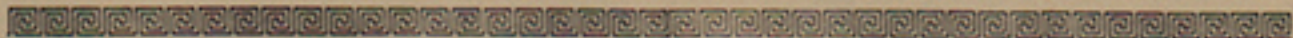




# INDIAN REPORT

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## CONGRESS CONSIDERS

## LEGISLATION TO STRENGTHEN

## “AMERICAN INDIAN RELIGIOUS FREEDOM ACT”

In 1978 Congress enacted the “American Indian Religious Freedom Act” (“AIRFA,” Public Law 95-341). The “American Indian Religious Freedom Act” set forth the policy of the United States “to protect and preserve for American Indians their inherent right of freedom to believe, express and exercise their traditional religions . . . including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonies and traditional rites.”

The Act also provided that within one year of enactment, federal agencies would “evaluate their policies and procedures in consultation with native traditional religious leaders order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices.”

The Task Force to Implement the American Indian Religious Freedom Act was made up of some 30 federal agencies. It consulted with traditional Indian religious leaders in Alaska, Hawaii, Minnesota, Montana, Nevada, New Mexico, North Carolina, Oklahoma, South Dakota and Washington. The August 1979 Task Force report to Congress concluded that due to ignorance and discriminatory attitudes, federal policies and practices were directly or indirectly hostile toward Native traditional religions, or indifferent to their religious values. Although the Task Force made recommendations for uniform administrative procedures and further legislative action, no legislation was introduced during the Carter administration.

The right to practice one’s own religion is a right taken for granted by most people. Yet Native Americans, now just as before enactment of AIRFA, are denied access to sacred sites that are located on federal lands in order to worship, are interrupted or gawked at by the public while conducting ceremonies at these places, and are denied the freedom to gather and use natural substances integral to traditional ceremonies. Finally, Native beliefs surrounding respect for and treatment of the dead are often not respected, with Indian skeletal remains stored for scientific study, or even placed on display in museums and other institutions. While AIRFA set forth a sound U.S. policy of protecting Indian religions and guaranteeing Indian people the right to practice their religions, because it was a “sense of the Congress” resolution, it carried no real authority and has yet to be enforced.

“Teeth” to address the increasing infringement on the religious practices of American Indians and to implement the policy of the “American Indian Religious Freedom Act” is what Senators Cranston CA, Inouye HI and DeConcini AZ had in mind last March when they introduced S. 2250. S. 2250 would amend the “American Indian Religious Freedom Act” to ensure that federal lands are managed in a manner that does not impair the exercise of traditional religions of American Indians, Eskimos, Aleuts and Native Hawaiians. Federal agencies would be required to manage federal lands that have been “historically indispensable” to Indian traditions in such a way that Indian religious practices were not impaired or interfered with, except in cases of “compelling governmental interests of the highest order.” Secondly, the bill would provide U.S. district courts with the authority to issue orders to enforce this requirement.

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## Hearing on Religious Freedom Bill

On May 18 the Senate Indian Affairs Committee held a hearing on S. 2250. The measure's lead sponsor, Sen. Cranston CA, told the Committee, "Ten years have passed since passage of the American Indian Religious Freedom Act. Yet, federal land management policies remain insensitive to Indian religions and cultural traditions, and American Indians lack a mechanism to enforce their rights to religious freedom. . . . We must make sure those rights are a reality."

Steve Moore, attorney for the Native American Rights Fund, stated that the recent Supreme Court decision in *Lying* (see article on page 3) "unilaterally subordinates American Indian religious traditions to economic considerations" of timber, mining, and other interests. The decision changed the rules of the game by requiring that religious practitioners now prove that their religion is being violated.

Marilyn Miles of California Indian Legal Services commented that most of the time, there is no conflict between Indian religious uses of an area and other land uses. Rather than S. 2250 giving one group "veto power" over the use of an area, she said it would only apply where other remedies fail, when an impartial court review is needed. She stated bluntly, "We need this legislation, since Indians now no longer have the First Amendment."

