

Public Law 280

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PUBLIC LAW 280
AND
CALIFORNIA RESERVATION INDIANS

Report
to the
STATE OF CALIFORNIA
STATE LANDS COMMISSION

June 1976

Prepared by
INCA CORPORATION
9014 Lindblade Street
Culver City, Ca. 90230

CONTENTS

Item		Page
1.0	Introduction	1
2.0	Objectives of The Study	5
	2.1 Objectives	5
	2.2 Methodology	5
	2.3 Highlights of The Study	6
	Roaring Creek Rancheria	7
	Laytonville Rancheria	8
	Round Valley Reservation	9
	Hoopa Valley Reservation	10
	Bishop Reservation	13
3.0	Summary of Field Study	16
4.0	Supplementary State Legislation and and its effects on the Reservations	20
5.0	Recommendations	22
6.0	Concluding Statement	27

APPENDIX

Exhibit A	Position Papers	1
Exhibit B	Questionnaires	ii
Exhibit C	AB 3440, Statement by Dr. Jack Forbes, & Legislative Counsels Replies	iii

R E P O R T

"The Indian Community viewed the passage of Public Law 280 as an added dimension to the dreaded termination policy."

--Senator Henry M. Jackson, 1975

1.0 INTRODUCTION

Public Law 280 was adopted by the 83rd Congress over the strenuous objections of Indian leadership. Designed to transfer responsibility from the government to the States for civil and criminal jurisdiction, it was signed into law by President Eisenhower on August 15, 1953. Senator Henry M. Jackson's Senate Report of 1975 summarized PL 280 as follows:

Public Law 280 was adopted during a period in which the expressed federal policy toward Indians sought to terminate federal responsibility for, and special relationships with, Indian tribes. The avowed purpose of Public Law 280 was to give all of the states the option of assuming civil and criminal jurisdiction over Indian reservations within their borders. Prior to that time, jurisdiction rested

with either the tribal governments or the federal government.*

PL 280 caused immediate and nation-wide concern among Indians. Overnight, their tribal authority had lost both its influence and its venue as the States superceded Federal jurisdiction and centered the judicial processes in urban centers far from the reservations. It is understandable that the majority of Indians regarded PL 280 as the prelude to the final destruction of the fragile sovereignties of their remnant nations.

The legal vagaries of PL 280 include: taxation of Indian incomes and Indian resources, rights to resources on and in Indian lands, county zoning jurisdiction (and enforcement), building codes, and the confusion over constitutional guarantees of civil rights under the new jurisdiction. For many tribal groups, the answer seemed to be retrocession--returning to the original federal jurisdiction by legislative decree. The process of retrocession, however, is arduous, technical, and time-consuming. Without political influence, the legislative process is, in fact, weighted against the Indians wishing retrocession. The people who would have the most to lose--those land-owners and businessmen nearby--are exactly the people who must relinquish jurisdiction over Indian matters.

* Background Report on Public Law 280, Senate Committee on Interior and Insular Affairs, Henry M. Jackson, Chairman, 1975.

For the California Indians, the problems created by PL 280 were, and continue to be severe. Unlike the Hopi, the Navajo, and other tribal groups occupying vast areas of land, the California tribes are spread out all over the state, occupying relatively small reservations and "rancherias" in remote areas. This tribal diffusion, small size, and remoteness has made California Indians vulnerable to the inequities and vagaries of PL 280 to an extreme degree.

To begin with, State jurisdiction has significantly displaced tribal authority. Secondly, the displacement of federal jurisdiction has brought the Indians head-to-head with contingent non-Indian interests who, as often as not, are competing directly with them across a broad economic spectrum. Thirdly, the scale of justice has tipped against the Indian because of the location of the courts of law (and their juries) in major urban centers far from the reservation, and from Indian peers. Fourthly, counties have imposed zoning laws and planning regulations--effectively curtailing new development along traditional guidelines, and imposing prohibitive costs on the reservation. Fifthly, the State has the authority to implement taxation in ways which prove frustrating to self-determination and the development of Indian-owned resources. Sixthly, the legal vagaries of PL 280 allow continual re-interpretation of the basic text of the law itself, opening old readings to new interpretations, and making all readings subject to changes in administration and other political pressures. Lastly, the Reservations are subject

to entirely new legislation which can, in the long run, threaten the tribes with total loss of their land base--the dreaded termination. These new legislative efforts, such as AB 3440, are of great concern to all Indian leaders who fear hidden clauses and contradictory interpretations.

Above all, the Indian himself has been left out of the legislative process. As in PL 280 itself, Indians are not involved in the process of communication leading to legislative actions. What do California Indians think of PL 280? How does PL 280 affect their lives? What do they think of retrocession, repeal, and other options? There are no immediate answers. This is so, however, because as far as can be determined no one has bothered to ask.

The purpose of this REPORT is to communicate the results of our field-study program. Our researcher went to Reservations and Rancherias asking the residents' and the Tribal Leaders' opinions, feelings, and reactions concerning PL 280. This is what we found.

2.0 THE STUDY

"...during the hearings for this bill (PL 280)
very little Indian input was furnished."

--Public Law 280 and California Indians. June

1974.

2.1 Objectives

INCA Corporation's objective in this study was to poll the principal tribal groups of California Indians in order to compile a statement which would reflect their collective and personal observations of Reservation experience under the auspices of Public Law 280. The interviews and fact-finding visits to various Reservations and Rancherias were conducted by Mr. Fred Coyote of the WAILAKI tribal group at Round Valley (Covelo) California. INCA Corporation provided office and technical support, and assistance with final preparation of the Report. The principal objectives were to (A) determine what the California Indian population has to say regarding civil and criminal jurisdiction as defined and implemented under PL 280, and; (B) develop a means of communication to the entire California community for feedback on issues crucial to all Californians. A look at AB 3440 is also part of this study.

2.2 Methodology

The methodology employed in the collection of the data used in this study consisted of: (A) A questionnaire (see appendix) which

was both mailed to tribal organizations and tribal leaders, and which was used in personal interviews; (B) Visits to individuals on the Reservations and Rancherias in the Northern, Central, and Southern sections of California, and; (C) Telephone interviews and follow-up interviews, with Indian leaders, individuals, and organizational staff on the reservation and in the cities. Pertinent data from the questionnaires, interviews, and written statements was compiled at INCA Corporation's headquarters in Culver City and is summarized at the conclusion of this Report. Position papers were also solicited from tribal groups and are included in the appendix.

2.3 Highlights of the Study

The study took three months to complete. The following comments are direct quotes (occasionally summarized) from Mr. Coyote's notes and tapes from his various visits and interviews.

