

Opening Statement  
Senator Ben Nighthorse Campbell, Vice Chairman  
U.S. Senate Committee on Indian Affairs  
Oversight Hearing on Recent U.S. Supreme Court Decisions

February 27, 2002

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Good afternoon and thank you Mr. Chairman for holding this important hearing.

At yesterday's hearing on Indian Trust Management Reform we heard from distinguished legal scholars about the legal and political foundation of the Federal - Tribal relationship.

We heard about Chief Justice John Marshall, who we justly credit with firmly establishing the role of the U.S. Supreme Court in our Federal system, and the role he played in Indian jurisprudence.

The "Pendulum" of Federal Indian Policy has been swinging almost since the beginning of the Republic — treaties, relocation, reservations, allotment and assimilation, termination and to the current policy of Self Determination.

But Indian Self Determination is more than a slogan to be carelessly thrown around: Chief Justice Marshall's decisions are grounded in it and President Nixon knew what it meant in 1970 when he issued his famous "Special Message to Congress on Indian Affairs".

Local decision making is an important part of Federal Indian policy just as it is a part of core Republican principles. It is a key concept because it works: local governments know best what works for their citizens and Indian Tribes are no different in this respect than any other local government.

As important as the legal tenets of Federal Indian law and policy are, I am just as concerned with the practical results that the recent decisions of the U.S. Supreme Court will have on that policy and on the future of Indian Tribal governments in America.

An Indian Tribal government that cannot legally defend its territory is not a sovereign government at all.

An Indian Tribal government that is unable to levy a tax on a hotel that enjoy the benefits and amenities that Tribe provides will not survive long.

In short, I fear that left unchecked, the philosophy and reasoning of these Supreme Court cases will mean that in fairly short order Indian Tribes will be little left with few powers of government.

If this trend continues, the current vigor of Indian Tribal governments will be a distant memory and the Tribes themselves will become little more than social clubs and simple mechanisms for funneling Federal funds to Indian people.

The advances made in recent years in rehabilitating Indian Tribal economies will be reversed if tribes lack fundamental authority over people and events that are located on their lands.

Massive re-Federalization of Indian issues will take place which is not healthy for the Tribes, for Tribal members, for local citizens or for the taxpayer.

This result is not, in my view, what is envisioned in the U.S. Constitution, and it does not represent the considered views of this Committee or the Congress generally.

With that I ask Unanimous Consent that my formal Statement be included in the Record and I look forward to hearing from our witnesses today.

Thank you Mr. Chairman.

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