

# RESERVATION REPORT

A Monthly Media Letter Regarding American Indian Policies

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## **INDIAN "POWER" - COURTS AND A PRESIDENT MAY GIVETH & TAKETH AWAY**

- In **Utah**, U.S. District Court Judge Bruce Jenkins has recently ruled that tribal courts have no controlling influence over county and town governments when it comes to tribal members who are hired and fired by non-tribal jurisdictions. The Utah decision was heartily welcomed by hundreds of local governments, on or near Indian reservations, which have long resented and resisted attempts by tribes to overrule or influence the decisions of non-Indian jurisdictions.

In **New York**, another U.S. District Court Judge, Thomas Platt, granted federal recognition to the Shinnecock tribe of Long Island and, in doing so, created a new class of tribes under "Federal Common Law" in addition to the traditional recognition processes either by BIA or by specific Congressional legislative action. However, the jurist did not order BIA recognition and, in fact, used as evidentiary authority, "State recognition," which, just recently was rejected by BIA and the Interior Department's Board of Indian Appeals in regard to the efforts of Connecticut's Schaghticoke & Eastern Pequot tribes. Judge Platt thus opens the door to any group of Indian claimants to bypass the formal federal Indian recognition process. Judge Platt's decision creates another problem: Common Law is based upon precedent, not statute, thus is subject to change.

In **Washington, D.C.**, President George W. Bush has approved Executive Order (EO) 13388 that appears, among other things, to allow tribal governments to access information about non-Indian and non-tribal American citizens under the expanded provisions of the Patriot Act. This is extremely worrisome to many since the Presidential EO presumably permits tribes which may have a grudge or vendetta, the right to scrutinize personnel files of American citizens even though reservation Indian tribes do not accept the disciplines of the U.S. Constitution or abide by U.S. law enforcement and America's legal system when it comes to reservation matters.

Mike and Cheryl Lynch (269-469-4663) of New Buffalo, Michigan, and representing a group called Citizens for Personal Responsibility (CPR), declared the Bush EO was an "outrageous" action. "American Indians have no more of a Constitutional right to access sensitive information than do any other ethnic or cultural leaders," CPR stated in a news release, November 8, '05. Their release continued: "Indian reservation inhabitants have made a conscious choice not to assimilate into America. It is reckless of the Bush Administration to grant tribal leaders jurisdiction beyond the narrow confines of cultural construct. Radical activists within 'Indian Country' now have unchecked power to take advantage of this new opportunity by viewing, maintaining or requesting information based upon motives that are more related to securing a homeland and resources for themselves rather than securing America's homeland."

However, Dick Talcott, long associated with New York's Upstate Citizens for Equality organization, especially as non-tribal citizens are impacted by Indian issues, commented: "I agree that the tribes should not be involved with the Patriot Act but this is another alligator that I personally wouldn't waste my time on." He said some of the principal tribes, such as the Oneida of northern New York, already have deputy-role compacts with off-reservation, non-Indian police and access to FBI files through State Police computer systems. Many others said the EO was a clear threat to the privacy and security of all non-Indians.

**FEDERAL JUDGE UPSETS NY COUNTY’S FORECLOSURE OF INDIAN PROPERTY – U.S. District Judge David Hurd has challenged the Supreme Court’s recent finding that towns or counties that have not received due payment of property taxes from Indian tribes for Indian-owned but non-reservation property, may foreclose just as they might regarding any non-Indian property owner in default of taxes. Judge Hurd ruled in late October that Madison County, New York, may fine and seek to collect back taxes but NOT foreclose on land owned by the Oneida Indian Tribe, contending that the Tribe’s ‘sovereignty’ prevailed. “The seizing of land owned by a sovereign nation strikes directly at the very heart of that nation’s sovereignty,” he declared. The County reports the Oneida owe it three million dollars in back taxes on 98 pieces of property. Rocco DeVeronica, Chairman of the Madison Board of Supervisors, asked after the Hurd decision was announced: “How do you get taxes if you can’t foreclose?” The County is appealing Hurd’s decision to the Second U.S. Circuit Court of Appeals.**

### **Judge Hurd's Oneida Land Foreclosure Ruling**

Scott Peterman ([Peterman@twcnv.rr.com](mailto:Peterman@twcnv.rr.com)), a former President of the powerful New York property owners’ organization, Upstate Citizens for Equality, responded to Judge Hurd’s decision with the strong suggestion that the jurist showed a bias or a regrettably limited understanding of federal Indian law in reaching this latest conclusion.

