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Congressional Record S. 3833-4 - Inequitable Treatment of the Indian

Mike Mansfield 1903-2001

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The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 3694) to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended. The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Hathaway).

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 3298. An act to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act; and

H.R. 4278. An act to amend the National School Lunch Act to ensure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973; to the Committee on Agriculture and Forestry.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. Mansfield. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The Acting President pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Montana.

INEQUITABLE TREATMENT OF INDIANS

Mr. Mansfield. Mr. President, first, let me say that I do not believe in assaults on persons or property. With that statement, I wish to discuss the situation at Wounded Knee, S. Dak., where matters remain in a state of uncertainty, with negotiations still going on. It would be my hope that the Federal Government which has a direct responsibility for Indian affairs would undertake a thorough inquiry and investigation into the complaints which have been raised and the reasons for them. When I speak of the Federal Government, I also mean Congress because these descendants of the original Americans, these troubled and unhappy citizens, should be given the full consideration which is their due.

Reference has been made to broken treaties, and I am very certain that many of the treaties which have been entered into between the Federal Government and the various Indian nations and tribes have not been carried out in good faith. On the basis of research, I find the matter is not one for consideration by the Foreign Relations Committee. Evidently, the Foreign Relations Committee was not consulted, nor did it pass on H.R. 3694.
the treaties when they were originally entered into by the Federal Government and the Indian nations or tribes. There are somewhere between 370 and 400 of these Indian treaties and they were entered into at a time when we now call executive agreements, rather than treaties in the strict sense of that word. Such were the agreements that were reached between the agents of the executive branch of the Government and the Indian tribes and nations, with Congress playing a major part, if any, in the matters involved. The problems of "one branch" government obviously have long roots.

What is called for, I believe, is a thorough and complete shakeup of the Bureau of Indian Affairs. It may well have to be shaped into a separate, independent agency, staffed by the best people possible, funded adequately and having as its major concerns the rectification of Indian wrongs and the welfare of the Indian people. I should note, in this connection, that President Nixon, in his 1974 budget, has asked for $1.45 billion for Indian affairs, which is an increase of more than 15 percent over the total requested for fiscal year 1973.

Many of these people, in general, has been based on misunderstanding, a lack of appreciation and a disregard of our fellow citizens down through the years of our history. If my memory serves me correctly, the last Indian battle occurred at Wounded Knee in 1890, with the annihilation of the Indian people. That was the last war to be fought in our country, so presumably the problems at Wounded Knee, to do so by force of arms, have been much to the Indians by the arrogance of the United States, but the history of the process of rectification of Indian wrongs, and not understanding, the In-

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CONGRESSIONAL RECORD— SENATE

To: Senate Committee on Indian Affairs
From: Mary Pinchot, Analyst in International Relations

Subject: U.S. treaties with Indian tribes

Beginning with the ratification of the Delaware Treaty by the Continental Congress in September 1781, and continuing after the adoption of the Constitution in 1788, the United States followed a policy of making treaties with the Indian nations or tribes. This practice continued until the act of March 3, 1871 (16 Stat. 686) by which Congress declared that no Indian nation or tribe would be recognized as an independent nation, tribe, or power with whom the United States could not be co-existing.

"So far as matters of form and procedure on the part of the United States were concerned, Indian treaties followed precisely the same course as did treaties with foreign nations; after signature they were submitted to the Senate by the Executive, and they received the advice and consent of the Senate, as were representative. As were treaties with foreign nations, the Senate could, if it saw fit, reject a treaty, in whole or in part. In such a case the treaty would, in the absence of a Senate vote, be considered null and void. In the case of treaties with foreign nations, however, the Senate could, if it saw fit, reject a treaty, in whole or in part. In such a case the treaty would, in the absence of a Senate vote, be considered null and void.

The preceding step was taken in 1866. Miller, The Constitution of the United States of America, vol. 1, p. 179. A treaty was made with the United States, and ratified by the Senate. These treaties were not considered treaties, as understood by U.S. constitutional law.

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That does not mean that agreements were not concluded between representatives of the United States and the Indian nations, or of the United States before 1778 and after 1771. These agreements were not considered treaties, as understood by U.S. constitutional law.

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