"In doing this survey, one of the most important points that has to be remembered is that the people that were contacted requested anonymity. This was understood and word was given that their wishes would be respected. Another was the general suspicion of me as an outsider, and especially of the questionnaire. Representative of this suspicion was the fact that the

address (on the questionnaire) was mistaken for some urban group that was compiling statistics in order to get funding. As the survey progressed, it became apparent that those people responding to the questionnaire weren't necessarily being polled across a wide enough range of subjects which are relevant--as they perceive them--to PL 280. Also, there is a tremendous gap in communication between the existing tribal governments and the general populations. In order to understand the difficulties in doing such a survey, one must understand the factions on any given reservation. Here is an example of some of these:

- (1) Tribal Government;
- (2) Federal and State funded projects;
- (3) Employed personnel on reservation;
- (4) Christian groups;
- (5) Old families.

The problems on all reservations visited seemed entirely to be related to jurisdictional disputes. These principal disputes are: (1) Zoning; (2) Resources--timber and natural gas; (3) Hunting and Fishing Rights; (4) Building on Burial Sites and Sacred Areas; (5) Legal Aid, and; (6) Police Protection."

Roaring Creek Rancheria: Pit River-Achomawi-Atsugewi, 80 acres. Shasta County, 1915.

Favors Retrocession.

"The people here are very well versed in the history and application of PL 280, especially Mr. Raymond Lagoo who can quote page and paragraph of the law. He feels that retrocession is a beginning, but that the tribes are not yet ready to assume different kinds of jurisdiction--especially on the small rancherias where there is no need except in an emergency for police protection, etc.

As isolated as these small rancherias are, so much time is required for emergency police protection to arrive, that the tribes are better off under total retrocession (since the service-capability under federal jurisdiction would be the same as under State jurisdiction.) He also feels strongly that, because there is an inevitable time factor in the transition back to federal jurisdiction that the choice of jurisdiction should be made available to each reservation, rancheria and community. He is very outspoken about having this kind of choice: (A) Civil Jurisdiction only; (B) Civil and Criminal Jurisdiction; (C) Remain With State Jurisdiction. Many others were to express their wishes for this same kind of reservation-by-reservation choice."

Laytonville Rancheria: Cahto-Pomo, 200 acres. Mendocino County, 1908.

Favors retrocession to civil jurisdiction. Not prepared to assume criminal jurisdiction at this time.

"One of the concerns here in Laytonville is the natural gas wells on their land which have been capped. The general feeling was that before they had a chance to sell or distribute this natural gas, some non-Indian would come in somehow and take it over, and they would receive nothing for their efforts. They strongly favor amending PL 280. They also feel that it is definitely the federal government's responsibility to deal with the Rancheria. They also expressed the fear that, without continuing, direct communication with the federal government, they will be terminated."

Round Valley Reservation: Covelo Indian Community, 18,706 acres. Mendocino County, 1864.

Favors amending PL 208; or, wishes to retrocede to civil jurisdiction.

"An incident occurred recently which points up the intricate and far-reaching effects of State jurisdiction. In 1973 the Chairman and Vice-Chairman of the Tribal Council were arrested for killing a deer. On the 20th of March, this year, the Ninth District Court ruled that they (the Covelo

Indians) had never relinquished hunting and fishing rights within the boundaries set in 1873. These boundaries enclose 103,000 acres, a great deal more than their present 18,706. Obviously, hunting and fishing privileges on the total acreage will create difficulties with non-Indian land-owners and lessees on this property. The problems here could become enormous, if not handled very carefully.

Since this reservation is one of the few in the State with the necessary land and resources that, if developed properly, could offset the cost of running the government on the reservation, it would seem quite feasible for them to assume jurisdiction of civil, and ultimately of criminal matters. Presently, if someone is arrested for a misdemeanor, he is transported to Ukiah, the County Seat, which is some 60 miles away. When an arrest is learned of, many people try to appear--at great cost to themselves in terms of time and transportation. A go-between between the Deputy Sheriff and the Reservation who could detail the arrest, the bail, arraignment, etc., would be helpful, and would be a way for a certain amount of police jurisdiction to be assumed on the reservation."

Hoopa Valley Reservation: Hoopa, 86,073 acres. Humboldt County, 1864.

Strongly in favor of amending PL 280.

"They are in the process now of submitting legislation to provide the kind of choice outlined by Raymond Lagoo (see page 8.)

An "after-hours" policeman on the reservation was generally considered a valuable goal, since now they must send to Eureka to get an officer dispatched to Hoopa Valley. The same situation exists at the Pala Reservation (San Diego County) which must send to San Diego in order to get an officer dispatched to the reservation.

Building on burial sites and sacred areas is another major concern at Hoopa Valley. I was shown a burial site adjacent to a county maintenance yard which has cut off access to it except by 4-Wheel Drive. Another burial site is now a motel, ironically called "Deep Sleep." Another burial site is on a point near the bridge which is now a shopping center. Some people are quite concerned and upset about these developments which desecrate ancient grounds.

There are many old, old families living in a traditional way there at Hoopa and they adhere to the old traditions and customs. Consequently, they find themselves in conflict at times with the laws administered by the State of California. Most of these people are in favor of total retrocession.

Certain other problems were pointed out to me as well. One has to do with hunting and fishing. One of the old families in the community have a fishing place that has been handed down from generation to generation. Outside people were coming in, in many cases non-Indian people who had been invited by the tourism, etc., and they have had encounters at these traditional fishing places. These old families also leave the reservation to hunt, but they have tried to respect and go by the laws of the State of California when they do leave the reservation.

Legal aid is another concern. People here have been told that because of the resources and per capita income on the agency that the people of Hoopa didn't qualify legally with some of the agencies. It is hoped that through the reassumption of civil jurisdiction, legal aid might be available to people at Hoopa.

It was also pointed out to me that the rate of growth has put the resources in debt. That is, the planned logging sales mean that the people no longer actually own the timber any more. Rather, it's already committed--in debt--to someone else.

Many people had no comments. However, some of the older people remembered when the reservation did have its own school and its own hospital, and it came as a surprise to them to realize that the loss of those services had been a direct result of PL 280.

A lot of the older people, who live in very traditional ways still, feel that they find themselves in conflict at times with the laws administered by the State of California. A lot of these people--who are not connected with the Tribal Council or any other kind of authority--want to see total retrocession, but they also recognize that it would take some time to fully assume those responsibilities. The Chairman, on the other hand, mentioned that the Council was in the process of reassuming police jurisdiction, but that they were a lot more hesitant with regard to civil jurisdiction.

Over-all, the major stumbling block to any change at Hoopa would seemingly be the numerous and delicately timed logging contracts which could become major problems in the face of retrocession."

Bishop Reservation: Paiute-Shoshone, 875 acres. Inyo County, 1912.

Favors repeal of PL 280 (retrocession.)

"Met with the chairman over lunch who explained to me the City of Bishop poses a threat to the reservation because early contracts with the City of Los Angeles over the water in the Owens Valley has limited the expansion of Bishop. The City is now looking at the adjacent Indian lands as areas for possible expansion. Since the only income to the Reservation comes from Highway 395, the Reservation is in direct competition with the City of Bishop. He expressed the need for some kind of income producing project/business on Reservation, but explained that in the past local town merchants were able to stop such efforts.

