ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.
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Petition to the President of the United States and to the Congress, Requesting Disapproval of H.R. 1113, the so-called "Indian Emancipation Bill."

The Association on American Indian Affairs, Inc., after carefully scrutinizing the provisions of H.R. 1113, has come to the conclusion that the bill embodies provisions which are inconsistent with the solemn obligations of the United States and which will limit, rather than expand, the rights of our Indian citizens. It recommends that the bill be disapproved for the following reasons:

1. The Bill purports to strengthen but in fact impairs Indian land rights.

The term "emancipation" is used in a peculiar sense in the pending Indian Emancipation Bill. By the process of "emancipation" the Indian is to be deprived of the rights of tax-exemption granted him by various treaties and agreements, the right to utilize Indian schools and hospitals that were often built with Indian funds, the century-old statutory right to preference in Indian service employment, the right to participate in Indian credit funds, and all other benefits which are owing to Indians by virtue of treaties, agreements, and statutes and are administered through the Bureau of Indian Affairs.

To the extent that such "emancipation" is extended to Indians who ask for it, it may be said that their legal rights are not being violated; in other words, if they get what they ask for, they can have no legal complaint. But one may expect that a good many Indians who are "emancipated" out of their property will argue in years to come that they were victimized by a law they did not understand.

In early days Indians were sometimes persuaded to give up valuable land rights in exchange for glittering beads. The "competency" and "emancipation" offered by this bill are less substantial than the beads they used to receive. Indians are not legally slaves or serfs; they are citizens, and have been citizens for many years, although many of the Congressmen who voted for H.R. 1113 thought they were voting citizenship to Indians. If Indians in certain parts of the country are denied important rights of citizenship by state law or by white neighbors, the Indian Emancipation Bill offers no practical remedy for such abuses.

2. The Bill offers liquor to Indians in exchange for a release of trust obligations.

The only substantial "disability" or "limitation" which now applies to all, or almost all, Indians is that imposed by the Indian liquor law. If this law has outlived its usefulness, and if it is the intention of this legislation to remove this "disability" for these "competent" Indians and for all Indians born hereafter when they come of age, it should do so directly and explicitly. The Interior Department has already recommended repeal of the law prohibiting sale of liquor to Indians off the reservations. It has likewise suggested that the law forbidding liquor on reservations be made subject to local option. These bills should be considered on their merits. Liquor should not be tied to the removal of protections for Indian land and

property. We should not, in effect, tell the Indians that in order to secure the legal right to get a drink they must release the United States from any of its fiduciary obligations with respect to Indian property.

3. The Bill is not limited to Indians who invoke its provisions.

All these considerations are relevant to the first three sections of the Indian Emancipation Bill, which extend only to Indians who apply for so-called "writs of competency." The objections to sections 4 and 5 of this bill, which affect Indians who have never asked for such writs, are of a more serious nature and raise grave questions for future litigation.

4. The Bill impairs, rather than facilitates, the procedure by which Indians may terminate tribal relations and become independent of Indian Bureau control, and at the same time impairs the well-established legal rights of Indians who do not desire the "Emancipation" process.

Section 4 impairs the rights of Indians who have not consented to the "emancipation" process, but in a subtle manner that may easily escape the naked eye. Calling for an agreement between the tribe and any member who wishes to secede from the tribe, it invites the seceding member to make claims against tribal property.

A provision for an agreement always looks fair, on its face. But what would we think of a statute which contemplated that any person renouncing American citizenship should be entitled to negotiate for a share of the national wealth to take with him when he left American shores? Every American would instantly repudiate the suggestion that one who relinquishes obligations and allegiance to the United States should nevertheless be entitled to a share of our national resources and of our public treasury. Tribal Indians are likely to have the same reaction to section 4 of the pending bill, as its scope becomes known.

Certainly every American businessman would oppose a law declaring that any stockholder in a corporation could insist on the corporation making a settlement with him if he chose to dispose of his stock. What would happen to the American Telephone Company if every stockholder could claim two telephone poles as his own? Could any tribal enterprise survive a wave of such claims?

In part, tribal Indians may protect themselves by refusing to enter into such agreements. But the Indian who has been emancipated from Indianhood under section 3 remains a member of an Indian tribe, according to section 4, until such an agreement is reached. Thus, if the tribal group is unwilling to liquidate tribal property to meet a seceding member's claim, an impasse will be reached as a result of which the "emancipation" contemplated under this Act will be indefinitely postponed.

At present, the membership regulations of most tribes authorize dropping from the tribal rolls those who no longer participate in tribal affairs and authorize the tribe to offer cash inducements to disaffiliation, if it is in a position to do so. These regulations, adopted by the democratic decision of the Indians themselves, are abrogated at one stroke by this Bill. In effect, the Bill revokes the power of the Indians concerned to settle such matters by majority vote, and gives a "veto power" to any single member of the tribe who chooses to exercise it.

The procedure authorized by the Bill creates a new class of persons-- Indians for tribal purposes, non-Indians for Indian Bureau purposes-- and these will have

a nuisance value that is likely to tie up in endless litigation tribal administration of Menominee or Klamath timber, Osage oil, Flathead waterpower, and other tribal resources, as well as Federal administration of responsibilities towards tribes in fields of irrigation, credit, health, education, and resource administration.

Indians have suffered for decades under complexities of law so involved that most Indians are inextricably entangled in red tape from birth to the grave. The pending bill would vastly increase those complexities. If Indians wish to abandon their special status they should be permitted to do so completely, and not by entering a new and peculiar status in which they are Indians and non-Indians at the same time.

Any Indian today has a perfect right, without new legislation on the subject, to renounce his tribal affiliations and thereby to free himself from "all disabilities and limitations specially applicable to Indians" (to borrow the languages of the pending bill). Such was the holding of the Federal courts in a case that has never been challenged (United States ex rel. Standing Bear v. Crook, 25 Fed. Cas. 14,891). The Bureau of Indians Affairs can and should respect the right of any Indian to separate himself from all aspects of Indian affairs. The pending bill would not bring about that desirable result. It would only obstruct it, and clutter up the courts with decisions that should be made by Indians themselves, as free citizens of a democratic commonwealth.

5. The Bill deprives children of sacred rights under treaties and agreements.

Section 5 is designed ultimately to deprive all Indian children born after the passage of the bill of those rights promised to them by treaties, agreements, and statutes of the United States. For the United States thus to disregard its sacred obligations would be to set an example of bad faith to the world at a time when the world is not in need of such demonstrations. But even apart from any question of good faith in the fulfillment of our national obligations, the question remains whether all Indian children born hereafter will be able to take their place in the national economy without Federal aid and on an equal basis with their white neighbors. In all probability, large numbers of these children will not even be able to speak or understand English when they reach the age of 21. State school facilities are denied to Indians in many parts of the country and Federal school facilities are highly inadequate. Under the shadow of the proposed automatic liquidation of the Indian Service within a single generation, it will be harder than ever to secure adequate appropriations for Indian Schools and teachers or for Indian hospitals and doctors which the United States Government is obligated to provide under treaties of long standing.

For the foregoing reasons, the Bill should be disapproved.

Respectfully submitted,

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