

THE STATE OF THE RELATIONSHIP A TRIBAL PERSPECTIVE

By

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My name is Edward Lone Fight, Chairman of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation. I am honored to represent the original inhabitants of this state on behalf of Carl McKay, Chairman of the Fort Totten Sioux Tribe; Twila Martin-Kekahbah, Chairperson of the Turtle Mountain Chippewa Tribe; Charles Murphy, Chairman of the Standing Rock Sioux Tribe; and, the Mandan, Hidatsa, and Arikara Tribes of the Fort Berthold Indian Reservation. I thank the North Dakota state legislature and my co leagues for the opportunity to present the following testimony.

The Indian tribes in North Dakota face many of the same kinds of problems and challenges that confront the North Dakota State Legislature. For example, both the Indian tribes and the State of North Dakota desire to improve the economic conditions of their reservations and state. However, the economic conditions on North Dakota's Indian reservations may never improve if the reservations appear as constant battlegrounds over jurisdictional disputes with the state of North Dakota.

It must be recognized under prevailing federal Indian law that Indian tribes are vested with the attributes of sovereignty. The State of North Dakota must recognize that Indian tribes have civil regulatory jurisdiction in the areas of hunting and fishing, taxation, business licensing, liquor regulation, and in gaming activities. These are some of the areas where the Indian tribes can expect to improve the impoverished conditions that exist within their respective reservations. Yet, whenever Indian tribes attempt to exercise their sovereign authority, the Indian tribes are faced with direct opposition from the State of North Dakota. If there is one message in my presentation that I want unequivocally expressed, it is the recognition for both the state and tribal governments to professionally relate to each other as one government to another government.

In light of the poor economic conditions that exist on North Dakota's Indian reservations, one means of combatting this problem is through the education of our young people. Indian education, today, remains a great concern to Indian leaders. The goals of educating our American Indian students are an area of crucial concern which must be developed and strengthen. The statistics prove that the drop-out rate for American Indian students is among the highest in the nation. Yet, given these factual circumstances, the North Dakota State Legislature is contemplating the termination of the entire budget on state foundation aid to secondary Indian schools. The North Dakota Indian leaders urge the repeal of the North Dakota Century Code provisions which prohibit the funding to secondary Indian schools that presently receive federal funding.

There are many examples in other states where the states and the Indian tribes have worked cooperatively together to achieve major economic gains.

For example, in the Northwest and Southwest, the Indian tribes and the states have worked successfully together to obtain power plants and for the development of fisheries, with both tribal and state officials comprising the boards that oversee these major economic developments. These states and other Indian tribes are generating millions of dollars each year from these enterprises. Yet, In North Dakota, the Indian tribes and the state are still fighting basic jurisdictional wars.

It is imperative that the Indian tribes and the State of North Dakota work closer together to forge a future that will meet the needs of our children, while maintaining the integrity and strong sense of community and family values which have proven to be the strength of all North Dakotans. Presently, many of our young professional people, both Indian and non-Indian alike, are leaving this state in vast numbers in the

hopes of seeking economic opportunities elsewhere. The time has arrived for the North Dakota Legislature, state agencies, and the tribal governing bodies to work cooperatively together for the creation of an economic environment which is conducive to business and reservation needs, and which will offer jobs and opportunities for our young people.

There is an absolute need for mutual cooperation between the State of North Dakota and the Indian tribes. For example, there exists an area of mutual concern for both the State of North Dakota and the Indian tribes, which will ultimately prove beneficial to both sovereigns. The North Dakota State Democratic convention, held in 1988, formally endorsed as part of its party platform, the transfer of the excess shoreline from the federal government to state and tribal ownership. The State of North Dakota and the affected Indian tribes should mutually join together in an effort to request the return of the shoreline within their respective boundaries. The return of these excess lands to the Indian tribes and the State of North Dakota would improve the economic conditions of the two sovereigns, especially in the area of recreational development. There should, and there must be, a joint lobbying effort in order for this goal to be achieved.

The time has come for the North Dakota state legislators to put to rest their imagined fears of Indian people and tribal governments. It took approximately two years for the Three Affiliated Tribes to convince the North Dakota State Legislature to pass a temporary full faith and credit statute. The full faith and credit legislation was much needed to resolve the practical legal problems of both Indians and non-Indians alike, and in preserving the sanctity of the courts. During this legislative assembly, it is incumbent upon the North Dakota State Legislature to make the full faith and credit legislation become a permanent part of the laws of the State of North Dakota.

The economic conditions that exist on North Dakota's Indian reservations shock the conscience. The unemployment rates range anywhere from 60 percent to as high as 80 percent. These present conditions far exceed the conditions that existed when our nation underwent the great depression of the 1930s. Yet, whenever Indian tribes attempt to improve their economic conditions, the Indian tribes are oftentimes met with forced opposition from the State of North Dakota; whether it's in the area of hunting and fishing, taxation, or Indian gaming activities.