In many ways, Bishop is very advanced. The tri-community structure (Bishop, Lone Pine and Big Pine) has enabled them to secure funding, build homes, etc., but the conflict with the City of Bishop is still great. There is a certain amount of harassment in school and town, and a fear of non-Indian, non-resident people filling positions in projects on Reservation.

Generally, the people with whom I spoke felt that they weren't getting the proper road and street maintenance, that law enforcement was insufficient, and that PL 280 should be

amended to give them an appropriate choice within a time frame that would be satisfactory to them. They uniformly believe that they have the people and the resources to assume jurisdictions on some sort of time table, and be protected from non-Indian interests outside the Reservation."

3.0 Summary of Field Study

"Many people who were asked questions concerning PL 280 confessed to know little or nothing about it, particularly the young people grown up since 1953. Some people wouldn't respond one way or another while others offered comments but requested anonymity. However, I feel that the remarks gathered provide a pretty well rounded opinion of what people are feeling on the reservations.

Basically, Indians feel that PL 280 (and all other related legislation) is an extension of H.C.R. 108, the 'Termination Act.' The consensus indicates the tribal representatives as favoring various forms of retrocession, and especially an opportunity to make, on a Reservation-by-Reservation basis, the choice between total, partial, or no retrocession.

This consensus was also formed at the American Indian Policy Review Commission Hearings I was privileged to attend in February at Palomar College in San Marcos. Here, as elsewhere, retrocession to Civil Jurisdiction was favored across the board, with Criminal Jurisdiction allowed to be satisfied by Title 25 which provides for the "Seven Major Crimes." Since many people complained that they

had to threaten to 'take the law into their own hands' before they could get adequate police/sheriff response, federal jurisdiction would seem--if not exactly a change for the better--at least no change for the worse."

3.1 SOME CONCLUSIONS FROM FIELD STUDY

I Some form of retrocession is considered desirable by the Reservations and Rancherias visited.

Most groups and individuals look upon the problems of PL 280 from their collective and/or personal viewpoints and with regard to the protection of self-interests. Consequently, there is an atmosphere of hesitation about any legislative or other action which might jeopardize these interests. Nonetheless, nearly all of the people interviewed on the various Reservations and Rancherias favored some form of retrocession because of the widely held fear that, given time, the State will relegate its authority to the Counties and that the Counties will step in and, one way or another, deprive the Indians of their lands.

3.2 II Few Reservations (and no Rancherias) are prepared for assuming Criminal Jurisdictions.

Criminal jurisdiction translates as a police force or policing capacity on the Reservation. Few of the Reservations feel they can

afford a police force or any other enforcement body at this time, and are leery besides of the problems such a force might create. However, some of the economically stronger reservations believe that their capacity for criminal jurisdiction will come with them.

At present, there appears to be no special advantage in State jurisdiction over criminal matters as compared to federal jurisdiction since it seems to take as long to procure one as the other. In fact, the long distances to the county seats where criminal arrests are arraigned and tried proves costly, time-consuming, and frustrating to Reservation and Rancheria residents. Many feel that the great distances involved and the lack of "peers" in the subsequent juries are depriving them of basic constitutional rights.

3.3 III Most Reservations see retrocession to civil jurisdiction as being of immediate value.

Presently, most of the people interviewed in this study feel caught in a Catch-22 situation, i.e., by appealing a County enforcement of zoning laws or building codes to the State, they merely go around in a circle. Retrocession of Civil jurisdiction would provide the Reservations with two valuable things: (1) Tribal Authority, and; (2) a higher authority (the federal government) to whom they can appeal.

Retrocession would also remove the stigma of "termination" which presently clouds the activity of the State both legislatively and administratively with regard to the Indians.

IV Federal or State Criminal and Civil Jurisdiction should be a matter of choice on the part of each Reservation and Rancheria.

Not all reservations favor retrocession. Some favor only partial retrocession, while others favor total retrocession. A consensus emerged from this field-study that the choice as to which kind of jurisdiction each tribal group felt best suited their needs should be presented to them on a Reservation-by-Reservation and Rancheria-by-Rancheria basis.

The differences in size, resource wealth, and administrative organization varies widely among California Indian Tribes. The vagaries and inequities inherent in PL 280 are felt to be most harmful in California, and that California Indians should be able to decide for themselves which kind of jurisdiction is best.

4.0 SUPPLEMENTARY STATE LEGISLATION AND ITS EFFECTS ON THE RESERVATIONS.

One of the common fears among Indian leadership is that of being surrounded by different kinds of legislation to the point where, once a County decides to enforce one its rulings (and Counties are widely considered to be the enforcement arm of any "termination" action), there will be many additional laws that apply that the Indians will be swept off their land in a chain-reaction of rulings.

As Mr. Max C. Mazzetti, Chairman of the Rincon Reservation in San Diego County expresses it, "San Diego County is not enforcing its authority at this time." This has created an atmosphere of all-is-well, when in fact, all is not well. "So many of the 'Tribal Councils' are new members to the council and do not realize the impact," he adds, "should the county suddenly decide to exercise its powers. So some think PL 280 is OK."

"Public Law 280 has been very detrimental to many of our Indian people," he writes, "our Indian People had Indian Fiestas for enjoyment and income, but the County said we did not meet the County health standards, so this was stopped.the County of San Diego is not sure of its Jurisdiction in Indian Country so have relaxed the enforcement in the Reservations."

This discretionary use of jurisdictional authority on the part of counties everywhere (not just San Diego County) has created an atmosphere of stability. In fact, this stability may not be real.

An exemplary situation has arisen with the introduction of AB 3440 (Cullen, Dem., Long Beach) which proposes to make Reservations and Rancherias political subdivisions of the State enabling them to qualify for any "grant, loan, or other financial assistance." True, the ability to cut through red tape to get much needed funding is important, but a host of arguments have been raised (most notably by Dr. Jack Forbes of the University of California at Davis) who calls it "a Trojan Horse, because it does not openly call for termination. But when a tribe accepts state jurisdiction in order to receive state monies, it will certainly terminate itself." (See appendix.) Mr. Spike Hennessey of Assemblyman Cullen's staff explained that Legislative Legal Counsel had been asked to make a point by point analysis of Dr. Forbes' criticism, asserting that Dr. Forbes was "complete wrong." (See appendix.)

The issue here, it seems to us, is not that one side is right and another wrong, but that a controversy of such polarity can exist. It serves as a major warning sign concerning State jurisdiction of civil and criminal matters on Indian lands.

For many Indians, PL 280 and its subsequent revisions, refinements and delegations of authority to the Counties, is looked upon as a process of legal encirclement. At some distant, or not-so-distant point in time they believe that the State will exercise its right through the Counties to terminate Indian dependence. And this fear, no matter how naive it may appear in some cases, is widespread and deeply felt.