The Bureau of Land Management (BLM), testifying for the Administration, strongly opposed the bill, because BLM believes federal agencies are already respecting the intent of AIRFA and involving tribes in land management planning, and because S. 2250 "would impose very strict limitations on the exercise of Federal agency mandates" by putting other land uses subservient to Indian religious uses. A representative of Western mining and timber interests also strongly opposed the bill because it would disrupt western resource development, and give "preferential treatment" to Native religions.

Sens. McCain and DeConcini AZ stressed the need for "mutual accomodation" of land uses and Indian religious freedom. Committee Chairman Inouye HI emphasized that it was never the Committee's intention to introduce an "innocent" bill. Instead, the Committee wants S. 2250 to have a major impact on U.S. policy in protecting Indian religious rights, because "this is too important an issue to be treated cavalierly."

S. 2250 would be one step in ensuring Indian religious freedom, by requiring that federal land management does not interfere with Indian religious practices. Urge your senators to become familiar with S. 2250, amendments to the "American Indian Religious Freedom Act." While further action on the measure is not anticipated this session, the bill's chief sponsor, Sen. Cranston CA, is expected to introduce similar legislation in 1989, in the 101st Congress.

## INDIAN HEALTH:

### Reauthorization

In April, legislation to reauthorize Indian health care (H.R. 2290) was pulled from further consideration when groups seeking to put anti-abortion-related language onto the bill wanted to force the Indian health bill to be the centerpiece of the pro-life/pro-choice debate. Fortunately, however, things changed and the groups concerned agreed to a compromise in bill report language.

On September 13, the House passed, by voice vote, H.R. 5261, a new Indian health bill that was introduced on September 7. This bill, a compromise between the House Committee on Interior and Committee on Energy and Commerce, would provide budget authority of almost \$475 million for Indian health care for Fiscal Years 1989-93.

Though the Senate Select Committee on Indian Affairs approved S. 129 some 18 months ago, and the report to accompany the bill was completed in mid-September, the full Senate has yet to take up this important legislation as this goes to press.

### AIDS Education and Treatment

Despite the lack of progress on reauthorization of the "Indian Health Care Improvement Act, on April 28, during full Senate consideration of S. 1220, the "AIDS Research and Information Act," the Senate adopted an amendment offered by Sen. McCain AZ related to programs for Indians with AIDS. The amendment would assure that tribes and urban Indian communities would benefit from some of the nearly \$600 million allocated under the bill. The Indian Health Service would receive \$6.6 million in FY88, and "such sums as may be necessary" in FY89 and '90, to develop and implement national and community information programs, healthcare worker training and treatment programs for Indians with AIDS — both on reservations and in urban areas. McCain stated in offering his amendment that the number of cases of AIDS reported among Native Americans is small, (59 as of May, 1988, according to IHS), this number represents an increase of 112% over the number reported a year and a half ago.

It is unclear whether comparable House legislation will be completed before the adjournment of the 100th Congress on October 7 or 8.

## SUPREME COURT RULES ON INDIAN RELIGIOUS FREEDOM

**"It's the saddest thing that could ever happen to any human being: to take his place of prayer with the Great Spirit."**

Jimmie James, Yurok medicine man

*"With a sweep of the pen, five Justices of the Supreme Court have rewritten one of our country's basic constitutional tenets that neither the federal government nor the states may, without compelling reason, engage in activities which prohibit the free exercise of religion."* Pat Lefthand, tribal council member, Confederated Salish and Kootenai Tribes, MT

*"American Indians need the right to perform their acts of worship, to express their inner feelings to God. If they are denied that right, all religions are in danger of being denied that right."* Monsignor Paul Lenz, executive director, Bureau of Catholic Indian Missions

These two above statements were made in testimony on S. 2250, amendments to the "American Indian Religious Freedom Act." The threat both speak to refers to the April 19 Supreme Court decision in *Lyng, Secretary of Agriculture, et al. v. Northwest Indian Cemetery Protective Association, et al.*, also known as the "G-O Road" case. The Court's decision represents a new line of reasoning in interpreting the First Amendment, which among other things protects citizens' right to the "free exercise" of their religion.