Peterman asserted: “The U.S. Supreme Court made it abundantly clear in its” recent ruling for the NY town of “Sherrill...that the tribe could not reacquire land and render that land sovereign Indian land by simply purchasing it on the open market. (Judge) Hurd obviously missed that little detail when he read the decision. Undaunted, Hurd erroneously concludes that since the Oneidas are “reacquiring” sovereign Indian lands, the Trade & Intercourse Act prevents foreclosure on those lands since the act of purchasing those lands on the open market by the tribe somehow miraculously renders those lands ‘inalienable Indian country.’ If this were true, the Oneidas would not be attempting to have those lands placed into federal trust. Indeed, if this were true the Oneidas would have won their case against the City of Sherrill.

“Hurd concludes, offering no legal precedent or reasoning whatsoever, that simply because the lands are taxable, it does not follow that they should be subject to ‘such a drastic remedy’ as foreclosure. He states, ‘There is a vast difference between requiring real property owned by a sovereign nation to be taxed and to comply with local zoning and land use regulations, and allowing ownership of real property to be seized from that sovereign nation.’ ...Hurd holds no such reverence for state sovereignty when the tribe is seizing sovereign state land by simply purchasing it on the open market.... (T)he tribe can avoid the ‘drastic remedy’ by simply paying the taxes that Hurd clearly concedes the tribe owes the county.

“Finally, one should rightly ask, ‘Why does a ‘sovereign nation’ have to pay county taxes and comply with state laws, apparently that is, according to Hurd, all state laws except foreclosure? Hurd’s ruling is...poorly reasoned...and the only particle of...(fact)...in it is his correct prediction that it is ‘obviously not the last word.’ It is, however, obviously the worst word we shall see in this issue. It will obviously be appealed, and should be overturned.”

**All previous editions, from 10/01 to the present, of Reservation Report  
may be found online at the website  
[www.TheCommunityForum.com](http://www.TheCommunityForum.com)**

## PAGE 3 – RESERVATION REPORT

**NEW STRATEGIES PLANNED SAYS NEW NCAI PRESIDENT JOE GARCIA – Shortly after winning the vote of the National Congress of American Indians in Tulsa, November 3, Governor Garcia of the San Juan Pueblo tribe in New Mexico, declared “We already have some strategies and in the next month Indian Country will have a document that lays out those strategies.”** We have seen no elaboration of this statement.

Garcia defeated Harold Frazier, chairman of the Cheyenne River Sioux tribe in South Dakota and Principal Chief Jim Gray of the Osage Nation in the Indian Congress voting at the annual meeting of the national association of tribal leaders. Other officers elected are Jefferson Keel, Lieutenant Governor of Oklahoma’s Chickasaw Nation as First Vice President; Juana Majel-Dixon of the Pauma Band of Mission Indians in California to serve another term as Recording Secretary; and, W. Ron Allen, chairman of the Jamestown S’Klallam tribe of Washington State who was re-elected Treasurer.

**SOME HAWAIIAN ACTIVISTS DON’T WANT TO BE TREATED LIKE AMERICANS – Some of the rest of us might rightly call it treason. Not that it seems to matter to anyone in Congress, the White House or the Hawaiian Governor’s Office, but an entire agency of state government – the Office of Hawaiian Affairs (OHA) - funded by the taxpayers of Hawaii and the entire U.S.A., now regularly advocates a propaganda line that, in most of the 20<sup>th</sup> Century might have led the perpetrators to be called “perpetrators.”**

So indicates Elaine Willman ([Toppin@aol.com](mailto:Toppin@aol.com)), chair of CERA (Citizens Equal Rights Alliance), after reading the latest monthly edition of the tabloid publication of OHA, *Ka Wai Ola*. OHA has long promoted separatism for the State’s native population or anyone with an identifiable “drop of Hawaiian blood.” In urging that natives be given tribal and independent status, with an editorial message bordering on secession, OHA displays great and uncritical enthusiasm for the allegations published in a Letter to the Editor complaining that the United States should grant the same sovereignty to Hawaiian natives that it proposes for Iraq’s long and cruelly oppressed but now, thanks to U.S. intervention, newly liberated people.