5.0 RECOMMENDATIONS

PL 280 in its application to the Indians of California, their lands and resources, appears to be--judging by this study of Indian Reservations and Rancherias--largely inappropriate to the needs and best interests and wishes of the Indian inhabitants of those Reservations and Rancherias. However, not all Indians feel this way, but the consensus remains: Indians should have the choice to retrocede to federal jurisdiction over civil and criminal matters, or whether not to retrocede and leave these matters in the jurisdiction of the State of California.

5.1 I Determination of Retrocession

Prepare a democratic procedure in line with the duly constituted Articles and By-laws of the governments of each Reservation and Rancheria which will give each Reservation and Rancheria the opportunity to choose whether they want (A) Full Retrocession, (B) Partial Retrocession, or (C) No Retrocession.

The process to determine this procedure should begin immediately.

5.2 II Interim Recommendations

A) Provide a centralized form of communication with Sheriffs and Sheriff's Deputies either officially, or semi-officially, on each Reservation and Rancheria. This person (or agency) to be held responsible for transmitting the necessary and appropriate information regarding arrests, persons involved, nature of the alleged crime, location of interment, amount of bail, time and place of arraignment, and any and all other relevant information.

- B) Determine where Burial Sites and other tradition-sacred grounds lie on each Reservation, and stop all present and future expansion of building and developing of any kind on these grounds.
- C) Suspend all County-controlled ordinances influencing the behavior of Indians on Indian land until such time as retrocession can be voted in or rejected by each Reservation and Rancheria.
- D) Establish a temporary means by which non-Indians can be dissuaded from hunting and/or fishing on Indian-held lands.

5.3 III Longer Term Alternatives

A) Criminal and Civil Jurisdiction

On the premise that individual tribal groups will elect to retrocede to varying degrees, we believe that small communities will not have the capacity to create a judicial system to truly effect justice, Indian style, on Indian lands. Therefore, we recommend that an Independent, California, Inter-tribal, Elected Circuit Court System be created, headquartered in Sacramento, and that it be staffed with sufficient personnel to conduct circuit courts in two or three regions of the State (North, Central, and Southern.)

These circuit courts could sit in existing Reservations and try all civil and criminal matters arising on Indian lands whether they are generated by either Indians or non-Indians.

These courts would ideally be conducted by Indian judges, with Indian jurors under Indian laws which would be adopted by individual Reservations and Rancherias. These circuit courts would of necessity be fully recognized by and as an extension of the federal judicial system, thus ensuring the right of appeal and compatibility with federal codes, such as the "Major Crimes Act" (Title 25 of USC). The essence of such a functioning system would, perhaps for the first time, allow Indians to try Indians, and thereby bring to fruition a long-lost constitutional right: trial by a jury of peers at the locale of the alleged violations.

In addition, and equally important, is the establishment of a recognized code of Indian Justice and laws which can be used to prevent outsiders from entering the Reservations to violate, despoil, deprecate, or otherwise conduct themselves in violation of Indian Code.

B) Creation of the Office of State Indian Commissioner.

If Indians elect to retrocede, the present-day problems of Indians living in California will continue in large portion. We believe that an office of California Indian Commissioner should be created, and that this office should report directly to the Governor. The duties should include, but not be limited by the following:

1. Provide interface between State of California and California Tribal groups, including both Reservation and urban Indians. Interface would encompass such elements as:
 - (a) Special legislative activities to benefit California Indian groups;
 - (b) Representation at State hearings and other activities that could affect those Indians where the State has undisputed jurisdiction;
 - (c) Rapid access, ombudsman services for Indians that have legal problems in the grey area between State and Federal jurisdictions;
2. Conduct Statewide hearings in urban areas to define Indian problems there, and to organize task forces to develop specific solutions at the State, County and City level.
3. Seek and assist Indian groups in the acquisition of State and local funds for meaningful programs.
4. Act as a point of contact and coordination between Reservation groups and local business, town, and County establishment interests.
5. Create a State Commission to assist Reservation Indians in obtaining Federal support for the development

of a Universal Code of Justice for California Indians.

Also, this Commission should be structured to assist in the interface definition between State, County codes, and new federally recognized Indian justice system.

6.0 CONCLUDING STATEMENT

"Self Determination" has been a banner long waved over Indian aspirations. For many Indians, however, the only sound they hear in that term is ".termination". The reason for this lies chiefly in the fact that, with all the efforts made to develop resources, build economic foundations, and improve human services, we have failed to include the one element upon which all the others depend: self-government. The machinery of self-government is the machinery of "true" self-determination, and this applies to all peoples regardless of race, economic status, or belief. Without self-government, there can be no enforceable law. Without enforceable law, there is no "real" law at all--only "pretend" laws.

The creation of a California Indian Judiciary would be a step forward toward true self-determination for all California Indians. Without a solid judicial base, there can be no trust, no confidence, no long-range planning and development--of human resources as well as the resources of Indian lands. True self-determination begins with self-rule and nowhere else. To this end we have prepared this Report, and toward which we have guided our recommendations.

EXHIBIT A

POSITION PAPERS

CONCURRENT RESOLUTION ON LEGISLATION
FOR INTRODUCTION IN THE UNITED STATES CONGRESS

WHEREAS, the Congress of the United States has heretofore enacted laws and resolutions affecting the social, political and economic life of the American Indians, and including some laws affecting Executive Orders, Treaties and Agreements between the United States and Indian Tribes; and,

WHEREAS, Indian Tribes have not been accorded full opportunity to participate in the drafting of legislation prior to its introductions;

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives and the Senate concurring, that any Indian Tribe, Band, or other identifiable group of Indians who may be directly affected by any legislation, shall be consulted prior to its drafting, particularly bills affecting rights and privileges guaranteed by Executive Orders, Treaties or Agreements, and such Indians, through their elected representative or representatives, shall be given full opportunity to participate in the drafting of any proposed legislation and consent to any terms affecting the conditions of ownership of their property or their continued existence as a Tribe.

Position Paper; prepared for January 31st meeting AIPRC at Palomar

College, San Marcos, CA.

Cahuilla Indian Reservation

Position Paper

We are the Tribal Council from Cahuilla. Also present is the Steering Committee on current legislation. We have been authorized by a Resolution to speak on behalf of the Cahuilla Reservation at these hearings. My name is Leroy Salgado, Spokesman of the Cahuilla Band of Indians.

Our Reservation is located in the San Jacinto Mountains, County of Riverside, State of California. It consists of 18, 272 acres and is, and has always been, a Band governed by Tribal customs. Our Tribe's position is this: we want full retrocession of Public Law 83-280 and for civil and criminal jurisdiction to the Federal Government be returned. Our Tribe will continue governing our Reservation in our traditional way. We, the Cahuilla People, feel that all major legislation concerning Indian People has weakened our Tribal customs and traditions.

