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SPECIAL INTRODUCTION BY
PRESIDENT RICHARD NIXON
NORTH DAKOTA LAW REVIEW—
SUMMER 1972

In considering the laws that relate to any given segment of our society, it is essential that we consider both the functioning of present laws and the need for new laws; both what the laws achieve and what gaps there are that still must be filled.

Today, the need for new law is in no place more evident than in the laws which pertain to the American Indian. In my Special Message to the Congress on Indian Affairs of July 8, 1970, I identified several areas in which existing statutes are inadequate to today's needs, and proposed new laws to meet those deficiencies.

Then, as now, it was my intention to develop a new policy for the Federal Government in its special relation to the American Indian. I said then that it should be our policy to encourage Indian self-determination so that more of the solutions to local Indian problems could be worked out by Indians themselves. I envisioned an approach which would carefully steer a course between excessive Federal control and termination.

This new policy involves Indian tribes' taking over services which in the past have been performed only by the Federal Government. It also means greater participation of Indian tribes in the development of Federal Indian policy; for example in the development of initial program budgets of the Bureau of Indian Affairs, which provides some 50 per cent of all Federal funds that go to Indians under our trust responsibility.

One significant weakness in Indian law lies in the nature of the present Federal machinery for protection of Indian rights in important legal proceedings. To eliminate that weakness, I proposed — nearly two years ago — the creation of an Indian Trust Counsel Authority, an independent body which would speak up for the protection of Indian natural resource rights in courts and other judicial forums where those rights are challenged. In my Special Message of July 8, 1970, I said:

The United States Government acts as a legal trustee

for the land and water rights of American Indians. These rights are often of critical economic importance to the Indian people; frequently they are also the subject of extensive legal dispute. In many of these legal confrontations, the Federal government is faced with an inherent conflict of interest. The Secretary of the Interior and the Attorney General must at the same time advance *both* the *national* interest in the use of land and water rights *and* the *private* interests of Indians in land which the government holds as trustee.

Every trustee has a legal obligation to advance the interests of the beneficiaries of the trust without reservation and with the highest degree of diligence and skill. Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation. No self-respecting law firm would ever allow itself to represent two opposing clients in one dispute; yet the Federal government has frequently found itself in precisely that position. There is considerable evidence that the Indians are the losers when such situations arise. More than that, the credibility of the Federal government is damaged whenever it appears that such a conflict of interest exists.

Unfortunately, the Congress has not yet acted on the Indian Trust Counsel Authority, or on a wide range of other proposals of concern to Indians. In lieu of this Congressional action, we have done the best we can to follow a strategy of Indian self-determination.

We have set up a water rights office in the Department of the Interior to ensure attention to Indian water rights cases pending Congressional action on the Indian Trust Counsel Authority.

We have proposed an increase in total Federal assistance so that Indian groups will receive larger grants as they take over more of the basic social services and property management functions previously performed by the Federal Government on reservations. We have proposed that this assistance be supplied by the Bureau of Indian Affairs in accordance with the priorities set by Indian governing bodies themselves.

We have increased the number of Indians who hold Executive positions in the Bureau of Indian Affairs and who are its Area Directors. In many instances, the Vice Presidential and White House Offices have been active in assisting to protect Indian interests—for example, to stimulate housebuilding on Indian reservations and ensure the representation of Indian interests in court cases.

In some areas White House efforts have helped to produce Congressional action beneficial to the Indians—restoration of the Blue Lake lands, authorization of the Navajo Community College, appropriations to promote Indian health, demonstration aid to urban Indian

centers, and the Alaskan Native Claims Settlement. But much more remains to be done.

Congress has yet to approve the cancellation of the 1953 termination resolution, the self-determination legislation which is needed to transfer greater control of reservation life to Indians, amendment of the Johnson-O'Malley Act so that its special funds for Indian students would go directly to Indian tribes and communities, rather than to the school districts and thereby enable Indians to help shape the schools their children attend, the Indian Financing Act of 1970 which would make available greater loan resources for economic development on the reservations, the creation of an Assistant Secretary for Indian Affairs in the Department of the Interior and the creation of an Indian Trust Counsel Authority.

It is my firm belief that Indians must be given more of an opportunity to control their own lives and their destiny as a people. There still exists a need for Federal assistance, both financial and advisory, but there also exists a need for greater control of Indian affairs by Indians.

I salute the North Dakota Law Review for its interest in promoting greater understanding of Indian law and, through it, of the Indian people today. I also hope that through this forum more Americans will become involved in our efforts to assure Indians the rights which have too often been denied to them in the past and the chance to play a more active role in the life of this Nation in the future.