Needless to say, OHA does not bother to remind its readers that under the U.S. Constitution, all of America’s 50 states and territories, and all citizens, enjoy human and civil rights and freedoms which, since 1789 have been the envy of most of the world. Anyone at OHA who suggests otherwise, unless out of utter and deplorable ignorance, is being deceitful.

After reciting questionable Hawaiian history of a century or more ago and describing the U.S. back then as an “insatiable beast,” the OHA prime letter-writer of the month, states: “I think it is past due to demand now that President Bush reinstate our sovereignty, free Hawai’i as well as immediately initiate a de-occupation of our islands. This would be a step in the right direction. Although the thought of war here is unpleasant, I really think there are no other options. The United States’ continued stealing is like the *Energizer rabbit* that keeps going (taking), and going (taking) and going (taking).”

Then this letter writer, Debra Kekaulua of Kuau’i island declares, with seemingly sublime indifference to facts - “The concept is a simple one: further association with and occupation by the U.S. is absolutely not what I believe Hawaiians need to be looking at to fulfill their dreams. After all, should that table ever be turned, ‘putting all Hawaiian lands in Hawaiian hands,’ it would make Hawaiians the wealthiest indigenous people on earth. Why would we want it to be any other way (for instance being categorized like Indians or Native Alaskans) when, if the cards are played properly, we could have our cake and eat it too?”

Poor Debra’s hatreds and biases may require baking a lot of cakes before eating ensues.

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*(Note to Editors: The following item is not a repetitious version of the previous one on Page 3 of this issue. It is simply a further critical insight from a different perspective about Hawaii's "natives" seeking to separate from their state and nation. This insight is of potentially vital strategic importance to America's national security.)*

**“OUR ENEMY,” SAY SOME HAWAIIAN NATIVES, ARE U.S. PACIFIC DEFENDERS -** Perhaps never in the course of America's history as a democratic republic has a state agency, funded by federal and state taxpayers, been allowed to perform as the lead propaganda force to separate a state's native population and their lands from their state and nation. The Office of Hawaiian Affairs (OHA) is seeking to divorce a potential “Native Hawaiian” tribe and their “tribal territories,” from the United States of America and the protections of its Constitution, Bill of Rights, justice and legal systems, law enforcement and present tax levies.

**INSIGHT** - Honolulu attorney and civic leader H. William Burgess ([hwburgess@hawaii.rr.com](mailto:hwburgess@hawaii.rr.com)), in a recent letter to the *Seattle Post-Intelligencer* regarding Native American Indians wrestling with tribal purity and competitive, off-reservation, casino concerns, notes that Senator Akaka's S. 147 and its companion bill H.R. 309, would recognize any American, anywhere (an estimated 400,000 U.S. citizens) who had a 'single drop' of Native Hawaiian blood, as a member of the proposed Hawaiian tribe. Burgess writes that if the Akaka bill becomes law, it will not only create the largest Native tribe in the U.S. but “will lead to all the 15 million or more persons in the U.S. having some discernible amount of Indian ancestry becoming eligible to create their own separate sovereign 'tribal' governments and thousands of new Indian casinos will follow.”

In reality, it is U.S. Pacific Defenses which may be jeopardized by OHA as it leads this divisive campaign at a time and place when and where it appears surrounding Pacific waters may soon become the most sensitive region of the world as far as America's future security and defense capability is concerned. What initially seemed like little more than “native” activists in the islands hoping to get a tribal status similar, if not quite identical, to American Indians and possibly, someday, achieve the money-making *Nirvana paradise* of obtaining a federal gambling license with tax-exempt profits, now has developed into something far more serious – a drive for secession and independence with control of a majority of the land and property in the island state.