Obligations were made to our People by the Treaty of Guadalupe Hidalgo of 1848 and Executive Order 7716, which set aside the Cahuilla Reservation in the year 1875, by the United States Government. That Government has always desired and worked towards ending those obligations by passing termination legislation hidden in superficial programs, where Indian People would relieve the United States Government of those obligations by the Indian People themselves, the only ones who can end those obligations.

We recognize these obligations and we shall never lose site of them, and future generations will not fail to recognize them.

Ever since the United States Government came to the Cahuilla People with negotiations for peace and set aside land for us to live in peace and lay aside the arrows of war for that peace, they have failed in their obligations to work towards that peace. Now we are fighting, not on the battlefields, but in courts and the weapons used against us are legislations such as Con-current House Resolution 108, Public Law 83-280, Self-Determination and Education Act 93-638, and the

Cahuilla Band of Indians

Cahuilla Indian Reservation

Position Paper Page 2

proposed legislation S2010, Indian Law Enforcement Improvement Act of 1975. Program guidelines to Housing, Indian Health Services, and other programs designed to meet the needs of Indian People has abridged our customs and we have always found that the hand offering those services has always taken back more than was given. Our Tribal right, privileges, customs, water and mineral rights are worth more than homes, proper water and sanitation facilities and the other services they offer, even though our People are in desperate need of adequate housing and sanitation. We, as Indian People should not be included in the programs on the War on Poverty. Minority and low-income programs are charity programs, and the Cahuilla People are a proud People and have never asked or wanted charity. Again, we remind you, we as Indian People are entitled to the obligations of the United States Government and have a unique status with the United States Government, and do not need the programs designed for the minority people in the United States. The programs we need are for the United States Government to act on their obligations layed by the Treaty of Guadalupe Hidalgo. We, the Cahuilla People have always been put in the postion of always having to commit ourselves and by doing so we are bound to those commitments. After 200 years shouldn't the United States Government state their commitment to the Cahuilla People?

We now ask the Review Commission to inform Congress that the Cahuilla People be put on record that we are against the following legislations: Con-current House Resolution 108, Public Law 83-280, Self-Determination and Education Act 93-638, and the proposed legislation S2010, Indian Law Enforcement Improvement Act of 1975.

Thank You.

CONCURRENT RESOLUTION

SUBMITTED BY THE CAHUILLA TRIBE OF THE MISSION GROUP OF INDIANS
ON LEGISLATION

FOR INTRODUCTION IN THE UNITED STATES CONGRESS

WHEREAS MEMBERS AND REPRESENTATIVES OF MISSION INDIAN BANDS from Southern California met on _____, 1976 for the purpose of discussing the problems of State and local jurisdiction which are associated with legislation pertaining to Indian People,

WHEREAS a consensus was reached that legislation is necessary to permit Indian Bands to remedy these problems;

WHEREAS the Congress of the United States has heretofore enacted laws and resolutions affecting the social, political and economic Executive Orders, Treaties and Agreements between the United States and Indian Tribes; and,

WHEREAS Indian Tribes have not been accorded full opportunity to participate in the drafting of legislation prior to its introduction;

NOW, THEREFORE, BE IT RESOLVED

by the House of Representatives and the Senate concurring, that any Indian Tribe, Band, or other identifiable group of Indians who may be directly affected by any legislation, shall be consulted prior to its drafting, particularly bills affecting rights and privileges guaranteed by Executive Orders, Treaties or Agreements, and such Indians, through their elected representative or representatives, shall be given full opportunity to participate in the drafting of any proposed legislation and consent to any terms affecting the conditions of ownership of their property or their continued existence as a Tribe.

We, the Cahuilla Band of Indians, at a duly called Tribal meeting on the Cahuilla Reservation on February 11, 1976

Do because of the sovereign immunity entitled to us as the Cahuilla Band of Indians, reject and do not see the need for P.L. 93-638 "self-determination" Bill because of:

The Cahuilla People have always been of their own minds and we feel The Bill gives us nothing that we have never had under our Tribal customs, and is in the final analysis a Termination Bill, and we especially do not want to be under arbitrary State laws;

And because it takes away from our other appropriations entitled to us as Indian People, such as the Johnson-O'Malley Act;

And because we have had no time to form an analyse or even consider recommendations to be submitted for the input of the Bill;

And even some of our People, have attended some of the confrences on the Bill, had had no clear explanation and direct answers to their questions concerning the Bill by Bureau of Indian Affairs officials;

And because our local Agency officials, and Area Director have had no help in our understanding of the Bill, thus having failed to act in our best interest;

And as we cannot enter into any contracts having no other resource or things of value, only our land, water and mineral rights, to be used as collateral, we cannot or will not jeopardize the only thing we, as Cahuilla People, have;

And as the U.S. Government has by their own recognized obligations through the various acts of legislation, such as the Jurisdictional Act of 1928 and the provided security we have under the Treaty of Guadalupe Hildago, we are entitled to the services that the Bureau of Indian Affairs is obligated to provide to us as Indian People;

And we, the Cahuilla Tribe, do not want the U.S. Government to loose site of their obligations to us as Cahuilla People, and we do not want to lose our birth rights as Indian People;

And we, The Cahuilla Tribe, feel that regardless of how other Tribes might desire to utalize and "come under" the "self-determination" Act they will not also obligate the Cahuilla Band to do likewise;

And as we recognize that the ultimate goal of all European People who have invaded this land is to annahiliate and cease the existence of the aboriginal people and to gain control of all land;

We, the Cahuilla Band of Indians, do hereby state that the Bill is a potential threat to all Indian People and we desire to see the Bill abolished in its entirety.

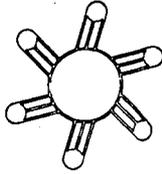
11
 passed 13 to 0 by Tribal Council

EXHIBIT B

QUESTIONNAIRES

INCA

9014 LINDBLADE STREET
CULVER CITY, CALIFORNIA 90230
(213) 559-6760



Date of Interview _____

PUBLIC LAW 280 AND CALIFORNIA INDIANS

We are conducting a survey of the California Rural Indian population with respect to Public Law 280 and how that law affects the lives and property rights of California Tribal groups. This questionnaire has been developed to assist in pinpointing several fundamental questions that require resolution. Your cooperation in providing response to these questions will go far in developing Indian input on this important matter.

TRIBAL GROUP OR AFFILIATION OR RESERVATION Coast Indian Community
of Resignant Kinnaheria

ADDRESS P.O. #212 - Klamath

LOCAL CITY OR COUNTY Del Norte County

NAME OF RESPONDENT Ms Venola Dowd

ADDRESS OF RESPONDENT 641 Fresno St. Crescent City, Calif.

QUESTIONS:

1. What problems do you have with local authorities, either civil or criminal that federal status would resolve? Local authorities are afraid

to step in because they are not clear in their
authority. - The Courts do not understand (or care to)
Indian Rights

2. Do you understand the differences in criminal procedure between federal and state court. In which jurisdiction do you feel you get better treatment?

