

The original documents are located in Box 1, folder “Correspondence, October 1974” of the Bradley H. Patterson Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON

October 1, 1974

Morrie -

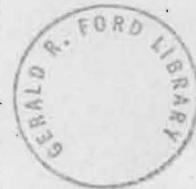
Recommend you respond to this
from BIA in a low key.

President does not, except for
UGF and Red Cross, associate himself
with individual charities, especially
not sectarian ones.

How low a key you should determine
based on what you or your staff may know
of this group's work.

Note that the Nixon quote is
from a letter prior to his election in
1968...

Brad



The Original letter and enclosures were sent over to BIA and will
be kept there. Central Files has been notified and given the
telephone number if they need the original back.

Linda Hagge

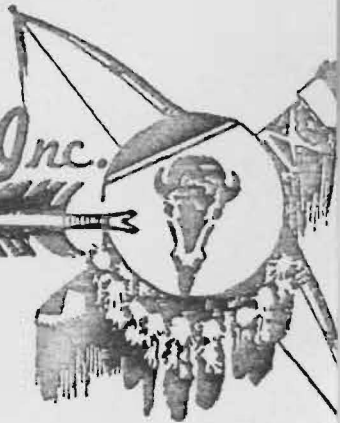
THE

message

American Indian Liberation Crusade, Inc.

OFFICE: 4009 HALLDALE AVE., LOS ANGELES, CA 90062 - PHONE: 299-1810

September 20, 1974



President Gerald Ford
The White House
Washington, DC 20500



Int. 1974

Dear Mr. President:

EH

We want to take this opportunity to assure you that this Christian organization is backing you with prayer. We appreciate the place you have given to God in your administration, and that you have fearlessly declared your dependence upon Him. We also have been thrilled to see the regularity of your prayer meeting attendance there on the hill. I know that God is the source of all wisdom, and as the Holy Spirit moves through you, the right decisions can be made.

We have enclosed a few pieces of literature to let you know of our work. We have a number of radio broadcasts throughout the United States and though we are doing much in the field of relief for Indians, our primary concern is to allow Christ to change the lives of these people so they will have a reason to be better parents and better citizens.

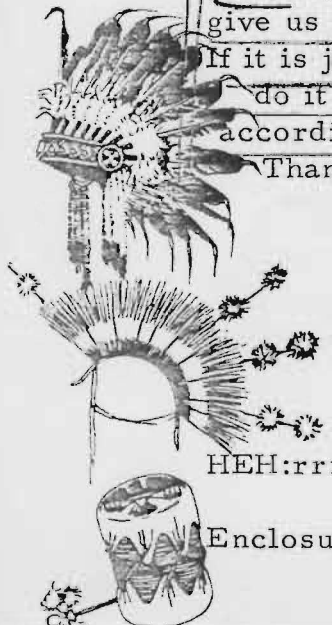
I have received statements in the past from government leaders as well as former President Nixon as to his program for American Indians, a copy of which is enclosed. I would appreciate it if you could give us a similar statement of your views and proposals for this minority. If it is just as suitable to you, it would be most appreciated if you could do it on tape and then we would release it on our radio network, which according to estimates, will be heard by some 28 - 30 million people.
Thank you for your reply.

Yours for the Indian American,

Henry E. Hedrick
Dr. Henry E. Hedrick, President

HEH:rrr

Enclosures



**see clip*

October 2, 1974

Dear Mr. Doyle:

The President has asked me to thank you for your letter of September 27 and for the interest and concern of Ka Leo O Hawaii and of the students of the Manoa Campus in the problems and issues in the area of American Indian policy.

There is no question that the health of American Indian population is not as it should be.

But the adverse reports you read have to be looked at in the context of what has been happening in American Indian affairs in the past five years. Since 1970 the policy of everybody in the Executive Branch has been self-determination for American Indian people -- not a "colonial" policy, and the precise opposite of both "annihilation" and "assimilation", to use the words in your editorial. Somewhat over a year ago I was invited by the Civil Rights Digest to summarize just what has been going on in this area, and I did so in the attached article, an excerpt from the Fall 1973 issue of the Digest.