The Court reversed the decision of two lower courts by ruling that the First Amendment could not be used to forbid the government from permitting timber harvesting or road building through National Forest lands traditionally used for religious purposes by northwestern California tribes. The Court admitted that the government's actions would disrupt the environment, diminish the sacredness of the area, create distractions that would interfere with spiritual training and needed privacy for meditation, and "interfere significantly" with the Indians' spiritual practices. However, the Court held, the First Amendment protection could not be invoked because the "affected individuals [would not] be coerced into violating their religious beliefs," or penalized by the government for the exercise of those religious rights (emphasis added). Instead, the Court held that the First Amendment provides protection only against government actions which prohibit, not which frustrate or inhibit, religious practices.

### Background to the Decision

The subject of the court case was U.S. Forest Service plans to construct a six-mile portion of paved logging road — to join the California towns of Gasquet and Orleans, thus the name "G-O Road" — through the Chimney Rock area of the Six Rivers National Forest.

The Chimney Rock area, part of what is known as the "high country," has been used for thousands of years by three California tribes for religious rituals and ceremonies. As Justice Brennan noted in his dissenting opinion (see below), "Where dogma lies at the heart of western religions, Native American faith is inextricably bound to the use of land." Spiritual leaders have historically travelled to certain sacred sites in the high country to avail themselves to the spiritual power needed for these ceremonies. Such spiritual discipline requires privacy, solitude and an undisturbed environment. Indian practitioners believe that ceremonies must be practiced at a particular site, in a prescribed manner, or harm will come to the people themselves and the rest of the world. Furthermore, Indian communities have increasingly looked to and drawn upon traditional ceremonies and practices as a means of revitalizing their societies. They are using the power of these lifeways to combat alcoholism, high incidence of suicide and social problems.

In 1979, the Forest Service issued an environmental impact statement on the Chimney Rock portion of the road, noting that the area has traditionally been used for religious purposes by the Yurok, Karuk and Tolowa Tribes. The study found the area to be "significant as an integral and indispensable part of Indian religious conceptualization and practice," and recommended that the road not be completed because it "would cause serious and irreparable damage to the sacred areas which are an integral and necessary part of the belief systems and lifeways of Northwest California Indian peoples." While construction of the road and the logging activity would not prohibit religious ceremonies, it would make such practices impractical.

However, the Forest Service decided not to adopt this recommendation, choosing a route that avoided archeologi-

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cal sites and was as far removed as possible from specific sacred sites. The Service also adopted a management plan for timber harvesting in this area of the National Forest which provided for one-half mile "protective zones" around all identified religious sites.

In 1982, Indian individuals, an Indian organization, nature organizations and the State of California filed suit to stop both the road-building and timber-harvesting. The Federal District Court issued a permanent injunction against both activities on the grounds that such actions would violate the Indians' First Amendment rights. The Ninth Circuit Court of Appeals upheld the constitutional ruling of the District Court, ruling that the federal government had failed to demonstrate a compelling interest in the completion of the road. In 1984, Congress passed the "California Wilderness Act," which designated much of the area as wilderness, thus precluding logging activity.

### Majority Opinion

Justice O'Connor delivered the opinion of the Court. Portions of the decision are quoted below.

"The Free Exercise Clause [of the Constitution] is written in terms of what the government cannot do to the individual, not in terms of what the individual can exact from the government. Even assuming that the Government's actions here will virtually destroy the Indians' ability to practice their religion, the Constitution simply does not provide a principle that could justify upholding respondents' legal claims" (emphasis added).

"The Government does not dispute, and we have no reason to doubt, that the logging and road-building projects at issue in this case could have devastating effects on traditional Indian religious practices. . . . [However,] government simply could not operate if it were required to satisfy every citizen's religious needs and desires."

"The Constitution does not permit government to discriminate against religions that treat particular physical sites as sacred, and a law **forbidding** [emphasis added] the Indian respondents from visiting the Chimney Rock area would raise a different set of constitutional questions. Whatever rights the Indians may have to the use of the area, however, those rights do not divest the Government of its right to use what is, after all, its land."

The court believed that such "solicitous" government steps as choosing an alternate road route in order to minimize the impact the construction would have on Indian religious activities were in keeping with the "American Indian Religious Freedom Act." To suggest that the "American Indian Religious Freedom Act" "goes further" to authorize an injunction against completion of the road, is "without merit," because the Act offers no "judicially enforceable individual rights."