Federal Courts - we may stand a better
chance - they at least know the correct
procedures - (they) altho we've had a couple of
cases in that court with bad results -
- we believe that was the judge fault -

3. Assuming you had federal jurisdictional status, what procedures do you have for handling disputes, both civil and criminal, between

- (a). Indian v. Indian
- (b). Indian v. Non Indian
- (c). Non Indian v. Non Indian

if we did have federal jurisdiction IT
would be up To our agency To Handle
these problems,

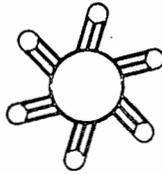
4. Would your problems be resolved by having tribal jurisdiction only over civil matters and leaving criminal jurisdiction in the State? yes

Additional comments regarding other issues surrounding Public Law 280

if we must stick with Public Law 280 -
At least write it out plain and clear To
the Law officer's - So we can at
least know how they can work with us -

INCA

9014 LINDBLADE STREET
CULVER CITY, CALIFORNIA 90230
(213) 559-6760



Date of Interview 3-1-74

PUBLIC LAW 280 AND CALIFORNIA INDIANS

We are conducting a survey of the California Rural Indian population with respect to Public Law 280 and how that law affects the lives and property rights of California Tribal groups. This questionnaire has been developed to assist in pinpointing several fundamental questions that require resolution. Your cooperation in providing response to these questions will go far in developing Indian input on this important matter.

TRIBAL GROUP OR AFFILIATION OR RESERVATION MANZANITA

ADDRESS PO Box 1024

LOCAL CITY OR COUNTY Boulevard Calif 92005

NAME OF RESPONDENT DAVE Elliott (Chairman.)

ADDRESS OF RESPONDENT Same As Above

QUESTIONS:

1. What problems do you have with local authorities, either civil or criminal that federal status would resolve? They wouldn't Hassel the

Res As often as the state.

2. Do you understand the differences in criminal procedure between federal and state court. In which jurisdiction do you feel you get better treatment?

We wouldn't get any Better treatment from
either one. But preferred (Federal)

3. Assuming you had federal jurisdictional status, what procedures do you have for handling disputes, both civil and criminal, between

- (a). Indian v. Indian
- (b). Indian v. Non Indian
- (c). Non Indian v. Non Indian

(We don't have any) But would join with other Reservations. To solve such problems Both Civil AND CRIMINAL.

4. Would your problems be resolved by having tribal jurisdiction only over civil matters and leaving criminal jurisdiction in the State? No Because

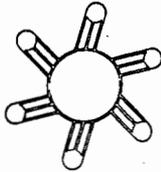
the Federal Government is shirking its Duty.

Additional comments regarding other issues surrounding Public Law 280

it's UNCONSTITUTIONAL TO INDIANS THAT LIVE ON RESERVATIONS

INCA

9014 LINDBLADE STREET
CULVER CITY, CALIFORNIA 90230
(213) 559-6760



Received

Date of Interview

3/22/76

PUBLIC LAW 280 AND CALIFORNIA INDIANS

We are conducting a survey of the California Rural Indian population with respect to Public Law 280 and how that law affects the lives and property rights of California Tribal groups. This questionnaire has been developed to assist in pinpointing several fundamental questions that require resolution. Your cooperation in providing response to these questions will go far in developing Indian input on this important matter.

TRIBAL GROUP OR AFFILIATION OR RESERVATION Sycuan Reservation

ADDRESS 5454 Dehesa Road El Cajon, California 92021

LOCAL CITY OR COUNTY City of El Cajon in San Diego County

NAME OF RESPONDENT Anna Sandoval

ADDRESS OF RESPONDENT 5441 Dehesa Road El Cajon, California 92021

QUESTIONS:

1. What problems do you have with local authorities, either civil or criminal that federal status would resolve? _____

We need quicker response from local authorities when called
upon to render help. As it stands sometimes they don't even
respond when called.

2. Do you understand the differences in criminal procedure between federal and state court. In which jurisdiction do you feel you get better treatment?

No not really.

3. Assuming you had federal jurisdictional status, what procedures do you have for handling disputes, both civil and criminal, between

- (a). Indian v. Indian
- (b). Indian v. Non Indian
- (c). Non Indian v. Non Indian

I couldn't say what and how we would handle the situation.

4. Would your problems be resolved by having tribal jurisdiction only over civil matters and leaving criminal jurisdiction in the State? _____

Yes I would think so.

Additional comments regarding other issues surrounding Public Law 280

It should be completely abolished.

EXHIBIT C

- 1) AB 3440
- 2) STATEMENT BY
DR. JACK D. FORBES
- 3) LEGISLATIVE COUNSEL'S
REPLIES

AMENDED IN SENATE JUNE 14, 1976

AMENDED IN ASSEMBLY MAY 6, 1976

CALIFORNIA LEGISLATURE—1975-76 REGULAR SESSION

ASSEMBLY BILL

No. 3440

Introduced by Assemblyman Cullen

March 11, 1976

Courtesy of
MIKE CULLEN
Member California Legislature
57th Assembly District

REFERRED TO COMMITTEE ON HUMAN RESOURCES

An act to add Chapter 20 (commencing with Section 7550) to Division 7 of Title 1 of the Government Code, relating to Indian reservations.

LEGISLATIVE COUNSEL'S DIGEST

AB 3440, as amended, Cullen (Human Res.). Indian reservations.

Under existing law the eligibility of the governing body of an Indian tribe to receive state or federal financial assistance would depend on terms of the particular law under which such financial assistance is made available.

This bill would generally require that the governing body of any California Indian tribe, or tribes, residing on the same reservation, recognized by the United States and organized pursuant to federal law, on request of such governing body, be considered a political subdivision of this state for the purpose of qualifying for any grant, loan, or other financial assistance made available under the laws of this state, or under any federal law to the extent eligibility is dependent on state law. The bill would authorize such governing body to do any act necessary to qualify for such assistance.

This bill would exclude from its application the Campo

Band of Mission Indians.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 20 (commencing with Section
2 7550) is added to Division 7 of Title 1 of the Government
3 Code, to read:

4
5 CHAPTER 20. CALIFORNIA INDIAN RESERVATIONS

6
7 7550. Notwithstanding any other provision of law, the
8 governing body of any California Indian tribe, or tribes,
9 residing on the same reservation, recognized by the
10 United States and organized pursuant to federal law, shall
11 be considered a political subdivision of this state for the
12 purposes of qualifying for any grant, loan, or other
13 financial assistance made available, on request of the
14 governing body, under the laws of this state or under any
15 federal law to the extent federal eligibility is dependent
16 on the laws of this state. Such governing body may apply
17 for any such grant, loan, or other financial assistance and
18 may do any acts necessary to qualify for and receive such
19 grant, loan, or other financial assistance.

20 7551. *This chapter shall not be applicable to the*
21 *Campo Band of Mission Indians.*

California State Legislature Attempts to pass a sneak bill providing termination for Indian tribes.

Sacramento, Calif.