Even then the figures are a year and a half old, and the budget figures, especially, are even greater than cited in the article. The Menominee Restoration Act is now law (with unqualified support from the White House) and the Indian Financing Act is also enacted, with the necessary money to go with it. This summer the government won a landmark decision protecting Indian fishing rights in the Pacific Northwest.

Of course there is more to be done -- there always is -- but I invite Ka Leo O Hawaii to reprint this letter and the article, and then let's have an informed discussion take off from there.

Cordially,

Bradley H. Patterson, Jr.

Mr. Kevin A. Doyle
Editor-in-Chief, Ka Leo O Hawaii
2465 Campus Road
Honolulu, Hawaii 96822

bcc: Central Files



October 2, 1974

Dear Mr. Running Fox:

The President has asked me to thank you for your letter of September 18 on behalf of the Confederated Tribes of Western Oregon.

This President and President Nixon before him have supported self-determination for Indian people and have taken budgetary, organizational and policy steps to ensure that Indian progress has been substantially aided and Indian trust rights protected.

Allegations about broken treaties have been brought to our attention a number of times, and the research we have done usually shows that either the treaties' terms have in fact been fulfilled, or Courts have so ruled when this was contested, or the Congress itself has unilaterally altered the treaties' terms, as it has a right to do under its plenary powers. Where none of these circumstances has obtained, or the affected tribes have disagreed, Indian tribes have filed claims before the Indian Claims Commission and have had them, or are having them adjudicated there (often a lengthy process).

In the case of the tribes of western Oregon, it was the Congress which acted (25 USC 691-708) in 1954, as Item 18 in the attachment to your letter²⁵ mentions. That was the final word and, I believe, superceded anything prior, including the 1855 treaty itself, ratified or unratified. Only the Congress can make any further changes.



I have asked Commissioner Thompson to review your letter and if there is anything further to add, I know you will hear from him directly.

Sincerely yours,

Bradley H. Patterson, Jr.

Mr. Jerry Running Fox
President of CITOWO
Box 501
Cottage Grove, Oregon 97424

bcc: Morris Thompson (Original correspondence has been sent to his office as the original is in very poor condition. A copy will be sent to Central Files in the White House ~~mk~~ for reference)

Central Files



October 3, 1974

MEMORANDUM FOR: JERRY JONES

FROM: LEONARD GARMENT
Assistant to the President

SUBJECT: Request for boxes

Please send to my office (Room 182) ten boxes for packing files (private) and other items in the office for moving purposes.



October 8, 1974

Dear Mr. Keogan:

Your request for NICO News and placement on their mailing list has been received in this office.

The National Council on Indian Opportunity ended its existence last June 30. It's likely to be replaced by a Domestic Council or Cabinet Committee on Indian Affairs, but that has not yet been formally decided or announced.

Sincerely,

Bradley H. Patterson, Jr.

Mater Christi High School Library
William L. Keogan, Librarian
21-21 Crescent Street
Long Island City, New York 11105



October 8, 1974

Dear Nancy:

Having been sent a copy of Alice Denney's proposal to you for an Arts Service Center here in Washington, I would be interested in knowing the outcome of your review of it. Does it sound like a feasible idea?

Best,

Bradley H. Patterson, Jr.

Miss Nancy Hanks
National Endowment for the Arts
One McPherson Square
Washington, D. C.



October 8, 1974

Dear Mr. Brightbill:

Your request for NCIO News and placement on their mailing list has been received in this office.

The National Council on Indian Opportunity ended its existence last June 30. It's likely to be replaced by a Domestic Council or Cabinet Committee on Indian Affairs, but that has not yet been formally decided or announced.

Sincerely,

Bradley H. Patterson, Jr.