### Dissenting Views

In a strongly worded dissent, Justice Brennan cited the lower courts' conclusion that burdens from the construction of the road were sufficient to invoke First Amendment protection and that interests served by the road and logging projects were "insufficient" to justify those burdens.

"The [Supreme] Court does not for a moment suggest that the interests served by the G-O road are in any way compelling, or that they outweigh the destructive effect construction of the road will have on the respondents' religious practices. Instead, the Court embraces the Government's contention that its prerogative as landowner should always take precedence over a claim that a particular use of federal property infringes religious practices. Attempting to justify this rule, the Court argues that the First Amendment bars only outright prohibitions, indirect coercion, and penalties on the free exercise of religion. . . . [W]e have never suggested that the protections of the guarantee are limited to so narrow a range of governmental burdens."

"... today's ruling sacrifices a religion at least as old as the Nation itself, along with the spiritual well-being of its approximately 5,000 adherents, so that the Forest Service can build a six-mile segment of road that two lower courts found had only the most marginal and speculative utility. . . ."

### "REBURIAL" BILL

On May 25 Sen. Melcher MT submitted as an amendment to S. 187, to provide for the protection and return of Native American skeletal remains and ceremonial objects. This amendment, which would supercede the earlier text, would establish an independent Native American Claims Commission, to be composed of three members, at least one Native American. The primary function of the Commission would be to receive and consider claims filed by an Indian tribe or the Office of Hawaiian Affairs, for the return of skeletal remains, ceremonial artifacts or grave goods; to facilitate negotiated voluntary settlements between an Indian tribe and a museum or other institution; and to issue orders to the right to possess items subject to such claims. A tribe or the Office of Hawaiian Affairs could file a claim for remains, objects or grave goods which belonged to a member of that tribe or Native Hawaiian group, or, in the case of remains and grave goods, were taken from lands where that tribe or group buried their ancestors.

A second hearing was held on the "reburial" measure, and this new proposal, specifically, on July 29. While the Smithsonian continues to hold that legislation is "unnecessary and premature," and the American Association of Museums believes that the bill would not encourage cooperation between tribes and institutions, the Native American Rights Fund and tribal representatives such as Oren Lyons and a representative of the Northern Cheyenne Tribe supported Melcher's bill. The Committee marked up and approved S. 187 on September 21.

## TRIBES LOSE GAMBLE TO KILL GAMING BILL

On May 13 the Senate Select Committee on Indian Affairs marked up S. 555, to provide federal regulations for the management of gaming enterprises on Indian lands. The Committee adopted an amendment under which a tribe wishing to conduct Class III gaming (banking cards, slot machines, casinos, horse and dog racing, jai-alai) must negotiate a tribal-state compact for the regulation of that enterprise. While there would be no imposition of a state licensing scheme without tribal consent, no activities outside of existing state law, would be permitted.

While this summer has seen a flurry of activity against the bill, on the grounds of what amounts to the imposition of state jurisdiction over Class III games, the Committee report states that "the adoption of State law is not tantamount to an accession to State jurisdiction," and the tribal-state compact is not to be used as a "subterfuge" for imposing state jurisdiction. Furthermore, a tribe's agreement to the application of state law for Class III gaming is not intended to be precedential for any other incursions by a state onto Indian lands.

The report further reads: "The mechanism for facilitating the unusual relationship in which a tribe might affirmatively seek the extension of State jurisdiction and the application of state laws . . . is a tribal-State compact. In no instance does S. 555 contemplate the extension of State jurisdiction or the application of State laws for any other purposes. Further, it is the Committee's intention that to the extent tribal governments elect to relinquish rights in a tribal-State compact that they might have otherwise reserved, the relinquishment of such rights shall be specific to the tribe so making the election, and shall not be construed to extend to other tribes, or as a general abrogation of other reserved rights or of tribal sovereignty.

However, opinion differs on whether or not the Committee's "intention" that this not be a state jurisdiction bill holds weight.

Sen. McCain AZ expressed his "additional views" in the Committee report, stating that his support for S. 555 is reluctant because "a different and more favorable result for Tribes could have been achieved." While many tribes have taken the position that there should be no gaming legislation, "Four years of continuous debate on Indian gaming should lead even the most casual observer of the legislative process to realize that legislation was inevitable."