A new bill, introduced by Assemblyman Mike Cullen, has roused the ire of Indian leaders who regularly "watchdog" the state legislature.

Known as AB 3440, the bill strives to control the eligibility of each California tribe for financial assistance through the state.

Thus, according to Benjamin Magante, a student at University of California, Davis, "California tribes are to be made political subdivisions of the state. The tribal councils will be subject to the continuing change of political state legislative control.

"The state also has the power to delegate its authority to county governments," Magante explained: "This means the state could use the control of financial assistance to coerce Indian tribes to comply with county and state policies and regulations.

"If the tribes refuse to cooperate in submitting to county control, the state could use its power to withhold funding in any California Indian Tribe."

Finally, the statement declares, "This procedure is designed to force termination upon the California tribes." Indian reservations in the state have not been notified of the proposed legislation. No hearings have been held at this writing.

Two other "companion" bills have come under attack by the Indian people. These are AB 3244, designed to create a state Bureau of Indian Affairs; and AB 3106, which would permit the state BIA to purchase non-Indian land on reservations. The land would not be re-sold to the Indian tribe.

A statement by Amos Tripp, California Indian law student at University of California, Davis, advises that any proposed state legislation be analyzed with these considerations in view:

"Its effect upon the remaining powers of tribal self-government; its effect upon retrocession of civil and/or criminal jurisdiction; the effect of the legislation upon the possibility of retrocession of jurisdiction; and the availability of state vs. federal programs in the area for which the legislation is proposed."

("Retrocession" refers to P.L. 280, passed by Congress in 1953, in which the State of California, together with certain other states, acquired civil and criminal jurisdiction, with some exceptions, over Indian country in California. Voiding of P.L. 280 has been demanded by Indian tribes and in the case of Nevada, retrocession has been elected by most of the tribes in that state.)

According to a statement by Dr. Jack D. Forbes, professor, Native American Studies at the Davis campus, "This bill, if enacted into law, will eventually cost the State of California millions of dollars each year and will tragically alter the course of Indian development in the state. AB 3440 is a termination act."

Such termination of the trusteeship relationships between the U.S. federal government and Indian tribes, would cause the "Indians to either lose their land base outright, or local agencies would have to spend large amounts of money in bringing water, sewer, and road systems up to par, not to mention the loss of BIA college scholarships and other sources of economic aid," now available through the federal government.

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

H AB3440

COPY

Sacramento, California
June 2, 1976

Honorable Peter R. Chacon
Assembly Chamber

Indian Reservations - §9535

Dear Mr. Chacon:

QUESTION

You have asked whether Assembly Bill No. 3440 of the 1975-76 Regular Session, as amended May 6, 1976, if enacted, would infringe upon any existing powers of self-government of Indian tribes in California.

OPINION

A.B. 3440, as amended May 6, 1976, if enacted, would not infringe upon any existing powers of self-government of Indian tribes in California.

ANALYSIS

A.B. 3440, as amended May 6, 1976, would add Chapter 20 (commencing with Section 7550) to Division 7 of Title 1 of the Government Code. Section 7550 would read as follows:

"7550. Notwithstanding any other provision of law, the governing body of any California Indian tribe, or tribes, residing on the same reservation, recognized by the United States and organized pursuant to federal law, shall be considered a political subdivision of this state for the purposes of qualifying for any grant, loan, or other financial assistance made available, on request of the governing body, under the laws of this state or under any federal law to the extent federal eligibility is dependent on the laws of this state. Such governing body may apply for any such grant, loan, or other financial assistance and may do any acts necessary to qualify for and receive such grant, loan, or other financial assistance." (Emphasis added.)

Statutes must be given a reasonable interpretation in accordance with the apparent purpose and intention of the lawmakers (County of Alameda v. Ruchel, 32 Cal. 193, 199). The courts, moreover, should give effect to statutes according to the usual, ordinary import of the language employed in framing them (Merrill v. Department of Motor Vehicles, 71 Cal. 2d 907, 918).

The only provisions which would be enacted by A.B. 3440 relate to the eligibility of the governing body of an Indian tribe organized pursuant to federal law to receive state or federal financial assistance. Such provisions would require such governing body, on request of the body, to be considered a political subdivision of the state for the purpose of qualifying for any financial assistance made available under the laws of this state, or under any federal law to the extent federal eligibility is dependent on the laws of this state. There is nothing in A.B. 3440 which would in any way limit any powers of self-government vested in such governing body under existing law.

While, moreover, the provisions of A.B. 3440 would provide that the governing body may apply for a grant, loan, or other financial assistance and may do any acts necessary to qualify for and receive such grant, loan, or

COPY

Honorable Peter R. Chacon - p. 3 - 89535

other financial assistance, we think that, reasonably interpreted, such provisions are intended only to ensure the capacity of the governing body to qualify under state or federal law for such a grant, loan, or other financial assistance, and would not be construed to authorize the governing body to violate applicable laws or rules for the government of the Indian tribes.

In our opinion, therefore, A.B. 3440, as amended May 6, 1975, if enacted, would not infringe upon any existing powers of self-government of Indian tribes in California.

Very truly yours,

George H. Murphy
Legislative Counsel

By
Thomas D. Whelan
Deputy Legislative Counsel

TDW:nes

Two copies to Honorable Mike Cullen,
pursuant to Joint Rule 34.

BERNARD CZISLA
CHIEF DEPUTY

OWEN K. KUNS
EDWARD K. PURCELL
RAY H. WHITAKER

KENT L. DECHAMBEAU
ERNEST H. KUNZI
STANLEY M. LOURIMORE
SHERWIN C. MACKENZIE, JR.
ANN M. MACKAY
EDWARD F. NOWAK
RUSSELL L. SPARLING
PRINCIPAL DEPUTIES

3021 STATE CAPITOL
SACRAMENTO 95814
(916) 445-3057

107 SOUTH BROADWAY
LOS ANGELES 90012

Legislative Counsel of California

GEORGE H. MURPHY

GERALD RÜSS ADAMS
DAVID D. ALVES
MARTIN L. ANDERSON
PAUL ANTILLA
JEFFREY D. ARTHUR
CHARLES C. ASBILL
JAMES L. ASHFORD
JERRY L. BASSETT
JOHN CORZINE
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C. DAVID DICKERSON
FRANCES S. DORBIN
ROBERT CULLEN DUFFY
CARL NED ELDER, JR.
LAWRENCE H. FEIN
JOHN FOSSETTE
HARVEY J. FOSTER
HENRY CLAY FULLER III
ALVIN D. GRESS
ROBERT D. GRONKE
JAMES W. HEINZER
THOMAS R. HEUER
EILEEN K. JENKINS
MICHAEL J. KERSTEN
L. DOUGLAS KINNEY
VICTOR KOZIELSKI
DANIEL LOUIS
JAMES A. MARSALA
DAVID R. MEEKER
PETER F. MELNICOE
MIRKO A. MILICEVICH
ROBERT G. MILLER
JOHN A. MOGER
VERNE L. OLIVER
EUGENE L. PAINE
TRACY O. POWELL, II
MARGUERITE ROTH
MARY SHAW
WILLIAM K. STARK
JOHN T. STUDEBAKER
BRIAN L. WALKUP
THOMAS D. WHELAN
JIMMIE WING
CHRISTOPHER ZIRKLE
DEPUTIES

Sacramento, California
June 13, 1976

Honorable Mike Cullen
Assembly Chamber

Indian Reservations - #10998

Dear Mr. Cullen:

QUESTION

You have asked whether Assembly Bill No. 3440 of the 1975-76 Regular Session, as amended May 6, 1976, if enacted, would infringe upon any existing powers of self-government of Indian tribes in California or affect federal jurisdiction over such Indian tribes.