Mr. George D. Brightbill
Temple University Library
ATTN: DOCUMENTS ROOM
Philadelphia, Pennsylvania 19122



October 8, 1974

Dear Ms. Hanaway:

Your request for NCIO News and placement on their mailing list has been received in this office.

The National Council on Indian Opportunity ended its existence last June 30. It's likely to be replaced by a Domestic Council or Cabinet Committee on Indian Affairs, but that has not yet been formally decided or announced.

Sincerely,

Bradley H. Patterson, Jr.

Ms. Margaret A. Hanaway
Documents Department
Law Library
University of Wisconsin
Madison, Wisconsin 53706



October 8, 1974

Dear Mr. Hardin:

The President has asked me to thank you for your note of August 29.

We do have here in Washington the American Indian Press Association, and representatives of AIPA often cover White House events.

We are indeed very conscious of the federal government's treaties with the Indians and a good deal of research has revealed to us that allegations of "broken treaties" are usually incorrect (in that the specific terms of treaties have in fact been fulfilled) or have been adjudicated in courts or in the Indian Claims Commission, or else the treaties (as for example the Sioux Treaties of 1868 and 1877) have been changed unilaterally by the Congress. In a case called Lone Wolf v Hitchcock, the Supreme Court long ago held that Congress has plenary power to change Indian treaties unilaterally, even in the face of Indian opposition. This seems to be an authoritative legal doctrine, even though its fairness leaves something to be desired.

But the picture is not at all dark about Indian affairs; in the last five years we have done a great deal to change policies and institutions. I can best summarize these by sending you the enclosed excerpt from a magazine which invited me to describe just what was done recently. I hope it is pertinent to your inquiry and sincerely appreciate your own interest and concern.

Cordially,

Bradley H. Patterson, Jr.

Mr. L. G. Hardin
811 Terry Lynn Drive
Orlando, Florida 32808

Enclosure

CF



October 21, 1974

Dear Mrs. Taft:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

I was of course pleased to be asked to assist him and the First Lady and accepted his invitation to join her staff during this period. The White House has now announced this appointment.

I know that the responsible officers here in the line agencies and in OMB and the Domestic Council will continue to be, as Mr. Garment and I have been, responsive to your inquiries and suggestions.

Few years in my own life have been as challenging and satisfying as these last five, in large measure thanks to the statesmanship and leadership of people such as yourself. There are still roads to be travelled and far horizons to be attained for American Indian people but I am thankful from my own heart for the part of them we travelled together.

Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mrs. Julia V. Taft
Deputy Assistant Secretary
Office of Human Development
Department of Health, Education,
and Welfare
Washington, D.C.



October 21, 1974

Dear Mrs. Cox:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mrs. Marie Cox
Director and Administrator
NAIWA Project 0761
3201 Shady Brook Drive
Midwest City, Oklahoma 73110



October 21, 1974

Dear Ms. Covington:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Ms. Lucy Covington
c/o Colville Confederated Tribes
Box 150
Nespelem, Washington 99155

October 21, 1974

Dear Mr. Josephy:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Alvin Josephy
American Heritage Company
1221 Avenue of the Americas
New York, New York 10024

October 21, 1974

Dear Ms. Ramsey:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Ms. Anne Ramsey
Room 411, OEOB
Office of Management and Budget
Washington, D.C.

October 21, 1974

Dear Mr. Strickland:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. W. J. Strickland
Coalition of Eastern Native Americans
Room 637
733 15th Street, NW.
Washington, D.C.

October 21, 1974

Dear Mr. Cahn:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Edgar Cahn
5500 39th Street
Washington, D.C.



October 21, 1974

Dear Mr. Robertson:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Robert Robertson
Assistant to the Secretary for
Congressional and Legislative Affairs
Department of the Interior
Room 6255
Washington, D.C.



October 21, 1974

Dear Mr. Youpee:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. William Youpee
National Tribal Chairmens Association
Room 406
1701 Pennsylvania Avenue, NW.
Washington, D.C.

October 21, 1974

Dear Mr. Trimble:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Chuck Trimble
Executive Director
National Congress of American Indians
Room 312
1340 Connecticut Avenue, NW.
Washington, D.C.