On August 9 Sen. Inouye HI sought to bring the bill to the Senate floor, with the hope that the Senate could pass the bill before Congress adjourned for the summer recess. However, Sen. Kasten WI was persuaded by Wisconsin gaming tribes and others to put a "hold" on S. 555, preventing consideration until after the summer recess. The Senate passed the bill on September 15. Again expressing his reservations about the compact provision on the Senate floor, Sen. McCain suggested that "If after a period of time the compact approach proves unfair to Indian tribes in their ability to establish and operate class III gaming activities, then the Congress may have to revisit this class III provision. . . If the States take advantage of this relationship . . . then I would be one of the first [members of Congress] to appear before my colleagues and seek to repeal this legislation . . ."

Indian Affairs Committee vice-chairman Sen. Evans WA stated on the Senate floor: "the legislation before us . . . represents one of the very rare instances in the recent history of our relationship with Indian tribes when we have felt compelled to address public concern over the internal affairs of tribes. . . The "Indian Gaming Regulatory Act" does exactly that — regulates Indian gaming. By no means is any provision of this act intended to extend beyond this field of gaming in Indian country. . . We must not impose greater moral restraints on Indians than we do on the rest of our citizenry. We must guard against being overly responsive to the political and economic interests of our constituents to the detriment of the less politically powerful Indian people . . . We must acknowledge that the manner in which our Nation deals with its indigenous people is a human concern of importance to all of us on a national scale."

As this goes to press, the House is expected to pass the Senate version of the "Indian Gaming Regulatory Act" September 26 or 27.



## NAVAJO-HOPI

On August 8 the Senate passed S. 1236, to reauthorize the Navajo-Hopi housing program. Amendments were adopted as reported by the Senate Select Committee on Indian Affairs, amending Public Law 93-531, the "Navajo-Hopi Relocation Act of 1978," in several ways. It would eliminate both the present Navajo-Hopi Indian Relocation Commission and the role of the Bureau of Indian Affairs in the relocation at the end of FY88. In their place would be established a new Office of Navajo-Hopi Relocation within the Department of the Interior, headed by a single commissioner. This commissioner would approve case-by-case exceptions to an existing ban on any form of repair, renovation or development on existing housing in the "Bennett Freeze" area; conduct a census of all families affected by the relocation and develop a new relocation plan in consultation with both tribes. S. 1236 would also establish a Navajo Rehabilitation Fund, using revenues from the "Paragon Ranch" lands which were acquired for relocatees, to fund programs and projects for families affected by relocation. The bill doubles the funding level, from \$15 million to \$30 million, in order to complete housing units in the next few years.

On May 27, Sens. Cranston CA and Kerry MA introduced S. 2452, a bill to place an 18-month moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531. The bill would also establish a Navajo and Hopi Indian Relocation Advisory Commission to hold public hearings and submit a report to Congress outlining recommendations for solutions and alternatives to remaining problems. The Commission would be made up of an equal number of traditionalists and tribal council representatives from both tribes.

## ECONOMIC DEVELOPMENT

On April 20 the the Senate passed S. 721, the "American Indian Development Finance Corporation Act," with no floor discussion of the measure. This bill would create a government-chartered institution to provide economic development assistance to tribes, and to assist in financing those projects through a combination of equity investments, direct loans and loan guarantees. Drawing upon the similarities of tribes to lesser developed countries, the legislation designs the Corporation like the World Bank in terms of the method of capitalization, ownership of stock and composition of its governing board.

On May 5, the House Interior Committee held a hearing on its equivalent Corporation measure, H.R. 4248. In contrast to tribal witnesses, who generally supported the measure, Assistant Secretary for Indian Affairs Ross Swimmer stated the Administration's continued opposition to the bill. He is concerned about the creation of a new bureaucracy under the bill, the \$4.5 million to get the program started, and the appearance that tribes would not be at risk in their investments. Swimmer questioned the concept of treating tribes like Third World countries, since the "only common denominator is poverty," and such development projects in developing countries have had destructive effects on local populations. Swimmer reiterated his experience from the President's Commission on Indian Reservation Economies (PCIRE) that availability of capital, which the Corporation would address, was low on the list of problems facing tribal business investments. The PCIRE report found weak business management, jurisdictional disputes and trust status restraints even bigger problems, which should be addressed first, before capital would do any good. Swimmer's approach would be to subsidize the private sector to entice it to the reservation.