Americans, who carefully monitor international affairs, especially Pacific region sensitive points, and who are quite aware of the strengths and vulnerabilities of U.S. defenses and strategies looming for the rest of the 21<sup>st</sup> Century throughout the Pacific Basin world, have every reason to be deeply concerned with the OHA-Akaka legislative campaign for Hawaiian native separatism. **As military and strategic affairs writer, Robert D. Kaplan, noted recently in a lengthy Atlantic magazine article, there is every evidence that the United States is on the verge of being challenged by China for dominance of the seas and outposts that stretch from America's West Coast and Alaska to the Korean Peninsula and Pacific Rim down to Australia and New Zealand...even through the Mallacca Straits to Singapore.**

**On a tour of U.S. naval, air and missile bases in Pacific waters Kaplan found that the U.S. Pacific Command (PACOM) is gearing up for what is foreseen as the likely 'Cold War' (at best) or hotter struggle (at worst) for the coming decades of the 21<sup>st</sup> Century.**

**Native tribalism and secessionist moves in our 50<sup>th</sup> State ought not be tolerated longer - a fact that should be made clear to OHA and that Office's Congressional advocates who really must know better and not have to be told.**

## PAGE 5 – RESERVATION REPORT

### **IS FEC ALLOWING ILLEGAL TRIBAL POLITICAL CAMPAIGN CONTRIBUTIONS?**

– The answer to this question, ever since campaign finance “reform” was enacted and the Federal Election Commission, in 2000, bent the rules for Native American Indian tribes, is an unequivocal “Yes!” *Lakeland Times* (Wisconsin) writer Richard Moore, noting how the Forest County Potawatomi tribe has just announced it is budgeting \$7.2-million for the 2006 elections in the Badger State, reports that since 1999, tribes across the nation have splashed around \$23.6 million to federal campaigns and, most likely, a great deal more in state and local election contests not subject to FEC monitoring.

Reservation Report, not long after FEC lifted the bar to exempt Indian tribes from aggregate contribution limits - a privilege accorded NO other ethnic, corporate or individual entity or group in the U.S. – publicized the admission by Senator John McCain in a Boston media interview that the legislation he co-sponsored was flawed in failing to provide the FEC with guideline limits on what Indian tribes could contribute to political campaigns and candidates.

As clearly manifested in California’s tempestuous elections in the past several years, Indian tribes, with revenue-rich casinos, are able to dump sometimes seemingly obscene amounts of unrestricted cash into political coffers that have the heft for buying victory for certain candidates.

In his early November, well researched, examination for the twice weekly newspaper and online website from Minoqua, WI, Moore declared that citizen opposition to the special campaign privilege granted Indians is mounting rapidly. “The heart of the critics’ argument is simple and straightforward,” he wrote, “-- because of their tax-exempt status, it is illegal for tribes to funnel gaming revenues into political campaigns.” Furthermore, tribes insist they are independent and “sovereign” and thus are officially categorized as having the same status as foreign governments. Internal Revenue Tax Codes and federal statutes forbid tax-exempt organizations and foreign governments from providing political contributions in American elections.

While the FEC tends to treat tribes as individuals, it has refused to impose on tribes the stipulated limit of \$25,000 that an individual may spend on political campaigns in any single election year. Thus, Indians now circumvent the restrictions, which were designed by campaign finance “reformers” to apply to ‘ALL’ citizens of our democratic republic. ‘ALL,’ conveniently, in FEC’s purview, does not include America’s 560-plus (a growing number) federally designated Indian tribes.

A further FEC abuse of campaign finance reform was the virtual waiver the agency granted the Oneida tribe (and presumably all others) writes Moore, to the restrictions on using gambling revenue directly into political campaigns. In reality, most Indian contributions have come from the gaming profits but FEC says they consider those funds to be tribal contributions from “general treasury funds.” The FEC has accomplished something akin to self-mutilation of its own ability to monitor its responsibility over three substantial areas of America’s elections: public disclosure, contribution restrictions, and public financing of the Presidential Election.

Six un-elected FEC Commissioners now ensure that tribal governments and casinos remain the unlimited ‘candy store’ for America’s political process. That’s democracy betrayed!

