand to make happen that the Treaty Clause would or could be used for domestic law making as follows:

1. "The object of treaties is the regulation of intercourse with foreign nations, and is external." And 2....."An especially interesting piece of evidence supporting the conclusion that the Treaty Clause was intended and understood by the Framing and Ratifying Conventions not to authorize the President and Senate, by a treaty, either (a) to override the Constitution, in whole or in part, or (b) to make domestic law (as distinguished from governance of relations with foreign governments),...." And 3. In this guide, Jefferson stated with regard to the Treaty Clause and power: [Section 52.] "Treaties are legislative acts. A treaty is a law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation . . .

2. By the general power to make treaties, the Constitution must have intended to comprehend only those objects which are usually regulated by treaty, and cannot be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the States; for surely the President and Senate cannot do by treaty what the whole Government is interdicted from doing in any way."

This author believe anyone who reads and understands the above text to now be versed in debunking any notion or argument presented

by the Indian Industry that Indian Treaties to be a myth and nothing more.

PARR Ed. Note: You folks in the ceded territory keep this article in mind when the (Treaty Rights Spearing) starts again in a few months) §§§§§§

Snippet

It's now official. The United Nations, the omniscient governing body of the world, has identified the real source of global warming. This culprit is responsible for turning a fifth of all pastures and ranges into deserts.

Unless drastic changes are made, the massive damage done by this source of global warming will more than double by 2050, according to the UN's 390-page report "Livestock's Long Shadow."

That's right. According to the UN, this official source of global warming is cows!

Please Note!!

I didn't put a membership renewal form in this newsletter because of space limitations.

Please watch the mail. Within the next two weeks you will receive a renewal notice, and it will contain a membership Renewal form.

A lady was picking through the frozen turkeys at the grocery store but she couldn't find one big enough for her family. She asked a stock boy, "Do these turkeys get any bigger?" The stock boy replied, "No ma'am, they're dead."

FAIR USE NOTICE: This newsletter contains copy-righted material, the use of which has not always been specifically authorized by the copyright owner. We are making such material available in our efforts to advance understanding of the political, human rights, economic, democratic, scientific, and social justice issues, including historical accuracy, as pertains to federal Indian policy/programs. We believe this constitutes a "fair use" of any such copy-righted material as provided for in section 107 of material on this site is distributed the US Copyright Law. In accordance with Title 17 U.S.C. Section 107, the without profit to those who have expressed a prior interest in receiving this information for research and educational purposes. Articles pro-vided here without permission from the copy-right owner are provided for the purposes of criticism, comment, scholar-ship and research under of the "fair use" provisions the Federal copyright laws. This material may not be distributed further without permission of the copy-right owner. except for "fair use".