## "Indian Civil Rights Act" Amendments

On August 11 Sen. Hatch UT introduced S. 2747, which would amend the "Indian Civil Rights Act" (ICRA). In 1968 Congress passed the "Indian Civil Rights Act," which applied substantial portions of the Bill of Rights and the 14th Amendment to tribal governments. In 1978 in *Santa Clara Pueblo v. Martinez*, the Supreme Court held that federal courts could not review tribal enforcement of the "Indian Civil Rights Act." S. 2747 would provide for federal court review and enforcement of tribal court ICRA decisions, after tribal remedies have been exhausted, and prohibit a defense of sovereignty immunity in civil rights cases. The bill has been referred to the Senate Judiciary Committee, though the Senate Indian Affairs Committee is expected to request jurisdiction as well.

## INDIAN FISHING RIGHTS

On June 20 the House of Representatives passed H.R. 2792, a bill to clarify that income tax laws do not apply to income derived by individual Indians and Indian-owned entities from the exercise of fishing rights protected by treaty, congressional act or executive order.

H.R. 2792 is similar to S. 727, passed in May, 1987, by the Senate. On June 21, however, the House passed a "sense of the House" resolution, which declared that Senate adoption of S. 727 had infringed upon the privileges of the House to originate revenue legislation. Therefore, passage of S. 727 by the Senate was essentially invalidated. The language of H.R. 2792 was folded into a big tax bill by the Senate Finance Committee in early August. Final passage of the measure is in question this fall.

## INDIAN CHILD WELFARE

On May 11 the Senate Select Committee on Indian Affairs held a hearing on S. 1976, amendments to the "Indian Child Welfare Act of 1978." S. 1976 would strengthen to original act to ensure tribes' authority in custody proceedings and the placement process for Indian children.

Assistant Secretary for Indian Affairs Ross Swimmer represented the Administration's position of strong opposition to the bill, stating that it "loses sight of our goal of protecting the best interest of Indian children." Swimmer read a letter from Interior Secretary Hodel, which claims that S. 1976 is "pure racism" because it would "subject certain Indian children to the claim of jurisdiction of an Indian tribe solely by reason of the children's race."

While tribal witnesses raised issues of adequate funding for child welfare services and lack of BIA compliance with the "Indian Child Welfare Act" as needing to be more addressed in S. 1976, they were generally very supportive of the bill. The director of a South Dakota foster care agency stated bluntly, "It is not the responsibility of Native American people to meet the demand of non-Indian families to have children through the adoption process."

A panel of non-Indians working with adoptions raised issues of privacy of the birthparents, and the right of the birthparents to have their choice of adoptive parents, Indian or non-Indian, be honored. Violet Lui, attorney for the Navajo Nation which was recently involved in a highly-publicized adoption case, responded that it is in the best interests of an Indian child to take into account the unique relationship between tribes and the federal government, and the fact that that child is Indian. Evelyn Blanchard, vice-president of the National Indian Social Workers Association, commented that it is hard for non-Indians to understand the importance of involving a child's tribe, even over the objection of the mother. But Indian children have two relational systems — to their biological family and to their clan or band — and even a mother has no right to deny a child access to the latter.

Given the number of issues raised at this May hearing, S. 1976 was subsequently taken back to the drawing board for revision. No further action has been taken on the bill. The Indian child welfare issue is expected to carry over into the 101st Congress.



## "TERMINATION" REPEALED

On April 19 and 20, respectively, the House and Senate passed the House-Senate conference report to H.R. 5, to reauthorize elementary and secondary education programs. The bill also reauthorized a large number of Indian education programs.

But the most interesting thing about the House-Senate conference version of the bill was the provision which "repealed" H. Con. Res. 108, legislation which brought about the disastrous federal policy of "termination" in the '50s. While no longer in effect, the policy of tribal termination still lingers as a bad dream. The repeal language, which was evidently put into H.R. 5 during the final conference, is an essentially symbolic but important gesture.

