

News from:

FOR IMMEDIATE RELEASE
June 8, 1978

Senator Henry M. Jackson

JUSTICE DEPARTMENT TO REVIEW TRUST RELATIONSHIP

WASHINGTON -- In response to a request from Senators Henry M. Jackson and Warren G. Magnuson, the Justice Department has agreed to begin a review of the federal government's trust relationship with treaty Indians.

"I am pleased with Attorney General Bell's initial response," Senator Jackson said. "It shows the Department shares our concerns and is willing to begin working on this problem. It's a good start."

Senator Magnuson added, "The Administration has recognized the problem is national in scope and has agreed to give it the attention it deserves."

Senators Jackson and Magnuson asked Bell in March to consider problems related to the federal government's trust relationship with Indians and to begin discussing ways to resolve disputes over Indian claims to natural resources and jurisdiction. The Senators particularly noted the conflicts inherent in the government's role of defending Indian rights in court at the expense of non-Indians.

"...The resolution will involve cooperation of many agencies of government, as well as the Congress, and I hope that a high level policy study of the matter can commence in the very near future," Bell said in a letter to Senators Jackson and Magnuson. Bell also contacted the Domestic Policy Staff at the White House and Interior Secretary Cecil Andrus.

Senator Jackson met personally with President Carter, Attorney General Bell and Secretary Andrus concerning problems associated with the trust relationship.

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Forward,
copy and give to Chas.
E. Paul S., Jr *Thanks*

United States Senate

WASHINGTON, D.C. 20510

March 1, 1978

Honorable Griffin B. Bell
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

During your recent discussions with Senator Jackson, you spoke about the Federal government's role in representing Indian tribes pursuant to the trust relationship vis-a-vis its responsibilities to non-Indians.

Relations between Indians and non-Indians have become strained in many areas as Indians have begun claiming rights to natural resources and jurisdiction over non-Indians. The Federal government's advocacy of the Indians' claims has seriously contributed to the tension. This is especially so when Indian claims adversely affect the rights or livelihood of non-Indians. Both Indians and non-Indians in our own Washington State now endure the divisive effects of the infamous 1974 fishing rights decision handed down in U.S. v. Washington while the resource--and the livelihoods of all those who rely on it--is in jeopardy.

Many non-Indians object to their tax dollars being used by the Federal government to defeat their rights in court, while at the same time, there are no Federal personnel or funds used to protect their rights. Especially disconcerting is the Federal advocacy of cases in which Indian tribes claim jurisdiction over non-Indians when non-Indians do not have the right to participate in Indian tribal government.

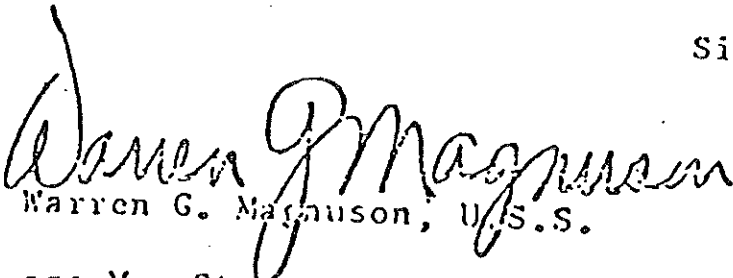
While we recognize the historic trust relationship of the Secretary of the Interior to represent the best interest of Indian tribes, the trend in recent years has been to extend the meaning of that relationship to include the resources of the entire Federal government. Although there may be some legal or moral authority to extend that definition, we believe that a thorough objective review of that policy should be undertaken. In short, a clarification of the Federal trust responsibility to Indian tribes is needed.

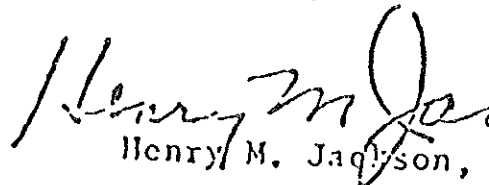
Additionally, the profusion of Indian claims to natural resources and jurisdiction over non-Indians has highlighted the inadequacy of the judicial process to resolve these conflicts between Indians and non-Indians. Recent judicial decisions have not served to ease the tensions that engulf Indian/non-Indian relations. Rather, animosity has increased, litigation costs proliferate and uncertainty prevails.

Because the judicial process seems unable to handle the task of resolving major Indian claims to natural resources and jurisdiction, it is imperative that your Department, in conjunction with the other affected agencies, develop methods of reducing litigation while increasing peaceful non-litigious resolution of such claims which would be fair to Indians and non-Indians alike.

Because of the importance of this matter, we urge your early attention to, and constructive comments on, how this problem can be best resolved.

Sincerely yours,


Warren G. Magnuson, U.S.S.


Henry M. Jackson,

cc: Mr. Stuart E. Eizenstat
Honorable Cecil D. Andrus



Office of the Attorney General
Washington, D. C. 20530

May 25, 1978

The Honorable Warren Magnuson
The Honorable Henry M. Jackson
United States Senate
Washington, D. C. 20510

Dear Senators Magnuson and Jackson:

I am writing in response to your letter to me of March 1, concerning the problems raised by various claims on behalf of Indians and Indian tribes. You point to two areas of concern.

Your first concern has to do with who represents the Indians in advancing their claims, and the second has to do with the forum in which those claims are adjudicated. I share your concern in both areas. The fact that the United States Department of Justice represents the United States in its capacity as trustee for Indians under treaty arises out of the treaty relationships themselves. It would perhaps be simple enough to have some entity of government other than the Department of Justice represent the United States in its role as trustee for the Indians, but I am not at all certain that this would be any basic solution to the problem. The problem lies in the trust relationship itself. Any alteration of that would be a most complex and controversial undertaking, involving not only the Executive Branch but also the Congress.

Claims brought on behalf of Indians against entities other than the United States are now brought in our existing court system. It would be possible presumably to provide by law for some other mechanism to handle these claims.

Both of these subjects go to the core of the policy of the United States on Indian matters. I have met with Secretary Andrus to begin discussions looking towards some resolution of the problems which will be fair to the Indians and to the non-Indian population of the United States, and I have asked the Associate Attorney General to continue these discussions. The Associate Attorney General has requested the Domestic Policy Staff at the White House to give these

problems immediate and careful attention. As stated above, the resolution will involve cooperation of many agencies of government, as well as the Congress, and I hope that a high-level policy study of the matter can commence in the very near future. We will, of course, welcome your participation in any such endeavor.

Sincerely yours,

Griffin B. Bell

Griffin B. Bell
Attorney General