October 21, 1974

Dear Mr. Frizzell:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Kent Frizzell
Solicitor
Department of the Interior
Room 6352
Washington, D.C.

October 21, 1974

Dear Mr. Chambers:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Reid Chambers
Associate Solicitor
Division of Indian Affairs
Department of the Interior
Washington, D.C.



October 21, 1974

Dear Ms. Meissner:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley B. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Ms. Doris Meissner
Department of Justice
Room 5123
10th and Constitution Avenue
Washington, D.C. 20530

October 21, 1974

Dear Mr. Sachse:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Harry Sachse
Assistant to the Solicitor General
Department of Justice
Washington, D.C. 20530

October 21, 1974

Dear Mr. Pottinger:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

The Honorable Stanley Pottinger
Assistant Attorney General
Department of Justice
Todd Building, Room 1232
550 11th Street, NW.
Washington, D.C.



October 21, 1974

Dear Mr. MacDonald:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Peter MacDonald
Chairman
Navajo Tribal Council
Box 709
Window Rock, Arizona 86515

October 21, 1974

Dear Mr. Gerard:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Forrest Gerard
Senate Interior and Insular
Affairs Committee
Room 3106
New Senate Office Building
Washington, D.C. 20510

October 21, 1974

Dear Mr. Ducheneaux:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Frank Ducheneaux
House Indian Affairs Subcommittee
House of Representatives
Washington, D.C. 20515

October 21, 1974

Dear Ms. Ducheneaux:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

I was of course pleased to be asked to assist him and the First Lady and accepted his invitation to join her staff during this period. The White House has now announced this appointment.

I know that the responsible officers here in the line agencies and in OMB and the Domestic Council will continue to be, as Mr. Garment and I have been, responsive to your inquiries and suggestions.

Few years in my own life have been as challenging and satisfying as these last five, in large measure thanks to the statesmanship and leadership of people such as yourself. There are still roads to be travelled and far horizons to be attained for American Indian people but I am thankful from my own heart for the part of them we travelled together.

Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Ms. Karen Ducheneaux
Bureau of Indian Affairs
Room 6322
Department of the Interior
Washington, D.C.

October 21, 1974

Dear Mrs. Harris:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mrs. La Donna Harris
President
AIO Action Council
1820 Jefferson Place
Washington, D.C.

October 21, 1974

Dear Mr. DeLoria:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Vine DeLoria
14675 West 30th Place
Golden, Colorado 80401

October 21, 1974

Dear Mr. DeLoria:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. Sam DeLoria
American Indian Law Center
1117 Stanford, NE.
Albuquerque, New Mexico 87131

October 21, 1974

Dear Governor Lewis:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Governor Robert E. Lewis
Pueblo of Zuni
Zuni, New Mexico 87327

October 21, 1974

Dear Mr. Whitaker:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

The Honorable John Whitaker
Under Secretary of Interior
Room 6116
Department of the Interior
Washington, D.C.



October 21, 1974

Dear Commissioner Thompson:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Commissioner Morris Thompson
Bureau of Indian Affairs
Room 6315
Department of the Interior
Washington, D.C.

October 21, 1974

Dear Mr. Rogers:

I wanted you to have a personal note to explain that I shall be obliged to take a recess from Indian Affairs for three months in view of a request the President personally made of me just a week or so ago.

In a meeting in his office, he asked me to assist the First Lady as a Staff Coordinator until January.

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Cordially,

Bradley H. Patterson, Jr.
Assistant for Staff Coordination
Office of the First Lady

Mr. William L. Rogers
Deputy Assistant Secretary
for Indian Affairs
Room 6314
Department of the Interior
Washington, D.C. 20240

October 22, 1974



Dear Mr. Berrodin:

Your letter of July 1 to former President Nixon has been referred to me for response.