## APPROPRIATIONS BILL

On June 29, the House passed H.R. 4867, making appropriations for Fiscal Year 1989 for Indian programs and other programs in the Department of the Interior and related agencies, by a 361-45 vote. The Senate passed the bill, 92-4, on July 13. Conferees completed a compromise version of the bill in September.

The conference version would appropriate \$1.09 billion for the Bureau of Indian Affairs, including \$992.8 million for Indian services: \$267 million for education, \$293 million for Indian services, \$45 million for economic development, and \$144 million for natural resources. The total \$1.08 billion for all Indian health programs includes \$1.02 billion for the Indian health service and \$62 million for health facilities. \$72 million would be appropriated for Indian education programs.

On August 9, both House and Senate accepted the conference report to H.R. 4800, making FY89 appropriations for programs in the Department of Housing and Urban Development. The bill provides \$89 million for 1,243 units of Indian housing.

## HOUSING BILL BECOMES LAW

On May 10 the House passed H.R. 3927, to establish a separate program of assisted housing for American Indians and Alaska Natives within the Department of Housing and Urban Development. The Senate passed the measure on June 10. While the Administration continued to oppose the bill as "unnecessary," the President signed the bill in late June. The bill makes largely technical changes in HUD's Indian housing program, but tribal leaders, Indian housing authorities and others who strongly supported the bill believe it will assist in addressing the 95,000 substandard houses in which some 20% of the Indian population lives.

## PRESIDENTIAL CANDIDATES TAKE POSITIONS ON NATIVE AMERICANS

Both the Democratic and Republican Party platforms make specific mention of Native Americans:

### REPUBLICAN

(The Republican Party platform is lengthy. A separate section entitled "Native Americans" is in the section dealing with Constitutional Governmental and Individual Rights.) "We support self-determination for Indian Tribes in managing their own affairs and resources. Recognizing the government-to-government trust responsibility, we will work to end dependency fostered by federal controls. Reservations should be free to become enterprise zones so their people can fully share in America's prosperity. We will work with tribal governments to improve environmental conditions and will ensure equitable participation by Native Americans in federal programs in health, housing, job training and education."

"We endorse efforts to preserve the culture of native Hawaiians and to ensure their equitable participation in federal programs that can recognize their unique place in the life of our nation."

### DEMOCRAT

"We believe that the voting rights of all minorities should be protected, the recent surge in hate violence and negative stereotyping combatted, the discriminatory English-only pressure groups resisted, our treaty commitments with Na-

tive Americans enforced by culturally sensitive officials, and the lingering effects of past discrimination eliminated by affirmative action, including goals, timetables, and procurement set-asides."

Governor Dukakis has put forth a four-page issue paper entitled "Opportunity for Native Americans," which reads: "Building real economic and educational opportunity for Native Americans must be an important domestic priority of the next President. Now, after years of neglect, the federal government must recognize its responsibility to guarantee Native American tribes their rights. It must actively encourage economic growth and good jobs on reservations and ensure access for Native Americans to first-rate schools and health care. . .

"The next President must be an advocate for Native Americans. We must respect and protect the inherent right of Native Americans to continue to exist as tribes and to live under their own governments. Tribes must not be denied any of the rights that our Constitution guarantees."

Governor Dukakis pledges to enforce mineral rights agreements so that Indian tribes and individuals receive oil and gas royalties in full; to appoint officials in the Department of the Interior who will consult with tribes on administrative matters; to require that uses of tribal lands have the consent of the involved tribe; to carry out an Indian economic plan to bring industry to reservations and develop infrastructure to support businesses; to guarantee all Indian students access to safe, healthy schools, and work to provide financial assistance to attend college; and to support programs to improve the quality and accessibility of health services and increase the number of health care professionals serving Indian communities.



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The *Indian Report* is a publication of the Native American Advocacy Project sponsored by the Friends Committee on National Legislation (FCNL) and other denominational organizations. The Project seeks to be guided primarily by the views of Indian tribes, communities and organizations across the country, and focuses on upholding treaty rights, encouraging the fulfillment of the federal trust responsibility, and assuring the right of Native American communities to self-determination. The writing and production of this issue were done by Cindy Darcy.

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