

88TH CONGRESS
2D SESSION

S. J. RES. 170

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, MARCH 30), 1964

Mr. MAGNUSON introduced the following joint resolution; which was read twice
and referred to the Committee on Interior and Insular Affairs

JOINT RESOLUTION

Regarding Indian fishing rights.

Whereas article III of the treaty of June 9, 1855, with the Yakima Nation of Indians (12 Stat. 951) provides that "The right of taking fish at all usual and accustomed places, in common with citizens of the Territory [is secured to said Confederated Tribes and Bands of Indians]", and

Whereas article III of the Medicine Creek Treaty of 1855 (10 Stat. 1132) provides that "The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians, in common with all citizens of the Territory", and

Whereas article V of the Treaty of Point Elliott of 1855 (12 Stat. 927) provides that "The right of taking fish at usual and accustomed grounds and stations is further secured to

said Indians in common with all citizens of the Territory”,
and

Whereas similar language is contained in other Indian treaties,
and

Whereas the United States Supreme Court has said that while
such treaty language “leaves the State with power to impose
on Indians, equally with others, such restrictions of a purely
regulatory nature concerning the time and manner of fishing
outside the reservation as are necessary for the conservation
of fish, it forecloses the State from charging the Indians a fee
of the kind in question here” (Tulee against Washington,
315 U.S. 681 (1942)), and

Whereas the United States Supreme Court has recently cited
with approval its Tulee decision as a holding that off-reser-
vation fishing rights reserved by treaty are subject to State
regulation (Village of Kake and others against Egan, docket
numbered 3, October term (1961)) and further litigation
on the subject should not be necessary: Therefore, be it

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That in accordance with and in furtherance of the purposes
4 of any treaty with American Indians that secures to them a
5 right to take fish at all usual and accustomed places, in
6 common with other citizens, the States involved are author-
7 ized to enact and to enforce laws of a purely regulatory
8 nature concerning the time and manner of fishing outside
9 an Indian reservation that are for the purpose of conserva-

1 tion of fish, and that are equally applicable to Indians and
2 all other citizens without distinction. State legislation en-
3 acted pursuant to this law is hereby declared to be in further-
4 ance of and not in derogation of the treaties involved.

JOINT RESOLUTION
2.1 RES. 130
MARCH 30, 1962
U.S. HOUSE OF REPRESENTATIVES
U.S. SENATE

JOINT RESOLUTION

Regarding Indian fishing rights.

By Mr. MAGNUSON

APRIL 17 (legislative day, MARCH 30), 1964

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and Insular Affairs

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Whereas the United States Supreme Court
with approval its Tulee decision as a
various fishing rights reserved by treaty
regulation (Village of Kake and others
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