

Are Your Elected Officials Forsaking You?

By Elaine Willman, MPA*

Let's get one thing clear: Tribal governments do not create Federal Indian Policy. The Executive Branch, Congress and the Courts do. Tribal government officials, lobbyists and legal counsels of 567 tribes have been heavily persuasive with our elected officials at every level of government, but tribes do not make federal/state law. Our elected officials or the Courts make the law. The problem? "Consultations" with tribal governments have now overwhelmed and replaced the Oath of Office taken by our elected officials to serve all Americans, not just 2% of America's population.

I have written and spoken for years about Executive Branch over-reaching under the Obama Administration, wishing mightily that the same would not be true of Congress. But Congress, the folks you and I elect, have betrayed us. Congress is now intentionally turning America's forests, waters, lands and energy over to tribal governments, to the direct diminishment of State authorities and removal of "life, liberty and the pursuit of happiness" (Amendments 1 through 10 of the U.S. Constitution) from the rest of us: 98% of America's population.

Here are just a very few examples currently rolling through the current Congress: *Westerman*-H.R. 2647 (forests); *Zinke*-H.R. 5259 (minerals, royalties); *Moran-Tester* S. 1931 (lands); *Tester*-S. 2636 (land); *Daines*-S. 2938 (mineral, royalties); *Inhofe* S. 2848 (water); *Tester*-S. 3013 (water); *Daines*-S. 3014 (forest); *Rounds*- S. 3085 (forest); *Tester*-S. 3261 (energy).

We have all heard and endured ongoing *revisionist history*, but what is happening today under the present Administration and Congress is actually **reversing history**...intentionally unsettling the West.

Two things were going on in the 1800s: 1) Congress was truly working toward American Indians becoming full citizens, even landowners; and 2) Congress was settling the West.

The federal government **purchased** "ceded" lands from tribes and formed bounded reservation areas within which tribal communities could live any way they chose with the goal of full citizenship within two generations. Land and water within the reservation boundaries were owned by the United States, and the BIA had the sole governance, or jurisdictional enforcement capability. Tribal governments under treaties had no ownership, governance or jurisdiction over reservation lands or waters. Tribes had only federally protected **beneficial use and occupancy** of lands and waters...nothing more.

Throughout the 1800s Congress was yelling "Go West Young Man..." even unto homesteading Indian reservations. Young Man settled the West, created the ranches, farms, schools, churches, towns...and now Los Angeles, San Francisco, Seattle, etc. Young Man was given nothing from the federal government to do these great things. Indian tribes were given annual dollars, blacksmiths, food, housing, schools, doctors and other supplies. During this period of time until the end of the Civil War, Black Americans were sold like cattle. The *only* population continuously receiving annual money, resources and protections from the federal government were Indians, and that was intended to be temporary until Indians could be full citizens which came with the Snyder Act of 1924.

Nothing within the four corners of the U.S. Constitution includes tribal governance, tribal sovereignty or any aspect of federal Indian policy. Congress has power over Indian commerce, not Indian tribes. Justice Clarence Thomas put a powerful challenge out to his colleagues on the Bench, and to Congress. Here are his clear words:

“Congress purported [alleged] Plenary Power [all-encompassing] over Indian tribes rest on even shakier foundations. No enumerated power—not Congress’ power to “regulate Commerce. . . with Indian Tribes,” not the Senate’s role in approving treaties, nor anything else—gives Congress such sweeping authority...And, until the Court rejects the **fiction** that Congress possesses plenary power over Indian affairs, our precedents will continue to be based on the paternalistic theory that Congress must assume all-encompassing control over the “remnants of a race” for its own good. [Emphasis added]

—Justice Clarence Thomas, *U.S. v. Bryant*, No. 15-420, U.S. Supreme Court, 06-13-2016

Terms like —*aboriginal rights* and *time immemorial*—are political propaganda. Anything *pre-constitutional* or *extra-constitutional* is **un**constitutional...or we have no Constitution. The Constitutional priority tree of sovereignty goes like this:

1. Citizen (Popular Sovereignty, Inalienable rights).
2. State sovereignty (remember the States created the federal government).
3. Federal sovereignty (enumerated (limited) powers).

Why is the Constitution turned on its head, and why are federal, state and local elected officials who swore Oaths to our Constitution so persuaded that tribal sovereignty is superior to all other sovereignty in this country? Follow the money and follow political correctness. Tribal governments are the only governments (567 of them) that can cut large checks to political parties, incumbents and challengers to do their bidding. No other American governments may do so. And no elected official wants to be called "racist" if they deny or fail to support a single tribal whim.

Other powerful influences being supported by Obama, Clinton and too many Congressmen include globalism, Climate Change, Agenda 21 and socialism. All of these pressures are harmonious goals linked to the spread of tribalism as a system to ultimately take down States. Globalists and Agenda 21 folks would divide this country into 10 regions managed internationally, instead of 50 states. So a good start in the dismantling of at least 39 states is handing off their forests, minerals, waters, lands and energy to Indian tribes.

Across the Western States our federal senators, state legislators, county commissioners—too many behave as though their primary allegiance is to tribal governments, generally to the direct harm of all other citizens, and in violation of the Oaths of Office. The federal “trust” relationship with Indian tribes created by the Supreme Court (1823-1830) may never supplant the trust relationship that every elected official takes to the U.S. Constitution, including specifically the Ninth (natural rights in the Declaration of Independence) and Tenth Amendments.

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