**BIA REJECTION: LOST MISSISQUOI ABENAKI TRIBE CLAIMS NOT VERIFIED – A group of claimed descendants of the Abenaki, who once thrived as a tribe in northwest Vermont and southern Quebec Province between 1600 and 1800, have been unable to show any signs of continuous existence as a tribe since 1900, have not demonstrated evidence they are true descendants and have not even been part of a continuous community. The claimants now have six months to seek further proof of their validity before BIA issues its final declaration on their request.**

## **PAGE 6 – RESERVATION REPORT**

**IN MASS., A.G. TAKES BIG GAMING GIFT FOR 2006 RUN FOR GOVERNOR** - Tom Reilly reportedly deposited eight handsome contributions toward next year's campaign from people connected to the family that owns the Raynham-Taunton Greyhound Park one week before the State Senate approved legislation allowing the race track to also install 2,000 slot machines.

Massachusetts' Republicans, including Governor Mitt Romney think the Democrat Attorney General should return the Greyhound Park money because of the appearance of impropriety in accepting such transactions when the Legislature is pushing through such a controversial gambling measure.

Technically, the State's Attorney General does not monitor gambling. Bay State Democrats shrugged off the GOP criticism, contending that Governor Romney once campaigned for a proposed Native American Indian gaming casino so GOP complaints against Reilly are hypocritically-inspired by Romney's efforts to enlist conservative support for a Presidential nomination run in 2008.

**ARKANSAS LAWMAKERS SHUN INDIAN PITCH BUT APPROVE MORE GAMING** - Over a lobbyist-historian's plea to allow formal recognition of the State's Indian tribe(s) and any historically important culture(s), the Arkansas Legislature summarily rejected the proposal. Legislative leaders said they feared such a move would open the door for federal recognition of likely Indian aspirations for federal and state tax exemptions and lead to licensing of an Indian gambling casino. In the same session, this year, the legislators approved the addition of electronic gaming at Arkansas' Oaklawn thoroughbred horse racing track in Hot Springs and the West Memphis dog-racing operation, Southland Greyhound Track.

**TWO CALIF. COUNTIES VOTE "NO!" ON CASINOS; 2 OHIO COUNTIES: "YES!"** – In the November voting, Amador and Yuba counties in California rejected referenda for allowing landless Indian tribes to build casinos within their borders. But in two small towns of Ohio – Monroe and Lordstown - hungry for increased business activity and jobs, voted overwhelmingly in favor of allowing Indian gambling to set up shop in their jurisdictions. Monroe straddles two counties – Butler and Warren. Lordstown is in Trumbull County.

**U.S. 9TH CIRCUIT APPEALS COURT: HELP SALMON, NOT KLAMATH FARMERS!**  
– Once again, Klamath Valley farmers are getting the short end of the proverbial stick. The eager environmental activists who often dominate the deliberations of the Ninth Circuit, ruled yet again, this October, that guaranteeing plentiful supplies of water for the Coho salmon fishery was the priority required to favor the area's Indian tribes and the Pacific Coast Federation of Fishermen's Associations. The ruling came in a challenge to a federal Bureau of Reclamation and National Marine Fisheries Service decision to guarantee only 57 percent of the water deemed by some to be needed by the Coho. The federal agencies hoped, in this way, to assure sufficient irrigation water for Klamath farms while balancing the needs of Indian tribes and fish in harmony with the H2O supply. Now the case has been remanded for injunctive relief by the lower court, which had decided in the farmers' favor.

Not many Americans know, any more, that a lot of those who farm around the Klamath River watershed are descended from pioneer farmers purposely sent to the Oregon-California border area in the final decades of the 19<sup>th</sup> Century and earliest years of the 20<sup>th</sup> and given federally authorized allotments of land where they were mandated to raise grains and other basic foods desperately needed to feed a then Gold Rush-inflated, but non-farming, population of California.