We appreciate your expressions of support for the concept of uniform guidelines, and your sharing with us the resolution adopted by the Executive Council of the International Personnel Management Association at its meeting of June 21, 1974, expressing IPMA's concern over the manner in which the Equal Employment Opportunity Coordinating Council has been developing a uniform set of federal guidelines on employee selection procedures.

The concerns expressed appear to be based upon a misunderstanding of the procedures being followed.

The Coordinating Council reviewed and analyzed the extensive comments on the August 23rd discussion draft of the proposed guidelines, which was circulated in accordance with the procedures set forth in Circular A-85 of the Office of Management and Budget. At that time, IPMA and its members, as well as other interested organizations and persons, were given an opportunity to consult with member agencies of the Council and to express their views on the proposed guidelines. The Council gave consideration to the comments of IPMA and other public interest groups as well as those received from private employers, the psychological profession and civil rights groups in its efforts to revise the August 23rd discussion draft.

In late June, a draft (dated June 24, 1974) developed by the staff representatives was presented to the Council for its consideration. The Council agreed to circulate the revised draft for further review and comment before reaching a final decision on publication. It was understood that each agency would take the opportunity to consult with individuals or groups outside the federal government whose views they wish to obtain. Thus, although the formal A-85 procedure has not been reinstated at this time, the revised draft is now being widely circulated and members of the public sector, including IPMA and its membership, are being given an opportunity to express their

views before any final decision is made. My understanding is that a copy of the June 24th draft has been previously furnished to IPMA, but I have enclosed an additional copy for your convenience.

I would hope that IPMA will give careful consideration to the June 24th draft and make its observations and concerns promptly known to the members of the Council. I am advised that if the Council determines to proceed on the Guidelines, it will provide thereafter for a formal procedure for comment by all interested organizations and individuals.

In the final prefatory paragraph of the resolution the Executive Council of IPMA asserted that the federal government does not intend to apply the proposed guidelines to its own selection practices. Contrary to IPMA's understanding, the Council members recognize the obligation of the federal government to adhere to the same standards it applies to employers in the public and private sectors and have agreed that any new guidelines will be applied to federal employment.

As you can see from the foregoing, your organization will have ample opportunity for comment on any proposed guidelines which may be issued.

Thank you for your interest in this matter.

Sincerely,

Leonard Garment
Assistant to the President



Mr. Eugene F. Berrodin
Executive Director
International Personnel Management Association
1776 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Central Files

THE WHITE HOUSE

WASHINGTON

October 24, 1974

MEMORANDUM FOR: DON RUMSFELD

FROM: LEN GARMENT 

1. This annexes a hasty revision of a memorandum that Brad drafted for submission to OMB in connection with their enrolled bill memorandum on S. 3007. I am sending it over to you for informational purposes, but if you find it unclear, I can redraft it.
2. One of the lesser issues which bothers OMB in the Sioux case is the potential size of the legal fees. On this a few facts might be helpful.

There are three law firms on the case for the Sioux: Arthur Lazarus (the Shriver law firm), Marvin Sonosky, and William Howard Payne. There was a fourth earlier, a Mr. Case, who is now deceased, but his heirs may have a quantum merit claim. Since the case started in 1920, the lawyers beginning with Case have been working on this matter for 54 years and no fee from the award is available until the award is final.

The current contracts between the lawyers and the Sioux tribes call for a fee eventually of "not to exceed 10%"--the usual percentage. This language gives the Indian Claims Commission discretion to set the actual fee at the end of the case--based on their own criterion of "reasonableness." They usually do concur in a 10% amount.

Ten percent of \$102 million is a hefty sum, but if it is finally spread over 3 or 4 firms for 54 years work, it is in my opinion less objectionable.

Attachment



THE WHITE HOUSE

WASHINGTON

October 24, 1974

MEMORANDUM FOR: DONALD RUMSFELD

FROM: LEONARD GARMENT

SUBJECT: ENROLLED BILL S. 3007

The President is receiving an OMB memorandum on Enrolled Bill S. 3007 which recommends a veto. I recommend that the President sign the bill and use the occasion to affirm his support for general Indian goals.