OPINION

A.B. 3440, as amended May 6, 1976, if enacted, would not infringe upon any existing powers of self-government of Indian tribes in California or affect federal jurisdiction over such Indian tribes.

ANALYSIS

A.B. 3440, as amended May 6, 1976, would add Chapter 20 (commencing with Section 7550) to Division 7 of Title 1 of the Government Code. Section 7550 would read as follows:

"7550. Notwithstanding any other provision of law, the governing body of any

California Indian tribe, or tribes, residing on the same reservation, recognized by the United States and organized pursuant to federal law, shall be considered a political subdivision of this state for the purposes of qualifying for any grant, loan, or other financial assistance made available, on request of the governing body, under the laws of this state or under any federal law to the extent federal eligibility is dependent on the laws of this state. Such governing body may apply for any such grant, loan, or other financial assistance and may do any acts necessary to qualify for and receive such grant, loan, or other financial assistance." (Emphasis added.)

Statutes must be given a reasonable interpretation in accordance with the apparent purpose and intention of the lawmakers (County of Alameda v. Kuchel, 32 Cal. 193, 199). The courts, moreover, should give effect to statutes according to the usual, ordinary import of the language employed in framing them (Merrill v. Department of Motor Vehicles, 71 Cal. 2d 907, 918).

The only provisions which would be enacted by A.B. 3440 relate to the eligibility of the governing body of an Indian tribe organized pursuant to federal law to receive state or federal financial assistance. Such provisions would require such governing body, on request of the body, to be considered a political subdivision of the state for the purpose of qualifying for any financial assistance made available under the laws of this state, or under any federal law to the extent federal eligibility is dependent on the laws of this state. There is nothing in A.B. 3440 which would in any way limit any powers of self-government vested in such governing body under existing law or affect federal jurisdiction over such Indian tribes.

While, moreover, the provisions of A.B. 3440 would provide that the governing body may apply for a grant, loan, or other financial assistance and may do any acts necessary to qualify for and receive such grant, loan, or other financial assistance, we think that, reasonably interpreted, such provisions are intended only to ensure the capacity of the governing body to qualify under state or federal

Honorable Mike Cullen - p. 3 - #10998

law for such a grant, loan, or other financial assistance, and would not be construed to authorize the governing body to violate applicable laws or rules for the government of the Indian tribes.

In our opinion, therefore, A.B. 3440, as amended May 6, 1976, if enacted, would not infringe upon any existing powers of self-government of Indian tribes in California or affect federal jurisdiction over such Indian tribes.

Very truly yours,

George H. Murphy
Legislative Counsel

By *Thomas D. Whelan*
Thomas D. Whelan
Deputy Legislative Counsel

TDW:pfb

BERNARD CZESLA
CHIEF DEPUTY

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/ H. WHITAKER

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(916) 445-3057

107 SOUTH BROADWAY
LOS ANGELES 90012

Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California
July 16, 1976

Honorable Mike Cullen
Assembly Chamber

Indian Reservations - #12338

Dear Mr. Cullen:

QUESTION

You have asked whether Assembly Bill No. 3440 of the 1975-76 Regular Session, as amended June 14, 1976, if enacted, would have the effect of making any California Indian tribe a political subdivision of the state.

OPINION

A.B. 3440, as amended June 14, 1976, if enacted, would not have the effect of making any California Indian tribe a political subdivision of the state.

ANALYSIS

A.B. 3440, as amended June 14, 1976, would add Chapter 20 (commencing with Section 7550) to Division 7 of Title 1 of the Government Code. Section 7550 would read as follows:

GERALD ROBB ADAMS
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JERRY L. BASSETT
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"7550. Notwithstanding any other provision of law, the governing body of any California Indian tribe, or tribes, residing on the same reservation, recognized by the United States and organized pursuant to federal law, shall be considered a political subdivision of this state for the purposes of qualifying for any grant, loan, or other financial assistance made available, on request of the governing body, under the laws of this state or under any federal law to the extent federal eligibility is dependent on the laws of this state. Such governing body may apply for any such grant, loan, or other financial assistance and may do any acts necessary to qualify for and receive such grant, loan, or other financial assistance." (Emphasis added.)

Statutes must be given a reasonable interpretation in accordance with the apparent purpose and intention of the lawmakers (County of Alameda v. Kuchel, 32 Cal. 193, 199). The courts, moreover, should give effect to statutes according to the usual, ordinary import of the language employed in framing them (Merrill v. Department of Motor Vehicles, 71 Cal. 2d 907, 918).

The only provisions which would be enacted by A.B. 3440 relate to the eligibility of the governing body of an Indian tribe organized and recognized pursuant to federal law to receive state or federal financial assistance. Such provisions would permit such governing body, on request of the body, to be considered a political subdivision of the state only for the purpose of qualifying for any financial assistance made available under the laws of this state, or under any federal law to the extent federal eligibility is dependent on the laws of this state. There is nothing in A.B. 3440 which would purport to classify any Indian tribe as a political subdivision of the State of California except as is necessary to qualify such tribe for such financial assistance.

Thus, in our opinion, the only effect of A.B. 3440 would be to authorize a California Indian tribe which met the requirements of the bill to qualify for grants, loans, or any other financial assistance as if it were a political subdivision of the state.

Honorable Mike Cullen - p. 3 - #12338

It is true that, depending on the provisions of any particular state or federal law under which such a grant, loan, or other financial assistance is obtained pursuant to such authorization, the participating Indian tribe might be required to fulfill obligations otherwise imposed by such aid provisions only on political subdivisions, but such obligations would arise from the particular aid provisions, not from this bill. While, moreover, the participating Indian tribe would be authorized to do any acts necessary to qualify and receive such grant, loan, or other financial assistance, the nature of such acts would depend on the provisions of the particular state or federal statute authorizing such aid, not the provisions of this bill.

In our opinion, therefore, A.B. 3440, as amended June 14, 1976, if enacted, would not have the effect of making any California Indian tribe a political subdivision of the state.

Very truly yours,

George H. Murphy
Legislative Counsel

By 
Thomas D. Whelan
Deputy Legislative Counsel

TDW:ns