## **PAGE 7 – RESERVATION REPORT Special: Upholding The Oath of Office**

### **A Worrisome Concern With Respect to Federal Indian Policy: The Constitutionally Required Oath of Office is Often Ignored by Lawmakers**

**By John A. Fleming\***

*As we start looking at candidates for public office or try to decide whether we should keep or replace currently elected officials in the upcoming 2006 election year, please add the issues of the Oath of Office and the Public Trust to the criteria for measuring the worth of those we are considering for such offices. These two criteria have been found as major failure points with a majority of elected officials responsible for Federal Indian Programs.*

#### **Concerning Government Service**

Our U. S. Constitution requires members of the U. S. Senate & House of Representatives, as well as the members of the several State legislatures, and all executive and judicial officers of the United States and of the several States, to be bound by oath or affirmation, to support this Constitution. Many other governmental jobs, at all levels government, require a similar oath of office requiring the incumbent to support the Constitution and their particular State Constitution. This requirement is found in Article VI, clause c, of the Constitution. Our questions are: Is this requirement being properly observed and upheld?...and, if not...Why not?

The term Public Trust is used to denote the responsibility added to public service by virtue of the Constitutional requirement, and, where applicable, employer required, oath of office obligating the incumbent of such a position to support the federal or state constitution involved and the special relationship between citizens and their governments. This responsibility requires such officers and employees to place loyalty to the Constitution, the laws and ethical principles that exclude private gain and other activities repugnant to the Constitution, and of course, to any state constitution that may be pertinent. These requirements are designed to ensure that all citizens can have confidence in the integrity of those who, elected or appointed, serve the Federal Government or state and local governments. Again our questions are: Is this requirement failing?...and, if so...Why?

With respect to what may be described as the American Indian Dilemma, here is a short list of unconstitutional end results of federal Indian programs that demonstrate what a majority of Senators and Representatives can do over decades, by passing laws that were the first basic laws and subsequent laws permitting some unconstitutional end results to take place. Needless to say these examples start giving us the answers to part of the above questions—in the positive. Unconstitutional end results of federal Indian programs include:

(1) Allowing certain Indian tribes to both tax and governmentally regulate citizens residing within, or managing businesses within, original or former exterior boundaries of Indian reservations. This is a violation of Article IV, section 4, of the U. S. Constitution. Tribal governments are not republican in Form.

(2) The U. S. Government specifically, and to the exclusion of all other religions, protects and supports Indian religion for Native American and Alaskan Indians, through the authority of Public Law 95-341, 95<sup>th</sup> Congress, approved August 11, 1978, and other federal actions. This violates the First Amendment of our Constitution.

(3) The U. S. Government is specifically, and to the exclusion of all other cultures, protecting and supporting the enhancement of Indian culture for Native American & Alaskan Indians through the authority of the Concurrent Resolution (100<sup>th</sup> Congress 2<sup>cd</sup> Session, H. Con. Res. 331) and other federal action.

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### **Special: On Upholding The Oath of Office (Continued from Page 7)**

This legal recognition of a special status for a specific class of citizens violates the equal protection clause of our Constitution to begin with.

(4) Since the 1924 Indian Citizenship Act, the U. S. Government has owned and/or held in trust, lands for the use of certain American citizens of certain American Indian descent. Since 1924, the federal land acquisition for Indian tribes, including Alaskan Indians, has escalated exponentially over the years. There is a distinct absence in our Constitution and other early documents of our history, of any power being delegated to the federal government to own, and hold in trust, any lands for the use of any target-specific, subdividing, classification (such as ethnic, racial, political, etc.) of our citizenry.

(5) The U. S. Government is specifically, and to the exclusion of all other ethnic, racial and political groups, providing special protection to American citizens of Indian descent, and their tribes. The U.S. Government acts as a guardian protecting its wards, through what the federal government has conceived, fabricated and follows as a trust doctrine. In truth there is a complete lack of delegated power and authority or even a hint of such delegation, from the several states to the federal government through the Constitution and or the Articles of Confederation. It is federal fabrication without Constitutional authority. The assumption that the old royal sovereign duty called *parens patriae*, indeed operational under King George III, was somehow passed on in the Common Law to the colonies or to the several states through the treaty with King George III, is both absurd and false. In very simple terms those oath-pledging officials who voted for federal Indian programs, initially and since the original bills, have caused these unconstitutional end results and are in violation of their oaths of office. They have, indeed, failed to live up to the public trust which is incumbent in their jobs. Their names are still in the records and those who are still alive need to be held accountable for their trespass over the rights of all U.S. citizens - rights burdened by the failure of some to comply with their oaths of office and public trust.

