

Time for another Backlash?

Recent ICT articles – “The backlash against California tribal casinos,” by James May, and “First Nations and states: Contesting politics,” by David Wilkins, both describe situations similar to those that foreshadowed the so-called “white backlash of 1976-77,” and could portend another concerted effort against tribal sovereignty and self-government.

The backlash of 1976-77 was triggered by reaction to militant activities in Indian Country, which ignited long-held resentment over what certain interests in western states perceived as privileges and resources available exclusively to Indians at great cost to the federal government. And always an underlying factor, of course, was the lust for Indian lands.

The period immediately preceding the backlash was a “golden age” for the tribes – an era of favorable court decisions, enlightened national policy, and legislation with new programs for tribal self-determination, education, economic development, housing, child care, health care, and religious freedom. This, plus restoration of federal recognition to tribes and unprecedented land return in significant acreage, added to long-seething resentment over what red neck circles in areas neighboring the reservations perceived as “womb-to-tomb pampering” (their words) of Indians by the federal government.

Presages of the backlash were seen in the 1960s and early 1970s. Indian fishermen in Washington state, exercising their fishing rights newly confirmed in the Boldt Decision, were fired on and had their boats vandalized or destroyed by vigilante groups. On the Plains, following the 1973 standoff between AIM and the FBI/US Marshals at Wounded Knee, fear spread among ranchers, reminiscent of the ghost dance panic among whites in 1890. Automatic weapons began appearing in gun racks of pickup trucks and CB radios crackled militia-like chatter between ranchers and small town constabularies. Soon statewide groups began organizing into so-called protective associations, cemented by these fears, resentment, and long-standing bigotry.

In July 1978, the state groups came together in Salt Lake City to form the Interstate Congress for Equal Rights and Responsibilities (ICERR), and set out on a well-oiled campaign to rally the states against the tribes. Their goals were to push Congress to do away with Indian hunting and fishing rights, and to get Indian treaties abrogated and the tribal governments terminated.

To set the stage, the ICERR published for wide distribution *Are We Giving American Back to the Indians?* This 26-page booklet in Q&A format described what they viewed as inequitable and unjust rights, privileges and immunities enjoyed by the tribes, and was designed to inflame smoldering resentment into anti-tribal political action. Similar publications came out of other organizations, and the mainstream press joined in with expose’ articles on tribal abuses of federal funds and sovereign rights.

In October 1976, four months after the ICERR meeting there, the National Congress of American Indians held its 33rd annual convention in Salt Lake City, with an agenda dominated by the impending backlash. In a panel discussion on legislative issues in the upcoming 95th Congress, attorney Franklin Ducheneaux, Cheyenne River Sioux warned the tribes:

“In the past two Congresses, we have worked to pass favorable legislation for Indian people...But I think in the next Congress and perhaps the one after that, we are going to be reacting, I’m afraid, to unfavorable legislation; legislation designed to go as far as to abrogate treaties. And I think it’s something that you are going to have to be ready to combat.”

In the first piece of legislation of the 95th Congress -- House Joint Resolution 1, Rep. Lloyd Meeds (D-WA) proposed to substitute, buyout, or trade off Indian fishing rights. This was followed by an onslaught of bills calling for curtailing Indian hunting and fishing rights, overriding Indian land claims, and terminating the statute of limitations on Indian claims.

Favorable legislation that in recent past years would have sailed through on the consent calendar now met with strong opposition, including the Black Hills claim appropriation, the Indian provisions in the Clean Air and Safe Drinking Water Act, and the Legal Services Corporation Act. Even legislation calling for the most humane measures met with opposition, such as the Indian Child Welfare Act.

Finally, several bills were introduced that caused the greatest concern to the tribes. John Cunningham (R-WA) introduced HR 9054 calling for abrogation of all Indian treaties and termination of the tribes, followed closely by HR 9950 and 9951, introduced by Rep. Meeds calling for turning over Indian reservation jurisdiction to the states, and severely limiting Indian water rights.

The most alarming aspect of the threat, however, was the bipartisan nature of the nine bills considered by NCAI to be backlash bills: four were from the Republican side and five were from the Democratic side.

In the meantime, NCAI was taking action. In December 1977, tribes were convened in Phoenix to mobilize and set a strategy to counter the political work of the ICERR and to effectively lobby for the defeat of the backlash bills. A plan was devised for a campaign bringing together NCAI and the National Tribal Chairmen’s Association, to be funded by contributions pledged by tribes at the meeting. In cooperation with the Indian Law Center at the University of New Mexico, the United Effort Trust was established to engage the anti-tribal forces and begin a concentrated effort to educate the public on Indian rights and to focus the lobbying effort on the defeat of the backlash legislation.

Although the actual contributions from tribes were far less than originally pledged, and the UET effort closed its doors in 1978, the campaign was considered successful, with much help from other organizations which rallied support and resources behind the UET. The threat abated in the 96th Congress, with none of the backlash bills being enacted. Cunningham and Meeds were both defeated in their bids for reelection, due in large part to effective tribal political action in the Northwest.

One lasting contribution of the UET was the establishment of the Commission on State-Tribal Relations organized between the NCAI and the National Association of State Legislatures. The

ICERR had sought to mobilize the states against the tribes, and the NASL was targeted by them as the vehicle to get this done. The state-tribal commission provided for dialog, joint studies and cooperation, and effectively negated the ICERR's effort to use that forum for their campaign of misinformation and hysteria.

Although the immediate years that followed saw some important pieces of Indian legislation enacted, the 1975-76 backlash slowed the momentum of the 1970s, and made lobbying on NCAI's part much more challenging.

Calls for tribal termination and Indian treaty abrogation are usually justified on two dichotomous rationales. The first argues that tribes are doing fine and should be cut loose from the federal government; this was used in the termination of the Menominee and Klamath and likely would be used to justify termination of the more-successful gaming tribes. The other cites abhorrent conditions on some reservations as proof of the failure of tribal self-government, and justification for termination of those tribes for the sake of the tribal people themselves. A recent article in *National Review*, describing conditions on the Pine Ridge Reservation as an example, used this justification in calling for termination of all tribes.

As May and Wilkins discuss in their fine pieces, and as shown by the recent articles in *Time* magazine, the California press, and the *National Review*, presages may be in the winds, and NCAI and the National Indian Gaming Association should assess the national trends that may portend another backlash.

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