Preliminarily, there is a factual issue which is not clearly developed in the OMB memorandum. OMB makes the statement that the value of the Sioux claim would be worth \$102,262,500 "with the usual 5 percent annual interest." This is based on an assumption which may not be justified. The 5 percent annual interest is imposed only when there is also a finding that there has been a "taking" of land without due compensation under the Fifth Amendment. The Claims Commission has made such a determination, but the Department of Justice is now contesting this point in the Court of Claims, and there is a substantial possibility of reversal. Only if the contesting brief is withdrawn or the Court of Claims sustains the Indian Claims Commission, will the 5 percent interest charge apply.

Tied to the subject matter of S. 3007, therefore, is the question of whether the government should continue its effort to reverse the Indian Claims Commission's finding that not only is the Sioux claim a justified one, but also that the 1877 Act of Congress forcing the cession of those Black Hills lands was a "taking" under the Fifth Amendment.

To summarize the background on this issue:

Congress has in several instances exercised plenary power to deal with Indian lands and treaties, and has in effect unilaterally broken some Indian treaties and worked its own will with the lands affected. The



taking of the Sioux' Black Hills land in 1877 is a particularly egregious example of this; and the facts are uncontested. A 19th century Supreme Court decision (Lone Wolf v Hitchcock, 187 U.S. 553) held that putting moral and equitable factors aside, Congress did in fact have this power.

The Sioux first brought their Black Hills claim in 1920, when Congress passed an act permitting them to sue the United States and giving the Court of Claims jurisdiction to "hear and determine all legal and equitable claims."

Twenty-two years later the Court of Claims denied the Sioux claim (97 Ct. Cl. 613, 1942), relying principally on the Lone Wolf doctrine.

The Court said that,

"the court may not go back of the acts of 1876 and 1877 and inquire into the motive which prompted the enactment of this legislation or the wisdom thereof."

It also said that,

"In the absence of a clear grant of authority by Congress, we have no jurisdiction... to determine whether what the Congress agreed to pay, and has paid, was adequate compensation for that which the Indians were required to surrender."

When the Indian Claims Commission was established in 1946 its new legislative criterion mandated consideration of "fair and honorable dealings." In this context, the Sioux came in again and docketed their case.

The Commission looked at the 1942 Court of Claims decision, voted 4-1 that the Court's abjuring of jurisdiction cleared the way for the Commission to make its own substantive finding, and did so, saying that the Black Hills cession was, in fact, a Fifth Amendment taking, meaning that five percent interest would be due on that \$17.1 claim, making a total of some \$102 million.

The Department of Justice has appealed the Claims Commission decision to the Court of Claims, arguing that the Court of Claims in 1942 made a substantive decision and therefore the Fifth Amendment taking issue is res judicata.

There is plausible legal argument on both sides; the decision of the Claims Commission was a divided one. But in moral and historic terms the argument is pretty clearly all one way, and the Congressional debate and action reflect that fact.

The Justice brief can be withdrawn before the Court of Claims hears oral argument; this will not occur for another 2-3 months.

To dramatize the non-legal issue, the President could couple his signing of S. 3007 with an instruction to the Attorney General to withdraw the brief and desist from trying to overturn, on essentially technical legal grounds, a Claims Commission decision which should be tested by moral (as well as legal) considerations.

This will be the President's first official act on Indian matters. He has not yet had the meeting with Indian leaders which has been promised, so it will be on this issue that Indians and others will take their first reading of his intent with respect to Indian policy.

If he vetoes this bill, the signal will be a negative one. If he signs the bill, but allows the Attorney General and his Indian Claims staff to continue their efforts to overturn this and similar Indian Claims Commission decisions, he can still be accused of authorizing contradictory actions.

For the foregoing reasons--and quite aside from the actual difficulty of sustaining a veto--I recommend that the President sign the bill, send a new instruction to the Attorney General, and issue a statement incorporating the ideas included in the draft statement attached at Tab A.