The most heinous and current example of Congressional oath-takers violating their oaths of office and the public trust are found in the newly submitted U.S. Senate Bill.578 and House Bill 2242. Both bills are the same and are Tribal Government Amendments to the Homeland Security Act of 2002. The sponsors of the bills - four Senators and, as this is written, twenty-eight House members - are clearly trying to make Federally Recognized Tribes equal to State Governments and, thus, be treated as legitimate entities to the federal government... all without Constitutional authority to do so. Although each part of these bills contain unconstitutional requests, the following section, found in both bills, is the most frightening to the concerned citizen:

**"SEC. 13. CONGRESSIONAL AFFIRMATION AND DECLARATION OF TRIBAL GOVERNMENT AUTHORITIES.** (a) IN GENERAL- For the purpose of this Act, Congress affirms and declares that the inherent sovereign authority of an Indian tribal government includes the authority to enforce and adjudicate violations of applicable criminal, civil, and regulatory laws committed by any person on land under the jurisdiction of the Indian tribal government, except as expressly and clearly limited by--(1) a treaty between the United States and an Indian tribe; or (2) an Act of Congress. (b) SCOPE- The authority of an Indian tribal government described in subsection (a) shall-- (1) be concurrent with the authority of the United States; and (2) extend to--(A) all places and persons within the Indian country (as defined in section 1151 of title 18, United States Code) under the concurrent jurisdiction of the United States and the Indian tribal government; and (B) any person, activity, or event having sufficient contacts with that land, or with a member of the Indian tribal government, to ensure protection of due process rights."

**(Special Continued on Page 9)**

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### **Special: Upholding The Oath of Office (Continued from Page 8)**

The sponsors of these bills are without question overlooking their oaths of office and making a mockery of the public trust. The State of Washington presents us with one of the best examples of oath takers violating their oaths and the public trust through the state legislatures acceptance and dealing with proposed legislation to make tribal police equal in authority with all state and local police officers. Several lawmakers in the Washington State Legislature, in advocating approval of House Bill 1936, the Tribal Law Enforcement Act, seem to be acting more like law-breakers, when it comes to upholding their Oath of Office. Increasingly, their behavior is duplicated in state assemblies, city councils and county supervisor or commission governments throughout the nation. This bill appears to be loaded with incorrect statements, unconstitutional baggage and is in direct conflict with the law of the land.

#### **Here is a sample of one of the sections proposed.**

NEW SECTION. Sec. The legislature finds a need for tribal law enforcement officers to exercise the laws of the state of Washington over non-Indian persons while those persons are on tribal lands or reservations to efficiently deal with criminal activities conducted by those who would threaten the peace and safety of Indian communities through their actions. The legislature further finds that allowing tribal law enforcement officers to exercise such limited powers over non-Indian persons in Indian country, as defined by federal law, is necessary to protect all Washington citizens through the equal application of the laws of tribal governments and the laws of the state of Washington. The legislature intends to balance the common interests of the state of Washington and tribal governments to provide basic police services in the effort to maintain peace and social order, and provide for the more efficient use of available resources by agencies responding to crimes and incidents that occur in Indian country.

The four representatives sponsoring this bill are attempting to get the Washington State Legislature to pass a bill, which, if enacted, would produce legislation that would lead to unconstitutional end results and conflict with the law of the land. There could be no more positive evidence of the fact that, in this bill proposal, these elected officials violated their oaths of office and seemingly ignored their public trust duty.

#### **Concerning Political Parties**

There is one more playing field involved here. It is the responsibility of political parties and their elected or appointed officers that take oaths of office and have a public trust duty at local, state and national levels. Concerning the American Indian Dilemma, the best example of both parties violating their oaths of office and their public trust, is demonstrated in the above noted examples of unconstitutional end results of Federal Indian Programs both parties voted in and continued to support. Their participation in supporting or condemning actions that ultimately result in unconstitutional distortions of our Federal Indian Program, bring into question the political parties understanding of the Oath of Office and Public Trust obligations.