There exists a potential for the Indian tribes and the state of North Dakota to enter into a compact for a tax revenue-sharing agreement. A tax revenue-sharing agreement would provide additional revenues for both the Indian tribes and the State of North Dakota. Here would be a good example of the Indian tribes and the State of North Dakota working cooperatively together. The North Dakota legislators and the tribal leaders have a common goal to enhance the economic conditions of North Dakota and to provide a better life for our citizens, both Indian and non-Indian alike. The time has come for the North Dakota state legislators and the Indian leaders to being an open dialogue for understanding and to build a viable working relationship which will result in the strengthening of the entire State of North Dakota.

Furthermore, there is much room for necessary improvement in the provision of health care to the Indian people on the reservations in this state. The tribes are compelled to rely exclusively on federal funding in the crucial area of health care services, which federal financial assistance has typically experienced significant reductions over the years. Due to the absence of adequate Indian health services facilities and professional personnel on the reservations, a substantial portion of the health care services provided to our Indian people has perennially been on a contract basis at inpatient and outpatient facilities located off the reservations.

We are respectfully requesting the government of North Dakota to assist our tribes in lobbying the United States Congress to make increased appropriations in the area of Indian health care to assure, in future years, adequate services to our people, which increased appropriations would also benefit the nonfederal health care providers in the state of North Dakota through the continued provision of contract services off the reservations. The North Dakota tribes would also ask the state legislators to provide assistance in the resolution of the current conflict between the Indian Health Service and Jamestown State Hospital, involving the issue as to which governmental entity--the United States or the State of

North Dakota--is legally obligated to incur the costs of providing mental health and alcohol and drug rehabilitation services to Indian people committed to inpatient treatment by tribal courts.

In addition, the North Dakota tribes are requesting the assistance of the North Dakota Legislature in the significant matter of the protection and preservation of Native American religious values and traditions. Each of you is undoubtedly aware of the recent decision of the State Historical Board to return to the Indian people of North Dakota the massive collection of Indian skeletal remains and associated grave goods for their return to Mother Earth. This unprecedented and humanitarian decision by your Historical Board has unfortunately been thwarted as a result of pending litigation in state court in which the Historical Board is the named defendant. The Historical Board is proposing to cause legislation to be introduced to clarify the original intent of two statutory provisions at issue in the litigation, on which issues the state court has recently decided not to rule, pending further action by the Historical Board.

Also related to the protection of Indian skeletal remains and grave goods is an Independent legislative effort to come before you in this legislative assembly which would close the loopholes existent in the enforcement of a state law designed to protect remains and grave goods in their places of original interment throughout the state. Each of you has perhaps read about the recent dismissal of the criminal prosecution brought on the basis of an alleged violation of this state law, committed in Mandan, wherein a citizen of the state was apprehended in the act of excavating an Indian burial mound. The inability of the state to successfully and fully enforce this same criminal law provision was also recently experienced in a prosecution in Jamestown. The State Historical Society will be joining the North Dakota tribes in this additional legislative effort to adequately protect and preserve the sanctity of the many Indian burials located throughout the state.

In addition, the Standing Rock Sioux Tribe, the Fort Totten Sioux Tribe, and the Three Affiliated Tribes should be working cooperatively in joint effort with the State of North Dakota to accomplish the intended purposes of the Garrison Reformulation Act. The State of North Dakota, and, in particular, the Indian tribes, suffered untold losses as a result of the taking of land for the site of the Garrison Reservoir. The Indian tribes and the state of North Dakota are now at the threshold to redeem some of the benefits that each governmental entity, and their citizens, sacrificed for the building of the Garrison Dam and Reservoir. It is imperative that the State of North Dakota, the Standing Rock Sioux Tribe, the Fort Totten Sioux Tribe, and the Three Affiliated Tribes achieve adequate water supply systems for their municipal, rural, and industrial uses.

I believe the Indian tribes of North Dakota offer opportunities in tourism development, manufacturing, and industry which can become the cornerstone for a major economic development effort. However, this can only be realized through a mutual understanding and partnership between the Indian tribes and the state of North Dakota. The Turtle Mountain band of Chippewas and the Fort Totten Sioux Tribe have set a precedent for North Dakota Indian tribes in the area of economic development. In fact, these Indian tribes would serve as models for all communities within the State of North Dakota.

In conclusion, the Indian tribes of North Dakota look forward to working with the State Legislative Assembly. The Indian tribes and the State of North Dakota have common goals in the area of economic development. However, in order for progress to be achieved, there must be a real and concerted effort to build mutual trust and understanding. The imagined fears that some state legislators have of unsophisticated tribal governing bodies and courts must be laid to rest once and for all. Indian tribes have the best expert consultants and professionals in their work forces and the tribal courts are competent, sophisticated courts of record. The Indian tribes realize that there are going to be differences of opinion and that there will be those few who will not relinquish their imagined fears; but I believe there are solutions to every dispute which can be developed into strengths that begin to meet our collective needs.

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