Attachment

DRAFT STATEMENT
BY THE PRESIDENT

I have today taken two actions to rectify what is one of the grossest wrongs in our history toward the American Indian people, the breaking of the Sioux Treaty of 1868 by the United States Government.

I have signed S. 3007, the Indian Claims Commission Authorization including its special provision which instructs the Commission not to deduct from future claims awards the value of food, rations or provisions which the government provided to Indians following treaty settlements.

I have at the same time instructed the Attorney General to desist from the effort which has been made up to now to overturn the Indian Claims Commission's finding that the government's usurpation of the Sioux lands in 1877 was a taking under the Fifth Amendment to the Constitution.

The result of the first of these actions is to make sure that in claims cases from now on, the principal one of which is the Sioux claim, the Indian Claims Commission will not reduce claims awards by the value of food and provisions which were supplied to keep the Indians from the very starvation which ensued from our taking of their lands. In the Sioux case, the Commission's award is \$17.1 million dollars for 7.3 million acres of the Black Hills. Food supplied to the starving Sioux between 1877 and 1924 is alleged to have been worth \$25 million--which if deducted would wipe out the claim. In passing this Act, the Congress



has determined that this kind of deduction is unfair. I agree.

The result of the second action is to make it clear to Indian people and to history that in the Sioux case technical arguments cannot stand up against the criterion which the Congress wrote into the original Indian Claims Commission Act of 1946: the government should pay Indian claims "based upon fair and honorable dealings that are not recognized by any existing rule of law or equity." My action means that I agree with the majority of the Claims Commission in their finding last February that

"... Congress did not make a good faith effort to give the Sioux the full value of their property. Congress was therefore not acting as guardian for the Sioux with respect to this property, but was exercising its power of eminent domain in order to allow Americans to freely use the subject area. We hold that the Act of February 28, 1877, supra, constituted a Fifth Amendment taking of plaintiffs' property."

My action means that the Executive Branch of this government will stop trying to overturn that decision, will recognize the breaking of the 1868 treaty as a moral wrong and will be willing to pay, as the law provides, five percent interest on the \$17.1 million claim, or a total of \$102 million dollars.



We cannot return the Black Hills and its gold to the Indians; that much of history cannot be undone. The \$17.1 million itself is a valuation in 1877 prices. The interest on that small amount is due the

Indians as a clear moral duty of the government.

In developing the plan for use of this \$102 million (as the law provides) I urge the affected Sioux tribes and the Secretary of the Interior to agree to plough a very significant amount of that money back into economic and social development on the various Sioux Reservations so that the Sioux people of 100 years from now will continue to benefit from this investment, as their forefathers 100 years ago were injured.

Over the past five years our government's policies toward Indian people were dramatically changed--from the termination philosophy prevalent in the 50's to a policy of self-determination without termination. That policy change has been reinforced by administrative, legal and budgetary actions of substantial benefit to American Indian people.

I intend to continue this policy and press for action in the Executive and Legislative branches which will give it added substance and vitality. I look forward to an early meeting here with Indian leaders to discuss with them the further ways in which we can work in close partnership with Indian tribes and groups to protect their rights and further their progress.



October 25, 1974

MEMORANDUM FOR:

PHILIP W. BUCHEN
Counsel to the President

SUBJECT:

Materials of the Nixon Administration --
Compliance with your Memorandum of
October 24, 1974

With respect to the files in my own office, i. e. concerning civil rights, arts and the humanities, the Bicentennial and American Indian Affairs, I certify that the collection and segregation have been completed and that the files of the Nixon years have been sent to Mr. Nesbitt's office as requested in Mr. Jones' memorandum of August 9, 1974. (Many of these files of course were sent to Central Files in the years before now.)

A group of these files have been determined as papers necessary for purposes of current government business and duplications have been made as practicable. I attach a listing of the files which are in this category.

Bradley H. Patterson, Jr.
Executive Assistant to Leonard Garment
(Previous capacity)