**Conclusion:** As to the questions raised in the **Concerning Government Services** section above, it appears to this writer that both the Oaths of Office and Public Trust duties are not being met when it comes to considering the American Indian Dilemma. As to what to do about it, one may only hope that the American people carefully read and learn all you can about these matters, and join groups that are willing to hold our elected and appointed leaders accountable for their misconduct in this matter. Too many of our elected officials have too long trespassed upon our individual Constitutional rights.

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**CITIZENS EQUAL RIGHTS ALLIANCE ISSUES FIRST Bi-MONTHLY REPORT – A November-December 2005 “Member Update” newsletter, entitled “CERA Report,” was published in Gresham, WI, in late October for the benefit of the national civic group’s members. The initial issue contained a general report on CERA by Elaine Willman of Washington State and CERA’s chairman, plus an article by a longtime civic leader and critic of federal Indian policy matters, Howard Hanson of Minnesota, who reported on the Washington, D.C. Abramoff political lobbying scandal that may have fleeced Indian tribes of some \$82-million and has clearly damaged the ethical image of the Bush Administration as well as the reputations of many Democrat and Republican lawmakers who have accepted large campaign contributions from Indian tribes with gambling casinos.**

Hanson also addresses a projected new Bureau of Indian Affairs attempt to enable Native American Indian tribes to put fee land in trust which would thus remove fee lands from the tax rolls and impose a further tax burden on non-Indian American citizens throughout the nation.

The new and expanded Board of CERA was announced after a recent business meeting. Board members are Judy Bachman, Vernon, NY; Naomi Brummond, Pender, NE; Butch Crawford, Plymouth, CA; Donna Fitz, Mille Lacs County, MN; Faron Iron, Garryowen, MT; Hanson of Hopkins, MN; Carol Kelly, Plymouth, MA; Chris Kortlander, Garryowen, MT; Joel Lamplot, Thurston County, NE; Charlotte Mitchell, Jemez Pueblo, NM; Jim Petik, Keldron, SD; G. Ben Saucerman, Phoenix, AZ; Scott Seaborne, Neenah, WI; Richard Tallcot, Union Springs, NY; Jerry Titus, Little Valley, NY; Dennis Williams, Ft. Defiance, AZ; and Willman of Toppenish, WA. **CERA’s annual conference will, per usual, be held in Washington, D.C., at Holiday Inn Central (1501 Rhode Island Avenue NW) April 30-May 4, 2006.**

**HOW MUCH MONEY IS INVOLVED IN CASINO DEVELOPMENT? A LOT! –** As the Seminole Tribe in Florida negotiates with the Cordish Corp. development company, based in Baltimore, to buy out its contract with the firm that developed the Seminoles lucrative Hard Rock casinos, the public may get a glimpse of the magnitude of the earnings and profits realized.

According to tribal counsel Jim Shore, in response to inquiries from reporter John Holland of the South Florida Sun-Sentinel, while the tribe agrees the initial contract with Cordish was fair, “there was no way to predict, in advance, the huge success” of the gambling enterprise. Thus, “the Tribe believes that a buyout is now in the best economic interest of the Tribe and its members.” Holland adds: Under that contract, Cordish will receive “30 percent of net hotel and gaming profits, expected to reach more than \$400 million this year, according to the tribe and financial records.” Cordish would make approximately \$120 million per year “under the 10-year contract, or \$1.2 billion.” **Problems facing the Seminoles, however, include critical IRS scrutiny, a Donald Trump lawsuit and an audit now underway by the National Indian Gaming Commission, regarding the tribe’s spending in 2004 and 2005 because tribal leaders are said to have “spent tens of millions of dollars” on luxury cars and trips for themselves, family and friends” instead of, as required, “on projects that benefit the welfare of all members.”** Ah, how annoying can be the sweet (and sour) rewards of success!

**TO RECIPIENT EDITORS, COLUMNISTS & TALK SHOW HOSTS: *Reservation Report* is a monthly news alert service regarding U.S. federal Indian policies and reservation matters affecting the lives and welfare of Indian and non-Indian residents and businesses, situated on or near reservations. The RESERVATION REPORT Executive and Coordinating Editor is John Fulton Lewis of Reedville, VA. E-mail: [nccomm@crosslink.net](mailto:nccomm@crosslink.net)**